

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE OFFICE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: David Boesch, County Executive Officer
By: Anita Reis, Management Analyst

DATE: June 18, 2013

SUBJECT: Contract with the Arts Council of Placer County

ACTION REQUESTED

1. Approve a resolution designating the Arts Council of Placer County as Placer County's local partner in the California Arts Council State and Local Partnership program.
2. Authorize the County Executive Officer to sign the attached contract with the Arts Council of Placer County to promote and encourage interest and participation in the arts and humanities within Placer County in the amount of \$120,000 for the period of July 1, 2013 through June 30, 2014.

BACKGROUND

The Arts Council of Placer County serves as Placer County's local partner in the State/Local Partnership Program to foster the performing and visual arts in California. The attached contract in the amount of \$120,000 will provide funding for arts activities and promotions for the 2013-2014 Fiscal Year. A copy of the program's scope of work and the contract are attached.

FISCAL IMPACT

Funds are budgeted and available in the FY 2013-2014 Proposed Budget for Community and Agency Support to fund the contract with the Arts Council of Placer County.

Attachments:

- 1) Resolution
- 2) Arts Council of Placer County Contract

Before the Board of Supervisors County of Placer, State of California

In the matter of:

Resol. No: _____

A RESOLUTION DESIGNATING THE ARTS COUNCIL OF PLACER COUNTY (PLACERARTS) AS PLACER COUNTY'S LOCAL PARTNER IN THE CALIFORNIA ARTS COUNCIL'S STATE/LOCAL PARTNERSHIP PROGRAM AND APPROVING PLACERARTS' PARTNERSHIP WITH THE CALIFORNIA ARTS COUNCIL AND AUTHORIZING EXECUTION OF A GRANT CONTRACT WITH THE CALIFORNIA ARTS COUNCIL

The following Resolution was duly passed by the Board of Supervisors of the County

of Placer at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest: _____
Clerk of said Board

WHEREAS, the purpose of the State/Local Partnership Program is to foster the performing, visual and literary arts in California. To this end, the California Arts Council (CAC) provides funds to private non-profit organizations and municipal commissions that have been designated by local governments as partners in the promotion of the arts; and

WHEREAS, PlacerArts is requesting a resolution to continue as the County's local partner in the CAC State/Local Partnership Program. PlacerArts has served as Placer County's local partner for the past 27 years; and

WHEREAS, a resolution from your Board is needed to validate PlacerArts' application for State CAC funds. The State funds will be used to complete PlacerArts' FY 2013-14 budget. Without the resolution, the PlacerArts will not be eligible to receive State CAC funding.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Placer hereby approves the submittal of an application by PlacerArts to the California Arts Council and designates PlacerArts to execute the FY 2013-14 California Arts Council grant as approved by the California Arts Council.

**PLACER COUNTY EXECUTIVE OFFICE
SERVICE AGREEMENT**

BEGINS: 7/1/2013
ENDS: 6/30/2014

WHEREAS, the Arts Council of Placer County DBA PlacerArts, hereinafter referred to as "CONTRACTOR", and the County Executive Office, hereinafter referred to as "COUNTY", are mutually desirous of entering into an Agreement whereby CONTRACTOR will perform certain services for the COUNTY as they pertain to the development and promotion of the arts in Placer County.

WHEREAS, CONTRACTOR is willing to perform such services,

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between the parties as follows:

