

**Carson City Culture & Tourism Authority
Agenda Report**

Date Submitted: 02/07/18

Agenda Date Requested: 02/12/18

Time Requested: 15 Minutes

To: Carson City Culture & Tourism Authority - Board of Directors

From: Chris Kipp, Operations Manager

Subject Title: For Possible Action: To approve the modification of the Cooperative Agreement between Carson City (the "City"), a consolidated municipality and political subdivision of the State of Nevada, and the Carson City Culture and Tourism Authority (the "CTA"), a County Fair and Recreation Board created by the City pursuant to NRS 244A, so the CTA Arts & Culture Director position will be brought under the purview of Carson City, and the 1% Transient Occupancy Tax intended for this purpose be administered by the City (Fiscal impact of approximately \$207,000 in FY 18). – **Jonathan Boulware**

Staff Summary: The CTA seeks to work with the City to administer the employment of the CTA funded, Arts & Culture Director. In addition, the City would provide services associated with the administration of the position, the implementation of the Carson City Arts & Cultural Master Plan and Cultural Tourism Campaign. It is the opinion of the CTA, the 1 percent transient occupancy tax dedicated to funding the employment and administration of the Arts & Culture Director, associated costs in diversifying cultural offerings that allow Carson City to compete in the cultural tourism market and all operational costs associated with the implementation of Carson City Arts and Culture Master Plan would be better realized under the admin of the City.

Type of Action Requested:

Resolution

Ordinance

Formal Action/Motion

Other (Specify) Presentation Only

Recommended Board Action:

I move to approve the modification of the Cooperative Agreement between Carson City (the "City"), a consolidated municipality and political subdivision of the State of Nevada, and the Carson City Culture and Tourism Authority (the "CTA"), a County Fair and Recreation Board created by the City pursuant to NRS 244A, so the CTA Arts & Culture Director position will be brought under the purview of Carson City, and the 1% Transient Occupancy Tax be administered by the City.

Applicable Statute, Code, Policy, Rule or Regulation:

Fiscal Impact: FY18 estimated transfer to the City of Carson City of \$207,000

Explanation of Impact: If the modification to the agreement is approved, the CTA will transfer to the City the full 1 percent of transient occupancy tax collected for Arts & Culture.

Funding Source:

Supporting Material:

Prepared By: Joel Dunn, NV Consulting, LLC

1st Amended Cooperative Agreement for Administrative Services and Facility Use & Management

This Cooperative Agreement, dated this ____ day of _____, 2018, is entered by and between Carson City (the “City”), a consolidated municipality and political subdivision of the State of Nevada, and the Carson City Culture and Tourism Authority (the “CTA”), a County Fair and Recreation Board created by the City pursuant to NRS 244A.597. The City and the CTA will be at times collectively referred to as the “Parties” or individually as the “Party”.

WITNESSETH

WHEREAS, the CTA wishes to program the City facilities and venues for events that will draw visitors from outside of the region and create positive economic impact for Carson City; and,

WHEREAS, the City currently provides certain services in the area of Human Resources, Payroll Administration, Information Technology, Parks and Recreation, Public Works, Community Development,

WHEREAS, the City also currently provides certain legal services to the CTA; and,

WHEREAS, this Agreement will be of benefit to both parties – to the CTA by reducing costs for the CTA and to the City by increasing revenue to the City; and,

WHEREAS, the City is willing and able to perform the services described herein; and

WHEREAS, pursuant to NRS 277.180 the City and the CTA are public agencies that are authorized to cooperate in the performance of this interlocal agreement; and

WHEREAS, pursuant to NRS 277.180 it is reasonably foreseeable that both agencies will expend more than \$25,000 to carry out this agreement and thus it must be ratified and approved by the official action of the Carson City Board of Supervisors as a condition precedent prior to its entry into force; and

NOW THEREFORE, in consideration of the promises and of the mutual covenants herein contained, it is agreed as follows:

THE CITY AGREES:

1. To provide financial administration for all CTA funds as follows:
 - a. Maintain a separate agency fund in the City’s general ledger to account for all of the CTA’s accounting transactions.
 - b. Process accounts payable transactions from CTA funds as entered by the CTA into the City’s accounts payable system.

