

Recorder's Office Cover Sheet

Recording Requested By:

Name: Geoff Bonar

Department: Community Services

Item ID/Agreement #: DC-973-2024

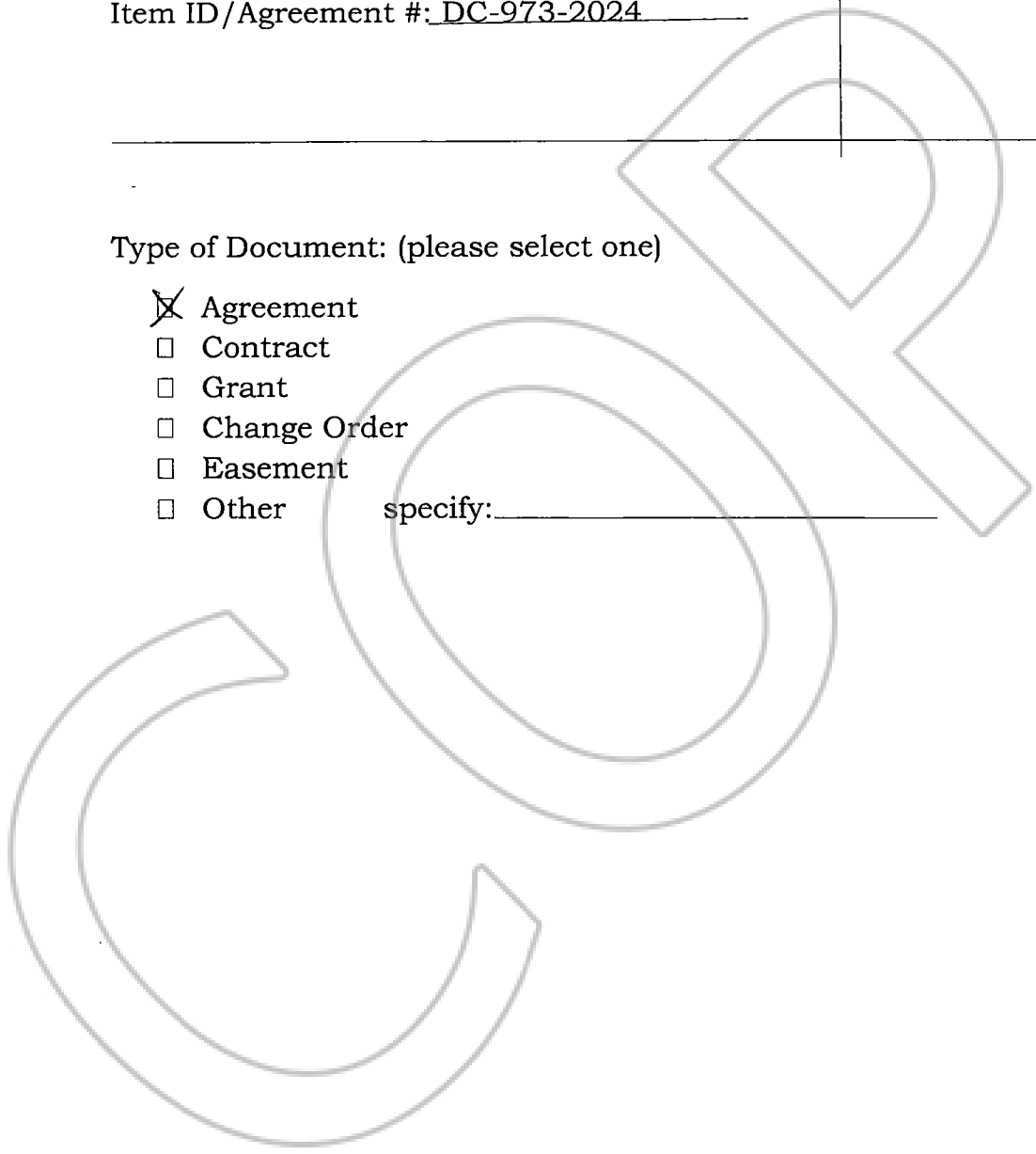


SHAWNYNE GARREN, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

specify: _____



8/2/24

DATE

DOUGLAS COUNTY CLERK
MINDEN, NVBY DB DEPUTY**MEMORANDUM OF UNDERSTANDING**

between

DOUGLAS COUNTY, NEVADA

and

CARSON VALLEY ARTS COUNCIL

for the

ADMINISTRATIVE ROLE FOR THE ART IN PUBLIC PLACES PROGRAM

WHEREAS, Douglas County (hereinafter referred to as "County"), is a political subdivision of the State of Nevada, and Douglas County has approved an Art in Public Places Program Plan; and