1. The term of this Agreement shall be in effect from July 1, 2013, through June 30, 2014.
2. COUNTY allocates for use by CONTRACTOR the sum of **\$120,000** subject to the terms and conditions of this Agreement, as set forth in the "Scope of Work" attached hereto as Exhibit "A", and the Budget attached hereto as "Exhibit B" incorporated herein by reference.
3. This contract amount is valid and enforceable only if sufficient funds are available in the 2013/2014 County Budget. It is mutually agreed that if sufficient funds are not available for this contract, the contract and budget shall be amended solely at the discretion of the COUNTY to reflect any reduction in funds. The County retains the unilateral authority to cancel this contract with thirty (30) days notice in the advent that the County determines that the State of California proposed budget and or transfer of unfunded or insufficiently funded program responsibilities adversely impacts County revenues. Furthermore, any unencumbered funds remaining at the termination date of this Agreement shall revert to the COUNTY.
4. CONTRACTOR shall, subject to the laws of the State of California, manage and use such funds within the limits and provisions of this Agreement to the end that such funds shall be used to perform the services set forth in the "Scope of Work" attached hereto.
5. CONTRACTOR hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. CONTRACTOR agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONTRACTOR. CONTRACTOR also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against CONTRACTOR or the COUNTY or to enlarge in any way the CONTRACTOR'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means Placer County or its officers, agents, employees, and volunteers.

6. INSURANCE:

CONTRACTOR shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A-VII showing.

7. WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to CONTRACTOR'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer".

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONTRACTOR.

CONTRACTOR shall require all SUBCONTRACTORS to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

8. GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONTRACTOR, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by CONTRACTOR in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If CONTRACTOR carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) for Products-Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

CONTRACTOR shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) aggregate for Products Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) The insurance coverage provided by CONTRACTOR shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverage, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

9. ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

B. "The insurance provided by the CONTRACTOR, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."

C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

10. AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

11. ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The CONTRACTOR shall be responsible for all deductibles in all of the CONTRACTOR's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

CONTRACTOR's Obligations - CONTRACTOR's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - CONTRACTOR shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the CONTRACTOR to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

12. CONTRACTOR agrees that COUNTY shall have the right to inspect, at any reasonable time, all of CONTRACTOR'S books, records, and management documents pertaining to CONTRACTOR'S management of the funds herein.
13. It is agreed by and between the parties hereto that this contract shall not be assigned by CONTRACTOR without the express written consent of COUNTY in advance of any such assignment.
14. CONTRACTOR shall in no instance expend funds or use resources derived from this Agreement for any political activity.
15. COUNTY shall pay to CONTRACTOR the sum of ONE HUNDRED TWENTY THOUSAND (\$120,000), subject to the terms and conditions stated herein.
16. COUNTY has sole discretion to withhold payment for costs incurred by CONTRACTOR when it is determined by COUNTY that CONTRACTOR is not fulfilling any condition of this contract.
17. COUNTY shall have the right to terminate this Agreement upon the giving of ten (10) days written notice to CONTRACTOR if COUNTY, in its sole and exclusive judgment, finds that CONTRACTOR has violated any of the terms of the Agreement. Either party may terminate this Agreement for any reason upon thirty (30) days advance written notice.
18. CONTRACTOR shall throughout the term of this Agreement remain registered as a non-profit corporation with the Secretary of State's Office and possess a federal tax exempt identification number.

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IN WITNESS WHEREOF, this Agreement is executed by and on behalf of the parties hereto.

By: _____
David Boesch
County Executive Officer

Dated:

By: _____
Angela Tahti
Executive Director
The Arts Council of Placer County DBA PlacerArts

Dated:

By: _____
Steven Lease
Treasurer, Board of Trustees
The Arts Council of Placer County DBA PlacerArts

Dated:

Approved:

By: _____
Placer County Counsel

Dated:

SCOPE OF WORK AND OBJECTIVES
FY 2013-2014

"Funds provided to the Arts Council of Placer County (PlacerArts) will be used to promote and encourage interest and participation in the arts and humanities within Placer County."

These "Arts" include, but are not limited to: arts in education, multi-cultural arts, cultural tourism and economic development, community local arts marketing, art exhibitions, concerts, poetry, and publication of a quarterly arts news e-newsmagazine, e-zine webpage, and monthly arts e-bulletins.

