

**MANAGEMENT AGREEMENT**

This Agreement made on \_\_\_\_\_, 2024, by and between the **MARTIN COUNTY**, a political subdivision of the State of Florida having its principal office at 2401 SE Monterey Road, Stuart, Florida 34996, (the “County”), and, **THE ARTS COUNCIL, INC.**, a non-profit corporation organized and existing under the laws of the State of Florida, having its principal office at 80 E Ocean Blvd., Stuart, FL 34994 (the “Council”).

**WITNESSETH**

**WHEREAS**, the County holds title to the property commonly known as the Old Courthouse, including the front courtyard (the “Property”); and

**WHEREAS**, the Council is experienced in the management and operation of the Property, which is listed on the National Historic Register as a historic site; and

**WHEREAS**, the County has agreed to provide maintenance and preservation of the Property and to provide financial support to the Council for the management of cultural programs at the Property.

**NOW THEREFORE**, in consideration of the mutual covenants set forth below, the County and the Council agree as follows:

**SECTION 1.        HOURS AND STAFFING**

1.1    The Council shall continue to act as the exclusive agent of the County for the operation of the Property as a public art gallery and cultural center. The Council agrees to operate the art gallery and cultural center a minimum of five (5) days a week with minimum operating hours of 10:00 a.m. to 4:00 p.m. but is not required to operate on legal holidays. Hours of operation shall be posted on or around the entrance.

1.2    The Council shall engage a qualified experienced facility manager for its operations who shall be physically available during reasonable operating hours. The Council agrees a designated assistant manager shall be available when the manager is not on duty or available. The qualifications and contact information for such manager and assistant manager shall be submitted to the County upon request.

- 1.3 The Council agrees that it will not discriminate against any employee or applicant for employment and that no person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in connection with the Property or the services offered in or at the Property or with respect to hiring, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly related to employment on the basis of age, sex, physical handicap or other disability, race, color, religion, national origin or ancestry.
- 1.4 The Council shall annually ensure that all of its volunteers and employees have passed a Level 1 background screening at the expense of the Council and shall submit to the County a signed attestation attesting to compliance with the provisions of Chapter 435, Florida Statutes. Volunteers who assist on an intermittent basis for less than ten (10) hours a month and are always within the line of sight of a background screened individual may be exempted from the background screening requirement and will be included in the attestation as exempt. The Council shall also ensure that none of its volunteers and employees are a sexual predator/sexual offender. Information received from these background screenings will be used to determine if the Council is in compliance with this Agreement.
- 1.5 The County shall employ and supervise all on-site employees or contractors required for the overall maintenance, restoration and upkeep of the Property. The Council shall employ and supervise all on-site employees or contractors required for the overall management, operation, and programming of the Property.

**SECTION 2.           OPERATION AND MAINTENANCE**

- 2.1 The County shall use its best efforts to ensure that the Property is maintained in an attractive condition and in a good state of repair. The County shall establish a maintenance and improvement schedule for the repair and general periodic maintenance of the Property, including assignment to the Council of limited duties for the daily operations and maintenance support of the Property as an art gallery and cultural center.
- 2.2 The Council agrees to keep the interior and exterior of the Property clean and will, at its sole expense, provide and pay for interior facility cleaning services.

- 2.3 The Council agrees to make or contract for emergency repairs and provide protective measures necessary to protect the property from damage and to prevent injury to persons or loss of life. The County will reimburse the Council for any emergency expenditures provided, however, that such repairs must receive the prior written approval of the County Administrator. In the event of an emergency an inability to contact the County Administrator or the General Services Department Director, the Council may undertake emergency action provided documentation of such emergency action will be filed with the County Administrator within twenty-four (24) hours of the emergency.
- 2.4 The Council will perform all services that are necessary and proper for the art gallery and cultural center operation and management, excluding maintenance, of the Property, and shall report to the County promptly any conditions concerning the Property that require the attention of the County.
- 2.5 Representatives of the Council and the County shall meet bi-annually to develop plans for the future maintenance, preservation and operation of the Property.
- 2.6 The Council acknowledges and agrees that it is prohibited from possessing, dispensing, selling, using or giving away any alcoholic beverages, cigarettes or tobacco products of any nature whatsoever from, in, around or in connection with the Property. However, the Council may serve alcoholic beverages in the Property for the Council's events in compliance with City of Stuart, Martin County and State of Florida laws, rules, and regulations. The Council shall purchase Special Event Liability Insurance for events where alcohol is served and shall name the County as an additional insured.

