



MEMORANDUM

To: Mayor and City Council

From: Alex Hargis, Arts Center Managing Director

Via: Jessica Carpenter, Director of Parks and Recreation

Date: April 13, 2021

Reference: Presentation and discussion regarding the proposed Memorandum of Understanding between the City of Coppel and the Coppel Arts Center Foundation

2040: Create Business and Innovation Nodes
Foster an Inclusive Community Fabric
Enhance the Unique 'Community Oasis' Experience

Introduction:

The Coppel Arts Center's 2019 business model that was submitted to Council included support from a non-profit affiliate to aid in fundraising and general community support for marketing, strategy, and operational efforts.

A fundraising development taskforce was created in 2019 and it consisted of Coppel business and community leaders. The goal of that taskforce was to begin evaluating the fundraising development potential of the Arts Center project and to generate community awareness and interest. At the end of that year, members of that taskforce sought to create an independent foundation to support the Arts Center and began the necessary 501c3 paperwork. The strategic pillars of cultivate (fundraising), elevate (advisory), activate (volunteerism), and advocate (brand ambassadorship) served as the underpinnings for the organization's bylaws and mission. In March of 2021, the Coppel Arts Center Foundation was formally recognized by the IRS as a 501c3 non-profit entity.

Staff was advised by Legal, Finance, and the third-party risk assessment consultant, The McHard Firm, to draft a memo of understanding (MOU) followed by a resolution to put legal framework around the working relationship of the City and the Foundation. The MOU document was jointly written under the guidance of the parties listed above. The MOU document is intended to establish the spirit of the relationship between the two organizations while also defining individual responsibilities and joint efforts. Detailed operational measures will be addressed in a separate Facilities Use Agreement.

Analysis:

- The MOU was crafted using approved reference documents provided by The McHard Firm and the Bond Council.
- Finance was consulted numerous times to provide input regarding procedural guidance and language for fundraising, sponsorships, and grants.
- The MOU has been reviewed and approved by both organizations' legal representatives.
- The document establishes joint working relationships for marketing, fundraising, and community programming.
- The document defines the City as the formal entity to receive and manage contributions for capital assets and the Foundation as the formal entity to receive and manage contributions in the form of sponsorships, corporate memberships, grants, and endowments.

Legal Review:

Legal and Finance have reviewed the memo of understanding.

Fiscal Impact:

The Coppell Arts Center Foundation is an independent, self-sustaining non-profit, and having them conduct fundraising development for Arts Center related programming and initiatives will aid in reducing the Center's dependency on CRDC funds and bolstering its cost recovery efforts.

Recommendation:

The Parks and Recreation Department recommends approval of this item.



**MEMORANDUM OF UNDERSTANDING
BETWEEN
COPPELL ARTS, CULTURAL, & HERITAGE FOUNDATION
AND
THE CITY OF COPPELL**

THIS **MEMORANDUM OF UNDERSTANDING** is made this ____ day of April, 2021 between the City of Coppell, an incorporated municipality in the state of Texas (the “City”), and the Coppell Arts, Cultural, & Heritage Foundation, a Texas non-profit corporation (the “Foundation”), referred to collectively as the “Parties”, for the purpose of acknowledging and defining their mutually beneficial relationship to support the Coppell Arts Center (the “Center”), a division of the City.

RECITALS

WHEREAS, the City and the Foundation share in the goal of supporting the arts as a means of enriching the lives of the City of Coppell’s citizens through their mutual support of the Center and the many resident artists and organizations that call the City of Coppell home;

WHEREAS, the City and the Foundation view the Center as a vital component of the City’s Vision 2030 and Vision 2040 citizen-based planning processes contributing to ensure that the City of Coppell always remains “A Family Community for a Lifetime”;

WHEREAS, the City recognizes the Foundation as an independent non-profit corporate entity, to educate and activate the community and to provide charitable and other support for the Center;

WHEREAS, the City owns, operates, and maintains the land and facilities which constitute the Center located at 505 Travis Street, in Coppell, Texas 75019 and provides for the staffing and operations of the Center; and

WHEREAS, the City and Foundation desire to work together in good faith and in the spirit of maintaining a collaborative relationship to jointly support the Center as an important cultural asset of the community and intend this Memorandum of Understanding to facilitate this important effort,

NOW, THEREFORE, the Parties wish to express their shared general understanding relevant to the Center, and they acknowledge the following:

A. FOUNDATION RESPONSIBILITIES

1. ADMINISTRATIVE

1.1 The Foundation is organized and shall operate in such a manner that will retain the Foundation’s legal status as a tax-exempt, Texas non-profit organization pursuant to section 501(c)(3) of the Internal Revenue Code, or any successor statute.