PLACERARTS will fulfill this role by operating an office and ancillary spaces for the purpose of rotating art exhibits, artist-in-residency programs and other presentations such as performing and literary arts. The arts office and PlacerArts.org website, online arts calendar and arts directory will also function as a referral points and resource center for the residents of and visitors to the communities of Placer County.

PLACERARTS will administer a Community Local Arts Marketing Program, "Placer Arts 360, that extends outreach and support to all corners of the County. The objective is to catalyze and/or provide promotional assistance to programs of high artistic quality that will have a visible and significant impact in the surrounding community in cooperation with the local municipal or rural community.

PLACERARTS will promote, sponsor and/or initiate multicultural programs such as, Auburn Big Time Pow-Wow, One Root Festival and Night at the Arts that promote local ethnic groups such as the Maidu, Japanese American, Latino, African-American for the purpose of cross-cultural exchange.

PLACERARTS will promote and support Arts in Education programs in cooperation with the California Department of Education and the Placer County Office of Education and make available models such as Poetry Out Loud, Arts for Change, the LAEP (Local Arts Education Partnership) and Arts Work programs, "stART" (short term Artist in Resident Team), K:PASA (program for after school arts for youth in foster placement), and C.R.E.A.T.E. (Choosing to Realize and Explore the Arts Through Experience) youth apprenticeship in the creative professions program. These educational programs are designed to enhance and/or articulate with the under-served schools' arts curriculum, afford creative outlets for students at risk, and provide guidance and training in the arts education to public school teachers, administrators, and professional artists.

PLACERARTS will publish and distribute *Perspectives*, a quarterly arts e-newsmagazine and online calendar of events that provides pertinent information about upcoming art events, exhibitions, reviews, opportunities and human interest stories, as well as an online directory of performing, visual and literary artists and organizations.

PLACERARTS will maintain contact with local arts organizations, performing arts centers, businesses, schools, and galleries to provide services as set forth in this contract.

The above objectives will be accounted for as follows:

1. PLACERARTS will retain professional bookkeeping service to assure that all contract obligations are accounted for in a manner acceptable to Placer County.
2. PLACERARTS shall prepare an annual financial report on all funds administered during the term of this contract. This report shall be sent to Placer County within sixty (60) days of the close of the fiscal year.
3. PLACERARTS shall prepare an annual written report to Placer County, due within sixty (60) days of the close of the fiscal year. The annual report shall describe the activities of the PLACERARTS and shall document the programs and amount of funding used under this contract.
4. PLACERARTS will send proof of Worker's Compensation Coverage, Auto Liability, and General Liability Insurance coverage, as set forth in the contract, by July 31 of the current fiscal year.

Funding made available to PLACERARTS through this contract will be used in direct relationship to the cost of: Payroll, Facilities, Production of the *Perspectives* e-newsmagazine and PlacerArts.org online calendar of events, the Community Local Arts Marketing Program "Placer Arts 360", Tourism and Economic Development, Multicultural Arts and Arts Education.

ARTS COUNCIL OF PLACER COUNTY, INC. D.B.A. PLACERARTS
BUDGET FOR 2013-2014

| | | |
|--|------------------------|------------------|
| PAYROLL | Director | \$ 19,500 |
| | Staff | 15,100 |
| | Payroll Taxes | <u>4,700</u> |
| | Sub-Total Payroll | \$ 39,300 |
| FACILITY | Rent and utilities | \$ 21,600 |
| | | |
| NEWSMAGAZINE | Production | \$ 20,500 |
| | Circulation | <u>1,600</u> |
| | Sub-Total Newsmagazine | \$ 22,100 |
| COMMUNITY LOCAL ARTS MARKETING PROGRAM | | \$ 20,000 |
| TOURISM AND DEVELOPMENT | | \$ 10,400 |
| MULTICULTURAL ARTS | | \$ 3,000 |
| ARTS EDUCATION | | <u>\$ 3,600</u> |
| TOTAL BUDGET 2013-2014 | | \$120,000 |