- c. Process biweekly payroll and benefits from CTA funds as entered by the CTA into the City's payroll processing system.
 - d. Provide the CTA with bank deposit slips in order for the CTA to deposit transient lodging tax and other revenues generated by the CTA into the City's bank account.
 - e. Reconcile and post bi-monthly revenue reports as prepared by the CTA.
 - f. Transfer room tax debt service payments bi-annually from CTA funds maintained by the City to the City's Debt Service Fund as directed by the CTA.
 - g. Invest any funds in CTA funds via the Carson City Treasurers investment program. Any interest income earned by such funds will be deposited in the CTA agency fund.
 - h. Maintain the CTA'S capital asset listing to track capital asset acquisitions and deletions.
 - i. Provide monthly and year-end financial reports.
2. To provide Human Resource assistance as follows:
- a. When the CTA notifies the Human Resources Department of an opening, the City will post the position on governmentjobs.com and forward all applications received to the CTA Director. The CTA is responsible for notifying the applicants selected for interviews and those not selected. The CTA is responsible for confirming that an employee has all necessary certifications and training needed for the position held. The CTA is responsible for sending out the offer letter and coordinating and conducting any pre-employment testing or background searches. The City will verify the employee's eligibility to work in the United States. The CTA will provide its own new hire orientation. The CTA is responsible for managing its employees and providing any necessary training. The CTA employees are not employees of Carson City.
 - b. The City will provide the new hire benefit's orientation as long as the CTA participates as a member on the City's benefit plans.
 - c. The City will input all employment changes into the City's payroll system once received by the CTA.
 - d. The City will allow the CTA to participate in the health, dental, vision and life insurance plans that are provided to City employees, if allowed by the benefit providers. The CTA will pay for all costs associated with participating in the benefit plans. The City is responsible for negotiating all benefit contracts and providing the benefit information to the CTA Director once approved by the Carson City Board of Supervisors. The City will enroll each eligible CTA employee into the Nevada Public

Employer's Retirement System. The CTA is responsible for complying with all PERS regulations.

- e. Except as indicated in the Legal Services Section in Section 7 herein, the CTA is responsible for providing for and managing its unemployment and worker's compensation insurance claims, EEOC claims and employment related lawsuits. The CTA is responsible for handling all CTA personnel issues.
- f. The City will administer the position of the Arts and Culture Director to be funded from the 1% increase in the transient lodging tax rate approved by the Board of Supervisors on May 5, 2016. This position will be responsible for the implementation of the Carson City Arts & Cultural Master Plan and the Cultural Tourism Campaign. The Arts and Culture Director will report directly to the City Manager.

3. To provide Information Technology services as follows:

- a. The City's IT Department will support the following. Unless otherwise stated, the CTA will purchase equipment, software, and outside service costs. All services are subject to City standards.
 - i. Telephone service - Service includes all functions normally offered to City VoIP system users (cost of phone sets funded by the CTA).
 - ii. Full Help Desk Support.
 - iii. Ongoing network support - Includes Internet support and bandwidth adequate for basic browsing and/or a single video conferencing link.
 - iv. Antivirus software for computers (provided by the City's IT department).
 - v. Support for City applications, such as the City's financial system, subject to approval by the department that owns the system and data.
 - vi. E-mail service.
 - vii. Smartphone connective to e-mail system; may require funding from the CTA for mobile device management software; terms to be same as City departments.
 - viii. Server storage space up to 50 gB per user, fully backed up.
 - ix. A basic page on the City's Web site or links from the City's site to the CTA site.
 - x. Printers, copiers, fax machines: If connected to City network. Does not include maintenance or repair costs. Inexpensive personal output devices (such as inkjet desktop printers) are considered disposable, and subject to very limited support.
- b. The following items are supported by the City's IT department and will entail equipment or service costs to be funded by the CTA.
 - i. Fax line/emergency phone line.
 - ii. Microsoft Office applications.
 - iii. Customized changes to the CTA's Web presence.