WHEREAS, The Art in Public Places Program Plan calls for the establishment of a Public Art Advisory Organization (hereinafter referred to as "PAAO") to take a lead role in advising and assisting in the administration of the Art in Public Places Program; and

WHEREAS, in April 2012, the County passed Proclamation number 2012P-035 recognizing and designating Carson Valley Arts Council (hereinafter referred to as "CVAC") as the Local Arts Agency for Douglas County. As the Local Arts Agency (LAA), Carson Valley Arts Council represents all art disciplines in serving the local community, the county and the Eastern Sierra region. The designation of LAA is federally recognized by the National Endowment for the Arts; and

WHEREAS, as an LAA, CVAC is tasked with presenting programming to the public, including youth integration through arts education, managing cultural facilities, providing services to artists and arts organizations, and facilitating community cultural planning; and

WHEREAS, CVAC is ready, willing and able to support the County in the implementation of the Public Art Pilot Program by acting as the PAAO and taking the lead role in advising and assisting in the administration of the plan; and

WHEREAS, CVAC is a non-profit corporation created and operated in support of advancing the arts in the County and its work will be compatible with the purpose and objectives of the "Douglas County Art in Public Places Program Plan"; and

WHEREAS, public art is defined as artwork created or led by an Artist or Artist team and acquired or displayed by the County, GIDs or Towns in Douglas County, or artworks that are commissioned or acquired by private commercial property owners to be installed in exterior publicly visible locations. This includes but is not limited to paintings, sculptures, engravings, carvings, frescos, stained glass and glass works, mosaics, mobiles, murals created on building or pavement surfaces or on panels, collages, statues, bas reliefs, tapestries, photographs, video projections, drawings, fountains, landscape designs, or monuments erected to commemorate a person or event, functional furnishings such as artist-designed seating, or other media. Public art may be permanent or temporary.

WHEREAS, it is deemed that the services of CVAC, herein specified are both necessary and desirable and in the best interests of County; and

Now, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. **EFFECTIVE DATE & TERM OF CONTRACT.** This Memorandum of Understanding (MOU) will be effective immediately upon the date it is last executed by all parties and will remain in effect for five (5) years unless terminated earlier by either party in accordance with Paragraph 4 herein.
2. **WORK TO BE PERFORMED.** The parties agree that the services to be performed by the Parties are as follows:
 - a. County agrees to do the following:
 1. Make additions and amendments to the Douglas County Code pertaining to public art as identified in the Art in Public Places Program Plan.
 2. Review, make changes to proposed projects, if needed, and either approve or deny projects including project locations on County property.