1.2 The Foundation’s primary point of contact for interaction with the City will be the Foundation’s Board President.



1.3 Any current or future investment accounts or funds held or managed by the Foundation will remain within the sole control and management of the Foundation.

1.4 The Foundation may contract with consultants and vendors and/or hire their own staff to fulfill the Foundation's mission and organizational goals.

1.5 The Foundation will have its own budgets, accounts, and financial accounting that will be managed by the Foundation and will not be the responsibility of the City.

1.6 The Foundation will endeavor to comply with all tax laws and regulations applicable to a non-profit IRS Section 501(c)(3) entity.

2. MARKETING

2.1 The Foundation will apply its best efforts in utilizing its marketing channels and resources to promote the Center on its website, social media platform, e-mail marketing campaigns, and through the distribution of promotional materials, and onsite signage. The Foundation will be the sole owner of its intellectual property.

2.2 The Foundation will license to the City use of the Foundation's photo, video, and audio marketing assets for use in marketing or promoting the Center to the extent permissible by the agreements for any licensed content. The Foundation expects and will utilize its best efforts to negotiate an Intellectual Property Licensing Agreement with the City to facilitate this process. The Foundation will endeavor to comply with the City's branding standards in a manner that favors and compliments the City's image.

2.3 The Foundation acknowledges the importance of adhering to its branding standards and communication policies when creating marketing and advertising material relating to the Center.

2.4 The Foundation will inform the City of any events it seeks to plan and hold at the Center in order to avoid event scheduling conflicts.

2.5 The Foundation will act as primary spokesperson to the media for all matters affecting the Foundation's business and operations.

3. FOUNDATION FUNDING OF PROGRAMS/GRANTS

3.1 The Foundation intends to solicit funds and financial support from a variety of entities and persons and in a variety of forms such as sponsorships and in-kind gifts.

3.2 The Foundation will annually create the Foundation's budget, determine strategy for programs and activities for the Center that the Foundation will fund, and will communicate the results of this process to the City.

3.3 To the extent that the Foundation desires to fund the Foundation through grants, the Foundation may, at its discretion, apply for non-municipal or non-governmental grants from time to time. If the Foundation desires to apply for grants from local, state, or federal governmental entities, the Foundation will first confer with the City of this intent and will engage in good faith consultation with the City's Grants Committee to determine the propriety and feasibility of any such grants. Any grants that will be considered "pass-through grants" that will directly affect the Center will only be



applied for in consultation and agreement with the City and a separate pass-through agreement negotiated and agreed upon by the Parties.

B. CITY RESPONSIBILITIES

1. ADMINISTRATIVE

- 1.1 The City's primary point of contact for interaction with the Foundation will be the Center's Managing Director.
- 1.2 Financial transactions between the City and the Foundation will be contemporaneously memorialized in standard business and accounting documents customary to such transactions.
- 1.3 The Center will have its own budgets, accounts, and financial accounting that will be managed by the City and will not be the responsibility of the Foundation.
- 1.4 The City will be responsible for ensuring that the Center and the Property are in compliance with the City's Code of Ordinances, Zoning Ordinance and all other local, state and federal laws.
- 1.5 Upon reasonable written notice, the City may audit the books and records of the Foundation insofar and only insofar as such books and records relate or pertain directly to this Agreement. Such audit shall be conducted at the office of the Foundation or some other reasonable location agreed upon between the Parties, shall be during normal business hours, and shall be at the sole cost and expense of the City in conducting the audit.

2. MARKETING

- 2.1 The City will be the primary spokesperson to the media for all matters relating to the Center.
- 2.2 The City will apply its best efforts in utilizing its marketing channels and resources to promote the Center on its website, social media platform, e-mail marketing campaigns, and through the distribution of promotional materials and onsite signage. The City will be the sole owner of all intellectual property for the Center.
- 2.3 The City will license to the Foundation use of the Center's photo, video, and audio marketing assets for use in marketing or promoting the Center to the extent permissible by the agreements for any licensed content. The City expects and will utilize its best efforts to negotiate an Intellectual Property Licensing Agreement with the Foundation to facilitate this process.
- 2.4 The City will make a good faith effort to coordinate its marketing calendar and fundraising campaign efforts with the Foundation to serve the best interests of the Center.
- 2.5 The City will advise the Foundation of availability of facilities and dates of events it intends to plan and hold at the Center to avoid event scheduling conflicts.