- iv. Network equipment and building Wi-Fi.
- v. Connection between CTA and the City's network, and associated equipment.
- vi. Additional phones.
- vii. Additional computers.
- viii. Wiring for additional computers or phones that is not already in place.
- ix. Other systems may be supported upon mutual agreement, with costs to be determined.

4. To provide Parks and Recreation Services as follows:

- a. The City and the CTA will work cooperatively to develop a priority reservation process for the use of selected and specific City owned parks and recreation facilities. The priority reservation process will recognize and honor existing contractual obligations or agreements for facility uses for City sponsored/co-sponsored meetings, programs and events; and facility use by outside agencies (government, quasi-governmental and non-profit organizations) that have current use agreements with the City. Perpetual reservations at the Bob Boldrick Theater (minimum of two consecutive years) will also be considered as existing obligations.
- b. Events having the potential to provide a positive economic impact to City tax revenue will receive priority for booking reservations. These events that receive endorsement from the CTA will be allowed free use of these facilities, on-site equipment and services provided by the City including staffing and support of the event.
- c. The CTA will actively recruit events that have the potential to provide a positive community economic impact. The CTA will work with the City to book or reserve facilities for these events. The Parks and Recreation Department will be responsible for processing final reservations, coordinating logistics and event details, and issuing appropriate permits/agreements directly with the event organizer.
- d. The City Parks and Recreation facilities applicable to this agreement include, John D. Winters Centennial Park, Carson City Fairgrounds/Fuji Park, Mills Park, Governor's Field, Multipurpose Athletic Center (MAC), and Pete Livermore Sports Complex. Mills Park includes the Aquatic Facility, Carson City Community Center, Bob Boldrick Theater, and the Marv Teixeira Pavilion. Additional Parks and Recreation locations will be considered only upon prior approval from the Parks and Recreation Director or their designee. Carson City Fairgrounds/Fuji Park includes the arena, barns, seating and other recreation amenities with the exception of Bailey Pond. This does not include Carson City Open Space properties without prior approval of the Open Space Advisory Committee.

- e. To ensure that there are minimal impacts to user groups and the general public at the City's Parks and Recreation facilities the following guidelines will be established for certain locations:
 - i. Mills Park Aquatic Facility: A maximum of four endorsed events each calendar year. The Multipurpose Athletic Center (MAC): A maximum of 12 endorsed events (one per month) each calendar year.
 - ii. Mills Park Bob Boldrick Theater: The CTA will be given the first right of refusal for any availability beyond contractual obligations as outlined in section 4a above.
 - iii. Mills Park Community Center and Marv Teixeira Pavilion: City sponsored youth recreation programs occur annually to coincide with Carson City School District breaks (summer, winter, spring). Endorsed events will be allowed to occur outside of the standard program days/operating hours (Monday-Friday 6:30am-6pm) to ensure the youth recreation programs are not negatively impacted or conflict with endorsed event activities.
 - iv. Carson City Fairgrounds/Fuji Park: Bailey Pond will remain open and available for the general public at all times during endorsed events due to City contractual obligations with the State of Nevada Department of Wildlife. Endorsed events shall not prohibit public access and use of the pond for the public to use and enjoy from 8am to dusk.
- f. The Parks and Recreation Department will inform the CTA of contacts and inquiries it receives of events that may have tourism or visitor potential for Carson City and refer event organizers directly to the CTA for potential endorsement consideration.
- g. Direct costs are determined by the City and may include elements such as seasonal staff and inmate labor, event coordination, services and supplies provided, equipment (including rental equipment), utilities, and facility use. Direct costs will not include allocation of full time staff or staff that is regularly scheduled during the day/time of the event at any particular facility. Overtime incurred by employees (seasonal, part time, or full time) will be included as a direct cost.
- h. The CTA will make all reasonable efforts to include the Parks and Recreation Department in pre-planning meetings and coordination with event organizers. The CTA will notify the Parks and Recreation Department regarding approval of newly endorsed events at least sixty days in advance or at the time of the special event Major Project Review (MPR) meeting to ensure adequate resources can be allocated to support the event or if the event should be considered by the Carson City Parks and Recreation

Commission. Endorsed events with less than sixty days' notice will be considered by the Parks and Recreation Director or their designee.

