

**CLARK COUNTY
STAFF REPORT**



DEPARTMENT: Board of Clark County Commissioners
DATE: December 9, 2014
REQUEST: Authorize the County Administrator to execute a Memorandum of Understanding (MOU) with Arts of Clark County (AOCC) defining a partnership to provide AOCC in-kind services to enable AOCC to support the Clark County Arts Commission.

CHECK ONE: X Consent CAO

BACKGROUND: Since the creation of the Clark County Arts Commission in 2010 (County Resolution 2010-03-07), it has become apparent that the Commission may have a need for various support services that the AOCC is best able to provide, given Clark County's approval.

COMMUNITY OUTREACH: There has been no community outreach specifically on this matter, however as the Commission has gone about its formation and conducted its business, the need for a supportive partnership has become readily apparent.

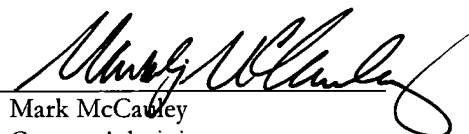
BUDGET AND POLICY IMPLICATIONS: The in-kind services that are proposed to be provided by the county AOCC will have minimal budgetary impact.

FISCAL IMPACTS

Yes (see attached form) No

ACTION REQUESTED: Authorize the County Administrator to execute a MOU with AOCC establishing a partnership to provide AOCC with in-kind services to enable AOCC to support the Clark County Arts Commission.

DISTRIBUTION:
County Administrator
Director General Services


Mark McCawley
County Administrator

Approved: Dec. 9, 2014
CLARK COUNTY
BOARD OF COMMISSIONERS
SR 277-14

1 Attachment
- MOU

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ok
N*

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“Agreement”) is between Clark County, Washington (“County”) and Arts of Clark County, a Washington nonprofit corporation (“AoCC”), whereby the County will provide certain in-kind and other services to AoCC to enable AoCC to provide support services to the Clark County Arts Commission (“Commission”).

WHEREAS, the County created the Commission pursuant to Resolution #2010-03-07 to support community arts and culture programs, and any obligations set forth herein that are specific to “Commission” shall be obligations of the County;

WHEREAS, AoCC is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, and its primary purpose is to raise funds to be used to promote creative expression in all forms and to promote, encourage and enhance artistic opportunities in Clark County and Southwest Washington, which is a fundamental government purpose;

WHEREAS, active and robust arts and culture programs are vital to maintain the quality of life for Clark County residents; and

WHEREAS, the County, due to monetary constraints, has neither sufficient staff nor resources to adequately support the Commission in its efforts to make contact and coordinate with the numerous individuals and groups throughout the County who are interested in and wish to be involved in, developing and maintaining arts and culture programs.

NOW, THEREFORE, it is mutually understood and agreed by the County and by AoCC as follows:

1. AoCC OBLIGATIONS

- A. AoCC will support the Commission in its mission of raising county-wide awareness of the value of arts and culture programs.
- B. AoCC will work with the Commission to enhance county-wide promotion of arts and culture programs.
- C. By way of consideration and in exchange for the County’s support, the AoCC will provide specific agreed-upon financial support services for the Commission, including acting as a repository for funds raised or donated for the Commission’s use. All requests for reimbursement of expenditures initiated by the Commission related to funds deposited in the Commission’s name shall be approved by the Commission in an appropriately noticed public meeting and reimbursements must be approved by the AoCC Board of Directors. All funds deposited with AoCC will be held in accounts, maintained, and disbursed in accordance with AoCC’s finance policy.

D. The AoCC Treasurer will provide monthly account reports to the Commission.

E. AoCC will maintain adequate budgetary and financial records and make available financial information showing the amount of financial assistance provided by AoCC in support of the Commission's programs on an annual basis.

2. COUNTY/COMMISSION OBLIGATIONS

A. In lieu of cash payments for services performed by AoCC, the County will provide in-kind services to AoCC each year in support of the Commission for the term of this Agreement. The in-kind services shall include, but are not limited to, the following:

- (i) Printing and mailing of materials that promote joint AoCC and County sponsored events no more than twice a year, limited to 500 pieces for each of the two events (1000 pieces); and
- (ii) The inclusion of art events promotions for the AoCC in the County's newsletter to employees.
- (iii) Use of meeting room in County facilities.

B. The Commission/County will report to AoCC annually the accomplishments and chief services rendered and the proposed plan of future activities.

C. Commission agrees to fully comply with all procedures regarding deposits and disbursement of funds held by AoCC on behalf of Commission as set forth in AoCC's finance policy, as it may be amended from time to time.

D. Commission shall be solely responsible for all aspects of any design, manufacturing and product sales or dissemination of information, including any expenses and compliance with any relevant charitable fundraising, solicitation, or other similar laws for Commission-sponsored events and programs.

3. CONFLICT OF INTEREST

The Chair of the AoCC Board of Directors and the Chair of the Commission may not be the same person.

4. LIABILITY AND HOLD HARMLESS

AoCC and the County shall each take all precautions necessary and shall be responsible for the safety of their employees, agents and subcontractors in the performance of the work hereunder.

AoCC shall indemnify, defend, and hold harmless the County, its officers, agents, employees and assigns for, from, and against any claim, damages, losses, liability or expenses (including attorney's fees) which arise from the negligent performance of AoCC's obligations set for in the Agreement, except those claims, damages, losses, liability, or expenses which arise from the sole negligent acts or omissions of County, its officers, agents, employees, and assigns. Similarly, the County shall indemnify, defend, and hold harmless AoCC, its officers, directors, agents, employees and assigns for, from, and against any claim, damages, losses, liability or expenses (including attorney's fees) which arise (i) from the negligent performance of the County's obligations set forth in the Agreement or (ii) from any County event or program which involves funds deposited with AoCC or any other support by AoCC, except those claims, damages, losses, liability, or expenses which arise from the sole negligent acts or omissions of AoCC, its officers, agents, employees, and assigns. This paragraph shall survive the expiration or termination of this Agreement.

5. TERM AND TERMINATION

This Agreement is for the period January 1, 2015 through December 31, 2016 and may be extended and modified as mutually agreed. Either party may choose to terminate this Agreement by notifying the other party in writing sixty (60) days prior to termination. Either party may terminate the Agreement upon notice if the other party materially breaches this Agreement and fails to cure the breach within thirty (30) days after the party is notified of such breach.

6. AMENDMENTS

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto. Any changes in the scope of work or compensation shall be mutually agreed upon between County and AoCC and shall be incorporated in written amendment(s) to this Agreement.

7. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants and understanding between the parties hereto. No Agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.

8. GOVERNING LAW/VENUE

The rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. Any action or suit brought in connection with this Agreement shall be brought in Clark County, Washington.

9. SEVERABILITY

If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement will not be impaired.

10. FURTHER ASSURANCES

The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement.

11. ATTORNEYS FEES

If any action or proceeding is instituted to interpret, enforce, or rescind this Agreement, the prevailing party will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind incurred in connection with the action or proceeding.

DATED this 9TH day of December, 2014.

CLARK COUNTY (on behalf of Commission)

By: 

Print Name: MARK MCALEY

Its: COUNTY ADMINISTRATOR

Approved as to form only:

By: 
Deputy Prosecuting Attorney

ARTS OF CLARK COUNTY

By: _____

Print Name: _____

Its: _____