

RESOLUTION NO. 22-

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and The Arts Council, Inc. dba Arts Huntsville on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Agreement between the City of Huntsville and The Arts Council, Inc. dba Arts Huntsville” consisting of six (6) pages, and the date of April 28, 2022, appearing on the margin of the first page, together with the signature of the President or President Pro-Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 28th day of April, 2022.

President of the City Council of the
City of Huntsville, Alabama

APPROVED this the 28th day of April, 2022.

Mayor of the City of Huntsville, Alabama

**AGREEMENT BETWEEN THE
CITY OF HUNTSVILLE AND THE
ARTS COUNCIL, INC. dba
ARTS HUNTSVILLE**

**STATE OF ALABAMA)
COUNTY OF MADISON)**

AGREEMENT

THIS AGREEMENT made this 28th day of April, 2022, between The Arts Council, Inc., dba Arts Huntsville, a private, non-profit corporation in the State of Alabama (hereinafter “Arts Huntsville”), and the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter “City”), for the purpose of providing musical events for the inhabitants of the City.

Both parties acknowledge the receipt of good and valuable consideration supporting the terms and conditions of this Agreement as follows:

1. This Agreement shall become effective upon the date signed by both parties hereto and shall continue in effect through September 30, 2025.

2. Arts Huntsville will:

- A. Co-produce outdoor musical events called “Concerts in the Park” (the “Events”) in Big Spring International Park, Huntsville, Alabama, on every Monday from 6:00 P.M. to 8:30 P.M., commencing the first Monday in June of each year of this agreement, and continuing for ten weeks through the Monday in August immediately following the start of the Huntsville City School year, except for the following:

Arts Huntsville reserves the right to move the event scheduled around or in proximity to the July 4th holiday, or to cancel the event altogether if, in the opinion of Arts Huntsville and the City, the event would interfere with any other cultural events scheduled on or about July 4th of each year of this agreement.

- B. For each year of this agreement, provide a “not to exceed” budget to the City of Huntsville, to cover the total cost of staging the Events. Said costs include but are not limited to sound/lighting equipment vendors, rental of staging, musical instruments, and other necessary rental equipment. The “not to exceed” budget shall be provided no later than August 31st of the year preceding the Events. The “not to exceed” amount shall be subject to the approval of the City.

- C. Audition, select, and schedule performers for all of said Events.
- D. Provide to the City a schedule of all the performers, to the extent possible, for all the Events no later than the second Monday in May of each year of this agreement.
- E. Notify the City in writing no later than five (5) business days before the date of an event of all staging and equipment needed. In the event the City is unable, for whatever reason, to provide the staging and other rental equipment by the Thursday before the date of the event, Arts Huntsville can rent such equipment as it deems necessary to produce the event, provided such costs are within the amount budgeted for the event as indicated in the notice required in paragraph 2(B) of this agreement.
- F. Provide a master of ceremonies (MC) for all the said Events.
- G. Be responsible for all publicity of the said events and notification of the media if an event is cancelled due to inclement weather. All advertising and press releases shall indicate that the events are a co-production of Arts Huntsville and the City of Huntsville's Parks and Recreation Department.
- H. Be expressly authorized to receive donations at the Events. Arts Huntsville shall maintain documentation of all donations received and make such documentation available for inspection by the City.
- I. Be expressly authorized to seek and accept financial sponsorships from vendors, local businesses, and corporations to support the annual Concerts in the Park summer series. Documentation of the terms of the sponsorships is to be maintained on file in the Arts Huntsville administrative office and open to review by the City of Huntsville upon request. The City has the right of approval for all sponsors.
- J. Be expressly authorized to contract with and manage all food and commercial vendors for the Events. Arts Huntsville will oversee the vendors' compliance with all applicable laws, ordinances and regulations. Arts Huntsville, to the fullest extent permitted by law, shall indemnify and hold harmless the City, its elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, court awarded attorney's fees, arising out of or resulting from the contracting and management of food vendors for said Events.
- K. Net proceeds from donations, sponsorships, and food vendor payments secured by Arts Huntsville, after Arts Huntsville's expenses for bands/musicians, printed promotional materials, marketing, royalties, and

1.5 Arts Huntsville employees working the Events have been deducted, will be split evenly between the City and Arts Huntsville to defray operational and staff expenses associated with the Concerts in the Park summer series.

- L. Contract with sound, lighting and staging vendors for the Events and will pay the charges for said vendors as they are incurred. The City will reimburse Arts Huntsville for these expenses up to the amount budgeted pursuant to paragraph 2(B) of this Agreement. The amount reimbursed shall not exceed \$15,000.00 per year.
- M. Provide an annual written summary of receipts and disbursements, as well as any proceeds due to the City, by September 30th of each year of this agreement.
- N. Provide professional staff and service to set up and operate sound, lighting, or any rental staging equipment not provided by the City for the Events.
- O. Provide to the City a monthly invoice for professional services provided in paragraphs 2(B), 2(E), 2(L), and 2(N).

