

INTERLOCAL AGREEMENT BETWEEN THE CITY OF ARLINGTON  
AND ARLINGTON SCHOOL DISTRICT NO. 16 CONCERNING  
THE PERFORMING ARTS CENTER

**1. PARTIES**

THIS AGREEMENT is made and entered into by and between the CITY OF ARLINGTON, hereinafter referred to as the "CITY" and ARLINGTON SCHOOL DISTRICT NO. 16, hereinafter referred to as the "District", pursuant to RCW 39.34.010 et seq. and in accordance with RCW 28A.320.080..

**2. PURPOSE AND RECITALS**

- 2.1 Both entities desire to have the Performing Arts Center (PAC) become a center for the advancement of the arts, a place for public entertainment and cultural events, and a location which will help the citizens of the CITY and the DISTRICT to develop an appreciation for and understanding of the arts.
- 2.2 Both entities also desire to have the PAC become a self-sustaining facility which is fiscally responsible and which does not require taxpayer support to be solvent.
- 2.3 The CITY and DISTRICT, along with members of the community and others, have each contributed funding and other efforts in support of the opening of the PAC which is constructed at Arlington High School, and are hopeful that careful management of the facility can not only make the facility self-sustaining but may also enable future reimbursement of the operating funding each has contributed to the PAC.
- 2.4 The parties wish to memorialize their agreements concerning their shared duties and responsibilities.

**3. APPLICABILITY AND AMENDMENTS; TERM; REVIEW**

- 3.1 Applicability. This Agreement shall apply to the PAC and otherwise as expressly set forth herein.
- 3.2 Amendments. The CITY and DISTRICT recognize that amendments to this Agreement will be necessary to clarify particular sections or to update and expand the Agreement. Both parties may pursue these amendments as necessary.
- 3.3 Process for Amending this Agreement. An addendum or amendment to this Agreement must be mutually agreed to by the parties and executed in writing before becoming effective. Any addendum or amendment to the Agreement shall be executed in the same manner as provided by law for the execution of this Agreement.

- 3.4 Term. This Agreement shall be effective for a period of two (2) years, commencing May 1, 2007 and ending on April 30, 2009, unless extended thereafter by mutual agreement of the parties .
- 3.5 Review. The parties agree that this agreement is, by necessity, limited in scope because the PAC is newly formed and both parties anticipate that there will be issues which arise as matters of first impression for both the CITY and the DISTRICT. The parties agree to begin meeting to review this agreement and to make decisions concerning its extension, modification, or termination no later than January, 2009.

#### **4. ADMINISTRATION**

- 4.1 Joint Administration by CITY and DISTRICT. This agreement shall be jointly administered by the CITY and the DISTRICT. The CITY representative for the administration of this agreement shall be the CITY ADMINISTRATOR. The DISTRICT's representative for the administration of this agreement shall be the SUPERINTENDENT of the DISTRICT. The CITY's representative and the DISTRICT's representative are referred to herein as the "Administrators".
- 4.2 Duty to Meet and Confer. The Administrators shall meet and confer not less than quarterly during the term of this agreement.
- 4.3 Duty to Report. The Administrators shall jointly report to the governing bodies of the CITY and the DISTRICT not less than annually, or more often as deemed appropriate. The annual joint report shall occur in September of each year.
- 4.4 Coordination with Performing Arts Commission. The Administrators shall assist, and be assisted by, the Arlington Performing Arts Commission (A-PAC) created in paragraph 5, below.

#### **5. ARLINGTON PERFORMING ARTS COMMISSION (A-PAC) CREATED**

- 5.1 A-PAC Created; Composition. There is hereby created the "Arlington Performing Arts Commission" (A-PAC). The Commission will be comprised of 13 voting members:
- 2 - Arlington School District Board Members
  - 2 - Arlington CITY Council Members
  - 1 - Parks, Arts & Recreation Commission (PARC) Member
  - 4 - Community Members
  - 2 - High School Student Representatives
  - 1 - Arlington Education Foundation Member
  - 1 - Arlington Arts Council Member

In addition, the CITY and DISTRICT shall each appoint a staff representative to serve as a non-voting member of the Commission. At present these positions are

filled by the Assistant City Administrator and the Deputy Superintendent of Schools.

- 5.2 Selection and vacancies. The CITY and DISTRICT have formed an initial A-PAC Commission which follows the membership lines set forth above. Any vacancy occurring on the Commission shall be filled by the governing bodies of the groups represented on the Commission (e.g., School District Board shall appoint school Board members and high school representatives, CITY Council shall appoint CITY Council and PARC Board members, the Arlington Education Foundation shall appoint its member, and the Arts Council shall appoint the Arts Council member. Vacancies in positions representing the Community will be filled by those remaining members of the Commission.
- 5.3 Advisory role. The A-PAC Commission is advisory to the CITY and the DISTRICT. All authority and fiscal responsibility for the operation of the PAC shall remain with the CITY and DISTRICT, respectively. It is the intention of both parties, however, that the A-PAC will play an important role in helping to control and manage the fee structure, establishing rules for the use of the PAC, overseeing facility improvements and long range planning, and helping the Promotions Coordinator perform his or her duties.
- 5.4 Rules and regulations. The A-PAC Commission shall be authorized to adopt its own bylaws or rules relating to the conduct of its business, in accordance with the terms of this agreement.
- 5.5 Staff support. For the term of this agreement, the DISTRICT shall provide clerical staff support for the A-PAC Commission. The parties may amend this provision after the periodic review contemplated by paragraph 3.5, above.