SECTION 3. SCHEDULE OF FEES AND PROGRAMS

- 3.1 As additional compensation for the Council's management services, the County agrees to allow the Council to retain any and all admission fees, event rental and gift shop sales collected from visitors to the Property as established herein.
- 3.2 The Council agrees to establish a schedule of reasonable admission fees for entrance to the Property, as well as event rental fees, and agrees to maintain adequate records and internal controls to ensure that fees collected are used by the Council for the operation of the Property as an art gallery and cultural center, including but not limited to employee salaries and programming

expenses. The Council agrees to submit its schedule of fees to the County for its approval on or before September 1 of each year. The Council and the County agree that, in the event that the County does not approve the Council's fee schedule, the County's determination of reasonable fees shall be the final determination. If the County fails to act, by September 30, upon the Council's request for approval of admission fees schedule, such schedule shall be deemed approved for the year.

- 3.3 The Council agrees to establish an annual schedule of programs for the Property. This schedule of programs will include a public event to be held by the Council at the Property at least once each quarter. One such event shall be held in May to celebrate historic preservation month. The schedule will also include children's programming during the summer months. The annual schedule of programs shall be submitted to the County for its approval on or before September 1 of each year and shall be the minimum programming to be held by the Council on the Property for the year. Additional programming may be added throughout the year.
- 3.4 The Council agrees to manage the Property and programs in full compliance with all Martin County ordinances, resolutions, and other regulations as well as all applicable State and Federal laws and regulations.

#### SECTION 4. MANAGEMENT FEE AND UTILITIES

- 4.1 The County shall pay a management fee to the Council of \$70,000 for the 2024/2025 Fiscal Year and for each fiscal year thereafter. Such fee will be disbursed monthly in the amount of \$5,833.34. The funding of this Agreement is contingent upon the continued appropriation of adequate funding by the County.
- 4.2 The Council will be solely responsible for the cost of water services, electricity, telephone, cable, solid waste, and sewerage services to the Property.
- 4.3 The Council agrees that any funds paid by the County that remain unexpended by the Council at the close of each fiscal year shall be returned to the County on or before November 30 of that year.

#### SECTION 5. TERM OF AGREEMENT

- 5.1 This Agreement shall be for a three (3) year term commencing on October 1, 2024 and ending on September 30, 2027. The County and the Council agree to meet no later than six (6) months prior to the termination of this Agreement

to discuss the operation, maintenance, and management of the Property under this Agreement.

- 5.2 This Agreement may be renewed for subsequent three-year periods upon the same terms and conditions as stated herein upon written agreement of the parties.

SECTION 6. RECORDS AND REPORTS

- 6.1 The Council agrees to keep books, accounts and records that reflect all revenues and all expenditures received in connection with the management and operation of the Property. The books, accounts and records shall be maintained in accordance with generally accepted accounting principles at the Council's principal place of business. The Council shall maintain the original copies of all invoices, statements, purchase orders and billings as well as such other information relating to the operation or management of the Property that requires the County's attention. The Council shall make the books, accounts and records required to be maintained hereunder available to the County for examination or audit during normal business hours, upon five (5) days written notice.
- 6.2 The Council shall furnish the County a detailed statement of all activities, attendance, rentals and revenues and expenditures on a quarterly basis on or before the following: January 31, April 30, July 31, and October 31.
- 6.3 Failure to comply with the following provisions shall be deemed a material default subject to termination as provided herein. To the extent that disclosure of information is required by law or regulation or applicable legal or regulatory process, the County shall give notice as is practicable to the Council that such disclosure is required.
- 6.4 The Council shall comply with public records laws, specifically, the Council shall:
- a. keep and maintain public records required by the County to perform the service;
  - b. upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

