

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 17, 2014
SUBJECT: Service Agreement 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 \$150,000 for the period of July 1, 2014 through June 30, 2015, at a new net county cost of \$30,000.

BACKGROUND

The Arts Council of Placer County serves as Placer County's local partner in the State/Local Partnership Program to foster the performing, visual and literary arts in California. 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. PlacerArts has served as the County's local partner for the past 29 years. The attached contract will provide funding for local arts and humanities activities and promotions for the 2014-2015 fiscal year. A copy of the resolution and contract is attached.

PlacerArts promotes, supports and/or coordinates arts and humanities programs and activities, including the California State Summer School for the Arts recognition program; Poetry Out Loud: National Recitation Contest; Gold Country Writers, Placer Artists League and Auburn Hip Hop Congress. Additionally, PlacerArts collaborates on multiple initiatives with the Sierra Business Council, Sierra Nevada Geotourism, all Placer County Chambers of Commerce, the Placer County Visitors' Bureau, North Lake Tahoe Resort Association and Placer Valley Tourism. Current services provided include: arts calendar, arts directory, quarterly arts magazine, *Placer Arts* 360 collaborative brand arts marketing, PlacerArts.org, monthly eblasts, social media alerts; and the Summer Series, Auburn and Colfax Art Walks, and the Autumn Art Studios Tour.

The FY 2014-15 proposed contract recommends an additional County cost of \$30,000, enabling PlacerArts to ensure that its activities effectively add value, and meet the County's objectives while also meeting the requirements of the State/Local Partnership Program. The recommended augmentation restores funding provided to PlacerArts at the FY 2007-08 contract amount. Pursuant to the Placer Arts agenda, additional planned activities for FY 2014-15 warranting the recommended augmentation include: enhanced Public Art programs in North Lake Tahoe, instituting an annual financial audit, leveraging additional revenues, expanding County Art Show venues, enhancing cultural tourism efforts, and publicizing the results of the 2013-14 Economic Impact Study "Arts and Prosperity."

FISCAL IMPACT

Funding of \$120,000 is available in the FY 2014-15 Proposed Budget Community and Agency Support appropriation. The additional County cost of \$30,000 will be recommended with the FY 2014-15 Final Budget in September 2014.

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 28 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 2014-15 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 2014-15 California Arts Council grant as approved by the California Arts Council.

**PLACER COUNTY EXECUTIVE OFFICE
SERVICE AGREEMENT**

BEGINS: 7/1/2014
ENDS: 6/30/2015

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 and humanities 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, 2014, through June 30, 2015.
2. COUNTY allocates for use by CONTRACTOR the sum of **\$150,000** subject to the terms and conditions of this Agreement, as set forth in the "Scope of Work" attached hereto as Exhibit "A". Payments shall be made in accordance with "Payment Schedule," attached hereto as Exhibit "B".
3. This contract amount is valid and enforceable only if sufficient funds are available in the 2014/2015 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 here with 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 FIFTY THOUSAND (\$150,000), 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.

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

By: _____ Dated:
David Boesch
County Executive Officer

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

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

Approved:

By: _____ Dated:
Placer County Counsel

THE ARTS COUNCIL OF PLACER COUNTY (PLACERARTS)
PURPOSE STATEMENT & SCOPE OF WORK
FY 2014-2015

PURPOSE: PlacerArts is The Arts Council of Placer County, countywide catalyst for the arts and humanities. Since 1985, PlacerArts has served as the designated State-Local Partner of the California Arts Council, a state agency. As such, PlacerArts' role is to foster cultural development on the local level in order to encourage individuals, organizations and communities to create, present and preserve the arts of all cultures and to enrich the quality of life for all in Placer County.

State-Local Partnership Goals are to:

- Foster local and regional partnership and collaboration
- Serve the diverse cultural needs of California's local communities
- Encourage and promote arts in education
- Broaden public and private support for the arts
- Promote and market the local arts

State-Local Partner designation differentiates PlacerArts' work so as to compliment and encourage the work of other arts and cultural providers in Placer County and requires focused work:

Local Arts Networking and Facilitation

- Serve as a resource in the development of local cultural activities
- Act as link between individuals, organizations, businesses, and government
- Provide technical assistance (marketing, fiscal or professional development services for visual, performing & literary arts providers)

Local Arts Promotion & Accessibility

- Promote arts and cultural events and attractions to residents, visitors and prospective cultural tourists
- Ensure access in the development and participation of programs and activities for:
 - All cultural and geographic communities of Placer County
 - Community members of all income levels
 - People with disabilities
- Promote and foster the artistic and cultural diversity of the community

The above objectives will be accounted for as follows:

1. PLACERARTS agrees to file with the County, a certified copy of an annual audit or other review of the financial statements of the Arts Council of Placer County, completed by a Certified Public Accountant, within one hundred and twenty (120) calendar days of the close of the County's fiscal year, and further agrees to file official copies of all financial statements containing reference to funds herein within (20) calendar days of their preparation.
2. PLACERARTS shall provide the County a copy of the California Art Council State-Local Partnership report, 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.
3. PLACERARTS shall provide the County a copy of the California Cultural Data Project Funder Report as required by the California Arts Council State-Local Partnership Program, within sixty (60) days of the close of the fiscal year.
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.

ARTS COUNCIL OF PLACER COUNTY, INC. D.B.A. PLACERARTS
PAYMENT SCHEDULE

July 1, 2014	\$90,000
January 15, 2015	<u>\$60,000</u>
Total:	\$150,000