3. Maintain a seat on the Public Art Project Panels, for projects within the County's jurisdiction and serve as a liaison with Nevada Department of Transportation regarding right-of-way matters.
 4. Select preferred locations and provide funding to install anchor points or concrete pedestals or mural frameworks if appropriate blank walls are not available for rotating public art on County property.
 5. Offer suggestions on locations or funding option for projects.
 6. Take ownership of permanent public art and maintain the artwork on County property in accordance with the artist's commissioning or purchase contract, unless other arrangements are made.
 7. Evaluate the quality of work, conformance to County structural and fabrication requirements, safety codes, availability of appropriate sites for installation and maintenance of proposed donations of permanent public art (Category 3) with advice from CVAC.
 8. Relocate or remove public art for any of the reasons set forth in the Douglas County Art in Public Places Program Plan on County property.
 9. Cooperate, when feasible, as co-applicant for grants that fund acquisition of art pieces, materials to support public art or services and supplies for infrastructure in the installation of public art.
 10. Allow CVAC to use the name and images of the County for purpose outlined in this agreement and the Art in Public Places Program.
 11. When feasible, provide additional tools, equipment, and other support for CVAC's activities at the discretion of the Director of the Community Services Department, and consistent with County policies, State and Federal law.
 12. Ensure that public art complies with County ordinances.
 13. Assist the CVAC in finding sponsorships and donations and offer suggestions on potential funding sources. Dedicate annual funding to CVAC from the County budget in the amount of \$15,000 for the first year of this MOU, with an annual escalation increase of 5% for the remaining years of the MOU.
 14. Follow the recommended framework as identified in the Art in Public Places Program Plan for the development of an Arts and Culture Master Plan for Douglas County.
 15. Follow the recommended framework as identified in the Douglas County Master Plan for facilitating the creation of a Cultural Commission.
- b. CVAC agrees to do the following:
1. Act as the PAAO and take the lead role in advising and assisting in the administration of the Art in Public Places Program.
 2. For temporary (Category 1) public art, once installation sites have been selected and prepared and artwork content is approved, establish an ad hoc Public Art Project Panel and issue a call to artists through a request for proposals or request for qualifications specifying the type of artwork that is sought, the final content and terms and duration of the installation.
 3. Prepare the lease or loan contract for temporary (Category 1) public art with the selected artist.
 4. Provide advice on proposals, if asked, for public art on private commercial property (Category 2) artwork relating to scope and content.
 5. Advise and provide direction on public art projects and conduct meetings in accordance with the Open Meeting Law if there is an item that is being recommended to a local government, general improvement district or the County.
 6. Evaluate proposals for new temporary (Category 1) or permanent public art (Category 3) projects in terms of viability, locations, estimated costs and technical aspects of the proposed artwork.
 7. Provide guidance for permanent public art (Category 3) projects on how to find and prepare a contract with an artist to purchase or commission the type of public art that the County is seeking; prepare or a

assist in the preparation of the commissioning or purchase contract between the County and the artist; and assist with the development of a maintenance plan.

8. Encourage proposed content that reflects the expressed local community identity and values for the project.
 9. Advise on standards in terms of artistic methods and technical requirements for proposed artworks.
 10. When needed, direct applicants to County planning staff to answer planning, zoning, or right-of-way questions, and when beneficial, recommend a pre-application meeting with the County's Planning Department.
 11. Establish Art Project Panels, when needed, with the required expertise for each temporary (Category 1) and permanent (Category 3) public art.
 12. Advise and assist Public Art Participants in preparing commissioning or purchase contracts with the artists, if needed.
 13. Advise on maintenance requirements as specified in each purchase or commissioning contract for permanent (Category 3) public art.
 14. Advise and assist, when asked, the Main Street Gardnerville program staff on public art related matters.
 15. Encourage artists who are creating temporary (Category 1) or permanent (Category 3) artwork to apply for funding under the Community Grant Funding Program.
 16. Seek grants, donations and sponsorships as funding sources and assist in establishing public-private and non-profit-public partnerships in order to minimize project costs and enhance project opportunities.
 17. Ensure the following Guiding Principles in the implementation of the Art in Public Places Pilot Program:
 - The program is fiscally responsible.
 - The artwork is based on consultation and engagement, ensuring it is relevant to the local government that has jurisdiction and its residents.
 - Public Art installations are robust and of high quality.
 - All installations will have a clear line of responsibility in terms of ownership, installation, ongoing maintenance and safety.
 18. Maintain an up-to-date inventory of all public art in Douglas County.
 19. Prepare a press release and share images and information about all new public art through social media and internal communication channels; coordinate and hold a dedication or unveiling ceremony that presents the piece to the community and recognizes the artistic efforts of the artist.
 20. Once multiple artworks have been installed in the County, create public art maps and driving and walking tours to ensure County residents and visitors can enjoy and share the evolving outcomes of the program.
 21. Comply with all applicable County ordinances.
3. **PARTICIPATION IN GOVERNANCE.** CVAC is a non-profit corporation formed under IRS Section 501(c)(3) and registered with the Nevada Secretary of State. CVAC is operated by a Board of Directors and said Board is the governing body of CVAC and is responsible for establishing policies and taking actions necessary and appropriate to operate as a Local Arts Agency.
 4. **TERMINATION OF AGREEMENT.** This Agreement may be revoked at any time without cause, by either party, provided that a revocation shall not be effective until sixty (60) days after a party has served written notice upon the other party of termination of the Agreement.