3. The City will:

- A. Co-produce outdoor musical events (the "Events") in Big Spring International Park, Huntsville, Alabama, on every Monday from 6:00 P.M. to 8:30 P.M., commencing the first Monday in June of each year of this agreement, and continuing for 10 weeks through the Monday in August immediately prior to the start of the Huntsville City School year.
- B. Secure all required City permits for all said Events.
- C. Provide to Arts Huntsville by May 15th of each year of this agreement, a written list of City owned and contracted equipment available for use by Arts Huntsville for the Events.
- D. Assist with selection and scheduling of performers for all said Events.
- E. Provide a suitable location in Big Spring International Park, Huntsville, Alabama, for all the Events.
- F. Provide staging, or other equipment, owned by the City, as needed and as available for all Events upon notification pursuant to paragraph 2(E) and provided the total costs for the requested equipment does not exceed the amount budgeted and appropriated by the City as indicated by the budget submitted by Arts Huntsville in accordance with paragraph 2(B).
- G. Provide an adequate number of privies based on the anticipated crowd at each

of the said Events.

- H. Provide professional staff service for setting up the said equipment in paragraph 3(C), setting up the staging in paragraph 3(F), overseeing the delivery of the said privies in paragraph 3(G), and other reasonable and necessary tasks pursuant to the City's obligations herein.
 - I. Oversee and direct the setting up of sound equipment, staging, and/or rental equipment at 2:00 P.M. prior to each of the Events.
 - J. Pay all invoices in a timely manner for services referenced in 2(J), and 3(F).
 - K. Coordinate all event security needs with officials from Huntsville Parks and Recreation Department and other departments as necessary, including Huntsville Police Department, Parking Services, Huntsville Museum of Art and HEMSI.
- 4. In the event it is raining by 5:30 P.M. on the date of a scheduled Event, the parties to this agreement shall mutually decide whether the Event shall be canceled.
 - 5. All necessary communication with regard to this agreement between Arts Huntsville and the City shall be conducted through the City's Recreation Superintendent of Special Events. If unavailable, contact shall be through the Director of Parks and Recreation. All notices or correspondence required in paragraphs 2(B) and 2(D) shall be submitted in writing directly to the Recreation Superintendent, Community Events, 2411 Ninth Avenue, Huntsville, Alabama 35805.
 - 6. The annual summary of receipts and disbursements required by paragraph 2(H) and 2(I) shall be submitted in writing directly to the Director of Parks and Recreation, 2411 Ninth Avenue, Huntsville, Alabama 35805.
 - 7. Arts Huntsville shall be deemed in all respects to be a contractor and not an agent, joint venturer, or partner of the City. All the services to be performed for the City under this Agreement are to be performed by Arts Huntsville, and Arts Huntsville may utilize the customary services of others under its direct supervision, without further expense or cost to the City. Arts Huntsville shall be responsible for all salaries, wages, taxes, unemployment compensation, workmen's compensation or other "benefits" of its employees and does hereby indemnify and hold harmless the City from any obligation therefor.
 - 8. All promotional advertising and press releases shall indicate that the events are a co-production of the City of Huntsville, through its Department of Parks and Recreation, and Arts Huntsville.
 - 9. Should this Agreement be found by any court of competent jurisdiction to be illegal or unenforceable, it shall be deemed terminated as of the date of any such

decree, without recourse of either party against the other.

10. This document represents the full agreement among the parties. This Agreement shall be construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

**THE ARTS COUNCIL, INC., dba Arts
Huntsville, a private, non-profit
corporation in the State of Alabama**

By: _____
Allison Dillon-Jauken, Executive Director

**CITY OF HUNTSVILLE, a municipal
corporation in the State of Alabama**

By: _____
Tommy Battle, Mayor

ATTEST:

By: _____
Kenneth Benion, Clerk-Treasurer

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Allison Dillon-Jauken, whose name as executive Director of ARTS COUNCIL, INC., dba Arts Huntsville, a private, non-profit corporation in the State of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the document, she, as such officer and with full authority, executed the same for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the ____ day of _____, 2022

Notary Public

STATE OF ALABAMA)
COUNTY OF MADISON)

I, the undersigned, notary public in and for said County, in said State, hereby certify that Tommy Battle and Kenneth Benion, whose names as Mayor and City Clerk-Treasurer, respectively, of The City of Huntsville, Alabama, a municipal corporation are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the ____ day of _____, 2022.

Notary Public