R-23-22

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH ARKANSAS MUSEUM OF FINE ARTS; AND FOR OTHER PURPOSES.

WHEREAS, the Arkansas Museum of Fine Arts ("AMFA") serves a substantial public interest in offering a place where creativity, individual expression and arts education can flourish for the citizens and residents of the City of North Little Rock (the "City"); and

WHEREAS, the City entered into an agreement with AMFA d/b/a Arkansas Arts Center (authorized by Resolution No. 10215 adopted February 14, 2022), and pursuant to the 2022 agreement, AMFA has performed its duties and met reporting requirements; and

WHEREAS, the City desires to promote all aspects of the arts that would benefit its citizens and residents; and

WHEREAS, AMFA's programs help to bring positive cultural experiences and education, and the City desires to enter into an agreement with AMFA for the benefit of people of all ages.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the Mayor and City Clerk are hereby authorized to enter into an agreement with the Arkansas Museum of Fine Arts (substantially similar to Exhibit A attached hereto) whereby programs which help bring about positive cultural experiences and education to the citizens and residents of the City will be offered.

SECTION 2: That the City will make a lump sum payment to the Arkansas Arts Center in the amount of Fifty Thousand & 00/100 Dollars ($50,000.00) to be used to fund programs to ensure that learning, inspiration and creative expression in the arts flourish in North Little Rock for people of all ages, said amount having been included in the 2023 Budget.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Terry C. Hartwick

SPONSOR: ATTEST:

Mayor Terry C. Hartwick Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 11:05 A.M. _____ P.M.

By A. Fields

DATE 2.7.23

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY S. Usery

EXHIBIT
A

AGREEMENT
Between
THE CITY OF NORTH LITTLE ROCK, ARKANSAS
And
ARKANSAS MUSEUM OF FINE ARTS

This Agreement made and entered into this _____ day of _____, 2023, by and between the **CITY OF NORTH LITTLE ROCK** (hereinafter referred to as "the City") and **ARKANSAS MUSEUM OF FINE ARTS** (hereinafter referred to as "AMFA").

W-I-T-N-E-S-S-E-T-H:

WHEREAS, the City desires to promote all aspects of the arts that would benefit its citizens and residents; and

WHEREAS, AMFA's mission is to ensure that learning, inspiration and creative expression in the arts flourish in North Little Rock for people of all ages and backgrounds by developing, preserving and exhibiting outstanding permanent collections, offering a rich variety of art from other collections and presenting programs for the education and cultural benefit of the general public; and

WHEREAS, AMFA has requested funding from the City for the 2022 calendar year and has properly submitted its application in accordance with North Little Rock Department of Commerce ("NLR Commerce") procedures and guidelines; and

WHEREAS, NLR Commerce has reviewed and verified that AMFA has properly filed its quarterly and final performance reports for 2022 and has provided all requested documentation to the City; and

WHEREAS, the City supports AMFA and its programs which help to bring positive cultural experiences to our citizens and residents.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, it is agreed by and between the parties as follows:

1. Provision of services. AMFA will use the funds provided by the City for the programs more fully described in Exhibit A attached hereto and incorporated by reference.

2. Term. The term of this Agreement shall begin February 15, 2023 and end December 31, 2023.

3. Consideration by the City of North Little Rock, Arkansas. As consideration for the services provided by AMFA pursuant to this Agreement, the City will make a lump sum annual payment to AMFA in the amount of Fifty Thousand & 00/100 Dollars ($50,000.00). AMFA and the City intend for, and estimate that, the amount of the annual payment is approximately equal to the cost of the services provided to or for the benefit of the City by AMFA. In the event that either AMFA or the City gives a notice of termination

of this Agreement pursuant to Section 9 below, the parties agree to negotiate in good faith a reinstatement of this Agreement with adjustments to the amount of the annual contribution and/or the services provided by AMFA to equalize such cost and benefit.

4. Assignment. This Agreement shall not be assigned in whole or in part by any of the parties to this Agreement ***unless*** prior written approval has been given by the non-assigning party.

5. Authority. The City represents and warrants to AMFA that it has the authority to enter into this Agreement, and the party signing for the City has been duly authorized. AMFA represents and warrants to the City that it has the authority to enter into this Agreement, and the party signing for AMFA has been duly authorized. This Agreement shall not be effective until approved by official public action of the North Little Rock City Council.

6. AMFA agrees:

(a) To comply with Ark. Code Ann. § 21-13-101, et seq. if it uses volunteers to accomplish its contractual obligations of a public nature, as expressed in this Agreement.

(b) That is will not discriminate against any person on the basis of race, color, religion, natural origin, age, gender or any other constitutionally-protected basis.

(c) That it will not mingle City funds with funds obtained from other sources and shall document the expenditure of all City funds in a manner consistent with generally accepted accounting principles and provide the same to the City upon request.

(d) Acknowledges that certain procedural restrictions apply to the expenditure of City funds in excess of $35,000 and the employment of professionals, as that term has been defined by the City. (For procedural guidance in the expenditure of City funds, AMFA may contact a city purchasing officer at (501) 975-8881.)

(e) Acknowledges that the expenditure of government funds for a governmental purpose is a matter of public interest and subject to disclosure under the Arkansas Freedom of Information Act ("FOIA").

(f) That it will submit an annual report to NLR Commerce that accurately reflects all performance under this Agreement, said report to be submitted no later than January 1, 2024. A representative of AMFA will be available, at the request of the City, to appear before a specified City Council meeting to answer any questions concerning the report.

(g) To attach to this agreement a document identifying each member of the governing board of the nonprofit entity.

(h) To attach to this agreement evidence of nonprofit status, and if designated a nontaxable entity, attach a copy of an IRS opinion letter affirming the designation. If tax returns have been submitted, AMFA will also attach a copy of the most recent tax return.

(i) To submit a budget to demonstrate the projected use of City funds.

7. Governing Law. The parties hereto agree that this Agreement shall be construed under Arkansas law. The parties further agree that proper jurisdiction and venue for any cause of action arising from this Agreement shall be vested in the state courts of Arkansas.

8. The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof.

9. This Agreement may be terminated by either party without cause upon ninety (90) days' written notice. The fee described in Section 3 shall be prorated based upon the date of termination.

10. Time is of the essence in regard to the terms and conditions of this Agreement.

11. This Agreement may be executed in two or more counterparts, each of which is deemed as original but all constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year first above written.

ARKANSAS MUSEUM OF FINE ARTS
P. O. Box 2137
Little Rock, AR 22203-2137

By: _____
Devin Hancock
Foundation Relations & Grants Manager

CITY OF NORTH LITTLE ROCK, ARKANSAS
300 Main Street – City Hall
North Little Rock, AR 72114

By _____
Terry C. Hartwick, Mayor

ATTEST:

_____
Diane Whitbey, City Clerk