- c. ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if the Council does not transfer the records to the County; and
- d. upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Council or keep and maintain public records required by the County to perform the service. If the Council transfers all public records to the County upon completion of this Agreement, the Council shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Council keeps and maintains public records upon completion of this Agreement, the Council shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, PUBLIC\_RECORDS@MARTIN.FL.US, MARTIN COUNTY, ATTN: PUBLIC RECORDS LIAISON, 2401 SE MONTEREY ROAD, STUART, FLORIDA 34996.**

**SECTION 7. TERMINATION OF AGREEMENT**

- 7.1 If the Council breaches any of the terms of this Agreement, the County shall give the Council written notice of such breach. If the Council fails to remedy the breach within thirty (30) days after receiving the above-described notice, the County may terminate this Agreement.
- 7.2 Except as otherwise provided in this Agreement, neither party shall be deemed in default or in breach of this Agreement to the extent it shall be unable to perform due to an event of *Force Majeure*. For the purpose of this Agreement, *Force Majeure* shall mean and include any act of God, accident, fire, lockout,

strike or other labor dispute, riot or civil commotion, act of a public enemy, failure of transportation facilities, enactment, rule, order, or act of government or governmental instrumentality (whether domestic or international and whether federal, state or local, or the international equivalent thereof), failure of technical facilities, or any other cause of any nature whatsoever beyond the control of either party which was not avoidable in the exercise of reasonable care and foresight.

- 7.3 Notwithstanding the above, either party shall have the right to terminate this Agreement for any reason upon sixty (60) days prior written notice.

#### SECTION 8. PROPERTY INTERESTS

- 8.1 Nothing contained in this Agreement shall be deemed to create or be construed as creating in the Council any property interest in and to the Property. The Council agrees that any and all fixtures shall become property of the County upon installation.
- 8.2 The County acknowledges that the artifacts and furnishings currently contained in the Property are the personal property of the Council on loan during the term of this Agreement to the County to enhance operation of the Property as an art gallery and cultural center.

#### SECTION 9. INSURANCE AND INDEMNIFICATION

- 9.1 The County agrees to maintain general premises insurance for the Property. The Council agrees to maintain insurance for such personal property and historical artifacts it places in or on the Property. The Council shall provide proof of worker's compensation insurance as required by law, if applicable. Any such required worker's compensation policy shall include a waiver of subrogation.
- 9.2 The County shall not be liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by the Council or by any person whosoever may at any time be using or occupying or visiting the Property or be in, on or about the same, unless such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission or negligence of the County, or its employees. The Council specifically agrees that the County shall not be liable for any loss or damage to the Council's personal property, historical artifacts or other property placed in or on the Property. Nothing herein shall be construed as a waiver of the County's

sovereign immunity afforded by the Florida Constitution or of the provisions of Section 7658.28, Fla. Stat.

- 9.3 For the sum of ten dollars (\$10.00) consideration, receipt of which is hereby acknowledged, the Council shall indemnify the County against all claims, liabilities, loss, or damage whatsoever on account of any such loss, injury, death or damage, except for claims caused by or in any way result from or arise out of any act, omission or negligence of the County or its employees. The Council hereby waives all claims against the County for damages to the buildings and improvements that are now or hereafter placed or built on the Property and to the property of the Council in, on or about the Property, and for injuries to persons or property in or about the Property from any cause arising at any time as a result of the Council's acts, omissions or negligence. The Council agrees to hold the County harmless from and against any and all claims, lawsuits, judgments, or similar causes of action, for any injuries to persons or property arising out of the activities conducted by the Council on the Property, unless such claims are caused by or in any way result from or arise out of any act, omission or negligence of the County or its employees. Further, the Council agrees to defend the County against any and all such claims and suits as described herein at the Council's sole cost and expense with no cost or expense to be incurred by the County. Nothing herein shall be construed as a waiver of the County's sovereign immunity afforded by the Florida Constitution or of the provisions of Section 7658.28, Fla. Stat