3. FOUNDATION-FUNDED PROGRAMS FOR THE CENTER

3.1 With respect to Programs conducted and funded by the Foundation (i.e., a Master Class, educational offering, engagement opportunity, etc.) at the Center, the Parties acknowledge that the City will be the signatory and contract holder for all artist agreements for all such Foundation-funded Programs, and, except for payment of expenses to be funded by the Foundation, the City will be the obligor under all such artist agreements.

3.2 With respect to Events conducted and funded by the Foundation (i.e., annual fundraising Gala, donor appreciation event, etc.) at the Center, the Parties acknowledge that the City will be the signatory and contract holder for all artist agreements for all such Foundation Events, and the payment of expenses to be funded by the Foundation. The Parties also acknowledge that, with respect to Foundation Events, the Foundation will be the signatory and contract holder for all other event expenses (i.e. catering, photographer, rentals, etc.).

3.3 The City and the Foundation acknowledge the importance of communicating the requirements imposed by any one particular Foundation-funded Program or Event to ensure each Party fully understands and accepts an allocation of costs and services in advance of the Program or Event and as part of the planning process for all such activities.

C. JOINT RESPONSIBILITIES

1. DONOR DEVELOPMENT

- 1.1 The City will be responsible for leading all donor efforts pertaining to capital and City assets (e.g. seating, performance halls, building-related materials and fixtures).
- 1.2 The Foundation will be responsible for leading all donor efforts pertaining to non-capital assets (e.g., operational services, education programs, entertainment programming, Foundation funded community engagement).
- 1.3 The Foundation will confirm with the City the feasibility of any significant sponsorship agreement prior to the Foundation's acceptance or execution of such a sponsorship agreement.
- 1.4 The Parties will endeavor to coordinate the development of the Center's Privacy and Information Use Policies.
- 1.5 The Foundation may start and maintain a membership program for the Center in coordination with the City.
- 1.6 The City will endeavor to coordinate with the Foundation on all sponsorship and donor packages where both Parties are proposed to offer benefits to donors who participate in supporting the Center at varying levels. The Parties will agree to certain donor policies that will be contained in a Joint Donor Policy.

2. FUNDRAISING EVENTS

2.1 The Foundation may conduct its fundraising events and activities offsite or at the Center as the Foundation might deem appropriate and based upon the Center's availability.



3. COORDINATION OF EFFORTS

3.1 The City will endeavor to meet with the Foundation upon the receipt of a reasonable request to ensure the best interests of the Center are being addressed and will endeavor to communicate freely and regularly with the Foundation toward this end.

3.2 The City will ensure that electronic donations directed to the Foundation may be made through the City's ticketing website, including when tickets are purchased, and that the funds will be held for the benefit of the Foundation until paid to the Foundation.

D. VENUE USAGE

1.1 The Parties will enter into a separate Facilities Use Agreement which they acknowledge will control the Foundation's use of the Center for Foundation events and programs.

1.2 The Parties acknowledge that City will manage and coordinate all event logistics that occur within the Center, including, by way of example, production, marketing and ticketing, security, custodial, and parking services.

E. STATEMENT OF MUTUAL INTENT

1.1 The City and Foundation acknowledge the central importance that the Center has in fulfilling the vision of being a "Family Community for a Lifetime" by increasing access to and public awareness of the arts while embracing the rich diversity of the City of Coppell's citizens.

1.2 The Parties acknowledge and agree that the future agreements and cooperation may be memorialized in the future agreements and amendments to this MOU. All changes, additions or deletions to the obligations herein shall be reduced to writing and signing on behalf of each of the signatures.

ACKNOWLEDGED:

City of Coppell

By: _____
Mike Land, City Manager
City of Coppell
255 Parkway Blvd.
Coppell, TX 75019

Date Signed: April ____, 2021

Coppell Arts, Cultural, & Heritage Foundation

By: _____
Penelope Furry, President
Coppell Arts Center Foundation
505 Travis St.
Coppell, TX 75019

Date Signed: April ____, 2021