5. **INDEPENDENT CONTRACTOR STATUS.** The parties agree that CVAC shall have the status of and shall perform all work under this contract as an independent contractor. The parties also agree that this contract, by explicit agreement of the parties, incorporates and applies the provisions of Nev. Rev. Stat. § 284.173, as necessarily adapted, to the parties, including that CVAC nor its agents are a County employee and that there shall be no:
 - a. Withholding of income taxes by the County;
 - b. Industrial insurance coverage provided by the County;
 - c. Participation in group insurance plans which may be available to employees of the County;
 - d. Participation or contributions by either CVAC or the County to the public employee's retirement system;
 - e. Accumulation of vacation leave or sick leave provided by the County;
 - f. Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.
6. **COMPLIANCE WITH APPLICABLE LAWS.** The parties shall fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of this Agreement, including, but not limited to, all federal, state, and local accounting procedures and requirements and all immigration and naturalization laws.
7. **INDEMNIFICATION.** Except as otherwise provided in Paragraph 7 herein, CVAC shall save, hold harmless, and indemnify County, its officers, agents, and employees, from and against all claims, causes of action, liabilities, expenses and costs, including reasonable attorney's fees and costs, relating to the injury or death of any person or damage to property arising out of, connected with, or sustained as a result of work performed pursuant to this Agreement which is the result of any acts or omissions, whether negligent or otherwise, of CVAC, its officer, agents, subcontractors or employees.
8. **INSPECTION AND AUDIT.** Each party agrees to keep and maintain under generally accepted accounting principles full, true, and complete records, agreements, books, and documents as are necessary to fully disclose to the County or the state governments or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all Agency or state regulations and statutes. Each party agrees that the relevant books, records, including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation relating to the work product shall be produced upon demand by the County or the state governments or their authorized representatives. All books, records, reports, and statements relevant to this contract must be retained for a minimum of three years after the termination of this agreement, and, by a party which receives federal funding used to perform this contract, for five years. The retention period runs from the date of termination of this contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit or to complete any administrative and judicial litigation which may ensue.
9. **ASSIGNMENT.** Neither party shall assign, transfer, or delegate any rights, obligations, or duties under this contract without the prior written consent of the other party.
10. **GOVERNING LAW AND JURISDICTION.** This contract and the rights and obligations of the parties under it shall be governed by and construed according to the laws of Nevada the parties agree that any dispute or claim regarding this Agreement shall be filed in the Nevada Ninth Judicial District Court. There shall be no presumption for or against the drafter in interpreting or enforcing this Agreement.
11. **MODIFICATION OF CONTRACT.** This contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by both parties.

12. NOTICES. All notices or other information that is to be submitted to a party shall be sent to the following addresses:

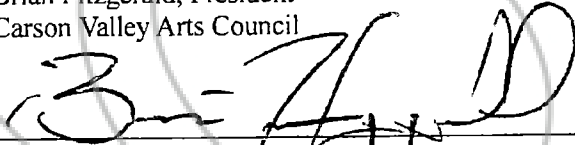
Douglas County Manager
PO Box 218
Minden, NV 89423

Carson Valley Arts Council
1572 Hwy 395 N
Minden, NV 89423

13. SEVERABILITY. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of the Agreement unenforceable.
14. NO APPROPRIATION OF FUNDS. All payments and services provided under this agreement are contingent upon the availability of the necessary public funding. In the event that neither CVAC or the County does not receive the funding necessary to perform in accord with the terms of this Agreement, this Agreement shall automatically terminate and all fees due and owing shall be paid.
15. AUTHORITY TO EXECUTE AND IMPLEMENT. Each person who signs this Agreement warrants and represents that he has the legal capacity to enter into this Agreement and if signing in a representative capacity, has the actual authority to bind the principal for which he signs and that his signature has the effect of binding the principal. Each person signing this Agreement hereby certifies that he is authorized by his respective governing body to enter into the terms and conditions set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this contract for legal services for the Professional Services to be signed and intend to be legally bound thereby.

Brian Fitzgerald, President
Carson Valley Arts Council



7/25/24

Wesley A. Rice, Chairman
Board of County Commissioners



08/01/2024

Douglas County

State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

2nd day of August, 20 24

By Janja Balda Deputy