## SECTION 10. NOTICES

- 10.1 All notices, requests, demands, or other communications required under this Agreement shall be in writing and shall be deemed to have been given if delivered in person, or within two (2) business days after deposited in the United States mail, postage prepaid, certified, with return receipt requested, or otherwise duly delivered to the Contract Manager of this Agreement of the receiving party as set forth herein. Either party may change its contact information, below, by so notifying the other party in writing.
- 10.2 The County's Contract Manager for this Agreement is the General Services Department Director \_\_\_\_\_, 2401 SE Monterey Road, Stuart, Florida 34996, Telephone: \_\_\_\_\_ Email: real\_property@martin.fl.us

Notices required to be directed to the County Administrator shall be sent to County Administrator, 2401 SE Monterey Road, Stuart, Florida 34996, Telephone: (772) 221-2354 Email: real\_property@martin.fl.us

10.3 The Council's Contract Manager for this Agreement is Nancy Turrell, Executive Director, The Arts Council, Inc., 80 E Ocean Boulevard, Stuart, Florida 34994, Telephone (772 287-6676, Email: nturrell@martinarts.org

SECTION 11. MISCELLANEOUS

- 11.1 This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties to it, and their respective successors and assigns; provided, however, that this Agreement may not be assigned by the Council without the prior written consent of the County. Anything in the foregoing to the contrary notwithstanding, the Council may, without the consent of the County, delegate the performance of, but not the responsibility for, any duties and obligations of the Council to any independent contractor or entity.
- 11.2 If any term of this Agreement or the application thereof to any person or circumstances shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 11.3 The drafting, execution, and delivery of this Agreement by the parties has been induced by no representations, statements, warranties or agreements other than those expressed in it. This Agreement contains the entire agreement between the parties and there are no further or other agreements or understandings written or oral in effect between the parties relating to its subject matter unless expressly referred to in it. This Agreement cannot be changed or modified except by written instrument executed by all parties hereto. This Lease and the terms and conditions hereto apply to and are binding upon the heirs, legal representatives, successors and assigns of both parties.
- 11.4 This Agreement shall be construed in accordance with the laws of the State of Florida. Venue of any action arising out of this Agreement or any of the agreements attached hereto and incorporated herein shall be in the appropriate Court in and for Martin County, Florida.

11.5 The rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies available to either party in law or equity. In connection with any litigation (including all appeals there from) arising out of this Agreement, the parties expressly agree that each party will bear its own attorney's fees and court costs incurred in connection with this Agreement. Further, the parties expressly and specifically waive the right to a jury trial in any way connected with this Agreement.

11.6 Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the dates set forth below.

**COUNTY:**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

\_\_\_\_\_  
CAROLYN TIMMANN, CLERK OF THE  
CIRCUIT COURT AND COMPTROLLER

\_\_\_\_\_  
HAROLD E. JENKINS II, CHAIRMAN

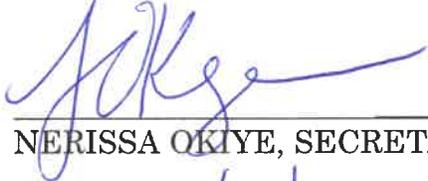
SUFFICIENCY:

APPROVED AS TO FORM & LEGAL

\_\_\_\_\_  
SARAH W. WOODS, COUNTY ATTORNEY

**COUNCIL:**

THE ARTS COUNCIL, INC., a Florida not for profit corporation

  
NERISSA OKIYE, SECRETARY

BY:   
NICKI VAN VANNO, CHAIRMAN

DATE: 4/10/2024

STATE OF FLORIDA  
COUNTY OF MARTIN

This Agreement was acknowledged before me by means of physical presence this day of April 10, 2024, by Nicki Van Vanno, President, and Nerissa Okiye, Secretary, respectively, of The Arts Council, Inc., a Florida not for profit corporation, on behalf of the corporation. They are personally known to me or have each produced a driver's license issued within the past 5 years as identification.

**NOTARY SEAL**



SANGEETA MARAGH  
Commission # HH 477435  
Expires April 30, 2028

  
Notary Public