- i. Approved events. The events outlined in Exhibit A, attached hereto and incorporated by reference, are reoccurring events that the CTA wishes to endorse on a regular basis at the City's Parks and Recreation facilities. Events not included in Exhibit A will require the processes and approvals as outlined above and may require a Major Project Review, depending on the size and scope of the event. The CTA shall meet with the Parks and Recreation Department annually to update this Exhibit and related information.
5. To provide Public Works services as follows:
 - a. For events outlined in Exhibit A requiring the Public Works Department to provide labor, equipment, or materials, the CTA will include the Public Works Department in the event planning meeting. At the meeting the CTA will provide Public Works with an outline of required work and a proposed schedule for each work item.
 - b. For events not included in Exhibit A, the Public Works Department will provide the CTA within one week of the event planning meeting a cost estimate and comments on the proposed schedule. If the CTA agrees with the proposal from the Public Works Department they will respond in writing a minimum of two weeks prior to the event taking place. After the event is completed, the Public Works Department will provide an invoice to the CTA of actual expenditures for the event to include labor, equipment, and materials that was used for the event.
 6. To provide Community Development special event services for downtown special events as follows:
 - a. The City and the CTA will work cooperatively to develop a priority reservation process for the use of McFadden Plaza and other city rights-of-way (streets) within the downtown area to support special events. The priority will recognize and honor pre-existing contractual obligations or agreements for City sponsored/co-sponsored special events and special events by outside agencies that have use agreements with the City.
 - b. Downtown special events having the potential to provide a positive economic impact to City tax revenue will receive priority for reservation. Special Event application and vendor fees will be waived for events that receive endorsement from the CTA.
 - c. The CTA will actively recruit events that have the potential to provide a positive community economic impact. The CTA will work with the City to reserve downtown special event space. The Community Development Department will be responsible for processing a Special Event application and coordinating logistics and event details directly with the event organizer. Event organizers are responsible for providing all

information and documentation required for the Special Event permit at least 60 days prior to the event, including applicable liability insurance.

- d. The Community Development Department will inform the CTA of contacts and inquiries it receives of special events that may have tourism or visitor potential for Carson City and refer event organizers to the CTA.
 - e. Direct costs will be determined by the City as identified in the applicable city department subsections, above.
 - f. The CTA will make all reasonable efforts to include the Community Development Department in pre-planning meetings and coordination with downtown special event organizers. The CTA will notify the Community Development Department regarding approval of newly endorsed downtown special events at least 90 days in advance of the special event date to ensure that the special event space is available. Endorsed events with less than 90 days' notice will be considered by the Community Development Director or their designee on a case-by-case basis with consideration of the nature of any conflicting downtown special events.
7. To provide legal services to the CTA as follows:

- a. By and through the Carson City District Attorney's office, the City will:
 - i. Provide legal counsel to attend all meetings of the CTA;
 - ii. Legally represent and provide legal counsel to the CTA, and perform such other legal duties on behalf of the CTA as directed by the Executive Director of the CTA;
 - iii. Draw all legal papers and give written opinions as requested by the CTA or on its behalf;
 - iv. Except where CTA's insurance counsel is involved, initiate or defend against civil litigation on behalf of the CTA or its members or employees acting within the scope of their legal authorized employment or public duties, but not where civil litigation or other legal dispute exists involving the CTA and another client of the Carson City District Attorney's office; and
 - v. Train the CTA on Nevada's Open Meeting Law and Ethics in Government Law.

The CTA AGREES:

- 1. To timely submit all claims for payment of accounts payable and payroll and according to an agreed upon schedule created by the City between it and the CTA.