## **6. FACILITY OWNERSHIP, FISCAL RESPONSIBILITY AND INSURANCE**

- 6.1 Ownership. The DISTRICT shall own the PAC together with the real and personal property associated therewith.
- 6.2 Fiscal Responsibility. Except as set forth in paragraph 7, below, DISTRICT shall hold and expend all funds relating to the operation, maintenance, and capital improvements of the PAC. Receipts and expenditures shall be accounted for separately from other DISTRICT operations and shall be reported to the governing bodies of the parties not less than annually in accordance with paragraph 4.3, above.
- 6.3 Insurance. The DISTRICT shall be responsible to maintain public liability insurance and property insurance on the PAC in sums sufficient to protect the parties' joint investment in the PAC. Upon request by the CITY, the DISTRICT shall provide evidence of insurance to the CITY.

## **7. STAFFING**

- 7.1 Theatre Manager. The DISTRICT shall employ or contract with, at DISTRICT's sole expense, a theatre manager, who shall be generally responsible for managing the use of the PAC facility, managing all performances taking place therein, supervising technical and stage crews, and coordinating with the Promotions Coordinator specified herein. The Theatre Manager shall report to the DISTRICT.
- 7.2 Promotions Coordinator. The CITY shall employ or contract with, at CITY's sole expense, a promotions coordinator, who shall be generally responsible for the marketing and promotion of the facility, booking of events, coordination of ticketing and billing, and coordination of all events with the theatre manager. The Promotions Coordinator shall report to the CITY and shall coordinate her/his activities with the A-PAC Commission.
- 7.3 Management Structure. The management structure of the PAC shall be in general terms as depicted on the diagram marked as Exhibit "A" hereto.
- 7.4 Office facilities. In order to facilitate the close coordination which will be necessary, the DISTRICT shall provide office facilities at the PAC for the Theatre Manager and Promotions Coordinator.

## **8. DISPUTE RESOLUTION**

- 8.1 The CITY and DISTRICT mutually agree to enter into mediation through an agreed upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any provision of this Agreement. The parties shall use the mediation process in good faith to attempt to come to agreement early in the process, and prior to any appeals or litigation which either might otherwise be entitled to bring.

## **9. RELATIONSHIP TO EXISTING LAWS AND STATUTES**

- 9.1 This Agreement in no way modifies or supersedes existing laws and statutes. In meeting the commitments encompassed in this Agreement, all parties shall comply with the requirements of applicable federal, state or local law.

**10. EFFECTIVE DATE, DURATION AND TERMINATION**

- 10.1 This Agreement shall become effective following the approval of the Agreement by the official action of the governing bodies of each of the parties hereto and the signing of the agreement by the duly authorized representative of each of the parties hereto.
- 10.2 This Agreement may be modified or terminated upon mutual agreement of the parties. Any modification shall become effective thirty (30) days following written amendment to the Agreement executed by both parties. Any amendments and termination shall be in writing and executed in the same manner as provided by law for the execution of this Agreement.

**11. INDEMNIFICATION AND LIABILITY**

- 11.1 The CITY shall protect, save harmless, indemnify, and defend, at its own expense, the DISTRICT, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of the CITY's performance of this Agreement, including claims by the CITY's employees or third parties, except for those damages solely caused by the negligence or willful misconduct of the DISTRICT, its elected and appointed officials, officers, employees or agents.
- 11.2 The DISTRICT shall protect, save harmless, indemnify, and defend at its own expense the CITY, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever, arising out of the DISTRICT's performance of this Agreement, including claims by the DISTRICT's employees or third parties' except for those damages solely caused by the negligence or willful misconduct of the CITY, its elected and appointed officials, officers, employees or agents.
- 11.3 In the event of liability for damages of any nature whatsoever arising out of the joint performance of this Agreement by the CITY and the DISTRICT, including claims by the CITY's or the DISTRICT's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the DISTRICT and the CITY, their officers, officials, employees and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.
- 11.4 No liability shall be attached to the CITY or the DISTRICT by reason of entering into this Agreement except as expressly provided herein.

**12. SEVERABILITY**

12.1 Should a court of competent jurisdiction declare any clause, phrase, sentence or paragraph of this Agreement invalid or void, the remaining provisions of this Agreement not so declared shall remain in full force and effect.

**13. EXERCISE OF RIGHTS OR REMEDIES**

13.1 Failure of either party to exercise any rights or remedies under this Agreement shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

**14. RECORDS**

14.1 Both parties shall maintain adequate record to document obligations performed under this Agreement. Both parties shall have the right to review the other party's records with regard to the subject matter of this Agreement, upon reasonable notice.

**15. ENTIRE AGREEMENT**

15.1 This Agreement constitutes the entire agreement between the parties with respect to the PAC. It is anticipated that the parties will enter into amendments to this interlocal agreement.

15.2 Except to the extent inconsistent with prior agreements between the parties, this agreement shall be considered supplemental to prior agreements between the parties hereto.

**16. GOVERNING LAW AND STIPULATION OF VENUE**

16.1 This Agreement shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior court of Washington for Snohomish County.

**17. CONTACTS FOR AGREEMENT**

17.1 The contact persons for this Agreement are:

Allen Johnson  
City Administrator  
City of Arlington  
238 N. Olympic Avenue  
Arlington, WA 98223  
(360) 403-3441

Linda Byrnes  
Superintendent  
Arlington School District  
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Arlington, WA 98223  
(360) 618-6200