2. To collect all transient lodging taxes from Carson City lodging properties and deposit those taxes with the Carson City Treasurer for credit to the CTA agency fund.
3. To ensure that appropriate purchasing and financial policies and procedures are in place.
4. To be responsible for its own procurement of goods and services.
5. To be responsible for preparing, approving, and filing the CTA's annual budget and budget augmentations.
6. To be responsible for all financial reporting required by the State of Nevada Department of Taxation.
7. To be responsible for preparing the CTA's annual financial statements and providing an annual audit of its financial statements.
8. To ensure that appropriate personnel policies and practices are in use.
9. To pay for any direct costs associated with the City's telephone system.
10. To pay for any hardware and software information technology costs, except as provided in Section 3 Information Technology services.
11. To coordinate with City's personnel for the use of any City facilities for events to insure that all requirements of City are met by the event promoter / organizer.
12. To pay to the City, an amount equal to 2% of the total 11% transient lodging tax rate monthly.
13. To provide for its own liability insurance.

IT IS FURTHER AGREED:

1. That this Agreement will remain in effect until June 30, 2019.
2. Either Party may terminate this Agreement without cause upon 60 days' written notice to the other Party. Each Party agrees to perform their respective duties herein until the date of termination. All contractual obligations for scheduled events shall survive any termination.
3. The Agreement constitutes the entire agreement of the Parties and as such, is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the

terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto and approved by each Parties' respective counsel.

4. All notices or other communications required or permitted to be given under this Agreement shall be in writing and will be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt required, postage prepaid on the date posted, and addressed to the other Party at the following address:

FOR CITY:

Nick Marano, City Manager
201 N Carson Street, Suite 2
Carson City, NV 89701
(775) 887-2100
nmarano@carson.org

FOR BUREAU:

Carson City Culture & Tourism Authority
Chris Kipp, Operations Manager
716 North Carson Street, Suite 100
Carson City, NV 89701
775-283-7682/ FAX 775-687-7416
ckipp@visitcarsoncity.com

5. To the fullest extent of NRS Chapter 41 liability limitations, each Party shall indemnify, hold harmless and defend, not excluding the others right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the Party, its officers, employees or agents. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any Party or person described herein. This indemnification obligation is conditioned upon receipt of written notice by the indemnifying Party within 30 days of the indemnified Party's notice of an actual or pending claim or cause of action. The indemnifying Party shall not be liable to hold harmless any attorney's fees or costs incurred by the indemnified Party if the indemnified Party elects to participate in any litigation or arbitration with legal counsel of its own choice.
6. The laws of the State of Nevada apply in interpreting and construing this Agreement.
7. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remained for the agreement.

8. Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either CITY or CTA arising from, or related to, this Agreement.
9. Each Party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to this Agreement and will present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation is maintained.
10. Neither Party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.
11. The Parties represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services herein.
12. Failure of either Party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights, remedies provided by law or equity, including but not limited to actual damages incurred, and reasonable attorney's fees and costs incurred by the prevailing Party.
13. The Parties will not waive and intend to assert available NRS Chapter 41 liability limitation in all cases. The Parties expressly waive any claim for punitive damages and understand that the remedy for any willful or intentional misconduct shall be remedied through the political process.
14. Any future modification of this Agreement shall be subject to the provisions covered by this Agreement and approval of such modification shall be in writing and signed by a representative of each Party.

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15. The City and CTA will meet annually to discuss the Cooperative Agreement. All City Departments involved in the Agreement will be represented (if they choose to be) in the annual meeting. Any changes to the Agreement will be presented to both the Board of Supervisors and the Carson City CTA Board of Directors for approval.

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

CARSON CITY, NEVADA

CARSON CITY VISITORS BUREAU

Mayor – Robert L. Crowell

Chairman – Jonathan Boulware

Board of Supervisors

Board of Directors

Attest:

Attest:

Clerk

Secretary

Approved as to Legality and Form:

Attorney