



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

February 13, 2025

BCC Date: _____

Board of County Commissioners
Clackamas County

Approval of a Funding Agreement with the Clackamas County Cultural Coalition for a competitive arts grant program. Agreement Value is \$100,000 for 18 months. Funding is through State Lottery Funds. No County General Funds are involved.

Previous Board Action/Review	On December 18, 2024, the Board of County Commissioners approved funding the Clackamas County Cultural Coalition in the amount of \$100,000 to administer an arts grant program in Clackamas County.		
Performance Clackamas	1. Grow a Vibrant Economy		
Counsel Review	Jane Vetto, 1/29/2025	Procurement Review	N/A
Contact Person	Laura Edmonds	Contact Phone	503-742-4366

EXECUTIVE SUMMARY: On December 18, 2024, the Board of County Commissioners approved \$100,000 funding to support the Clackamas County Cultural Coalition (the Coalition). The funding will support a competitive grant program to artists, creatives, musical programs, theatre and local organizations that support arts and culture in Clackamas County.

The Coalition will use the funds for the administration of an arts grant program on behalf of Clackamas County and will utilize their existing competitive processes and systems to distribute funds. 15% of the grant awarded may be used for administrative costs.

The Coalition will serve as both liaison and advocate for the county arts and culture community, providing leadership, resources, and direction as well as functioning as a convener (by discipline) for individual artist groups, and to the various arts and culture organizations throughout Clackamas County.

RECOMMENDATION: Staff respectfully recommends approval of the Funding Agreement between Clackamas County and the Clackamas County Cultural Coalition.

Respectfully submitted,

Dan Johnson

Dan Johnson,
Director, Department of Transportation and
Development

For Filing Use Only

**FUNDING AGREEMENT
BETWEEN CLACKAMAS COUNTY
AND THE CLACKAMAS COUNTY CULTURAL COALITION**

THIS AGREEMENT (this "Agreement") is entered into and between **Clackamas County** ("County"), a political subdivision of the State of Oregon, and the **Clackamas County Cultural Coalition** ("the Coalition"), an Oregon company, collectively referred to as the "Parties" and each a "Party."

RECITALS

On December 18, 2024, the Clackamas County Board of Commissioners appropriated funding to support the Coalition. The funding approved was \$100,000 in State of Oregon Lottery Dollars.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

TERMS

1. **Term.** This Agreement shall be effective upon execution by both parties and shall expire on June 30, 2026 unless otherwise extended by agreement of the Parties.
2. **Funding.** County agrees to grant the Coalition a sum not to exceed one hundred thousand dollars (\$100,000.00) (the "Funds"). The Funds are proceeds from the Oregon State lottery and as such, are subject to the limitations of use set forth in the Oregon Constitution, Article XV, Section 4, and ORS 461.540. The Coalition shall use the funds awarded under this grant solely for the purposes set forth in Exhibit A, attached hereto and incorporated herein.
3. **Monitoring.** The Coalition agrees to allow access to conduct financial and performance audits for the purpose of monitoring use of the Funds in accordance with Generally Accepted Auditing Standards ("GAAS"). County, and its duly authorized representatives, shall have access to such records and other books, documents, papers, plans, records of shipments and payments and writings of the Coalition that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts, copies and transcripts. The Coalition also agrees to provide reasonable access to the Coalition employees and contractors for the purpose of monitoring. Audits may be performed onsite or offsite, at the County's discretion. If any audit or financial review finds that payments to the Coalition were in excess of the amount to which the Coalition was entitled, then the Coalition shall repay that amount to County.
4. **Reporting.** The Coalition shall provide one progress report and one annual report to the County regarding use of the Funds. The reports shall include full financials of the organization, a narrative summary that details how the Funds provided under this Agreement were used, program outcomes, and other information reasonably requested by the County including, but not limited to, information necessary to fulfill County's obligations under ORS Chapter 461. Reports are due based on the schedule shown on Exhibit A.
5. **Financial Management.** The Coalition shall comply with Generally Accepted Accounting Principles (GAAP) or another equally accepted basis of accounting, use adequate internal controls, and maintain necessary sources documentation for all uses of the Funds.

6. Payment. County will grant funds in a single payment following the execution of the agreement within thirty (30) days of the effective date of this Agreement.

7. Representations and Warranties.

- A. *The Coalition Representations and Warranties:*** the Coalition represents and warrants to County that the Coalition has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of the Coalition enforceable in accordance with its terms.
- B. *County Representations and Warranties:*** County represents and warrants to the Coalition that County has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of County enforceable in accordance with its terms.
- C.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

8. Termination.

- A. Termination for Convenience.** Either the County or the Coalition may terminate this Agreement at any time prior to County distributing funds to the Coalition. After County has distributed funds to the Coalition, either Party may terminate this Agreement upon 120 days written notice to the other Party. In the event a party terminates this Agreement under this Section 8 A, the Coalition shall immediately return all unspent funds to the County.
- B. Termination for Breach.** Either the County or the Coalition may terminate this Agreement in the event of a breach of the Agreement by the other Party. Prior to such termination however, the party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to affect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period. Upon termination for the Coalition's breach, County shall have all remedies available to it at law, in equity, or under this Agreement including, but not limited to, requiring the Coalition to return all unspent funds and to repay County for any funds used by the Coalition in violation of this Agreement.
- C. Termination for Non-appropriation/Change in Law.** Either Party may terminate this Agreement in the event either Party fails to receive expenditure authority sufficient to allow the Party, in the exercise of its reasonable administrative discretion, to perform under this Agreement. Additionally, either Party may terminate this Agreement if federal or state laws, regulations or guidelines are modified or interpreted in such a way that

performance under this Agreement is prohibited. In the event of termination under this Subsection C, the Coalition shall immediately return all unspent funds to the County.

- D. **Waiver.** The County or the Coalition shall not be deemed to have waived any breach of this Agreement by the other party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- E. **Reservation of Remedies.** The termination of this Agreement, regardless of cause, shall not prejudice any rights or obligations accrued to the Parties prior to termination. Each party shall have all rights and remedies available to it at law, in equity, or under this Agreement.

- 9. Indemnification.** Subject to the Oregon Tort Claims Act and the Oregon Constitution, the Coalition agrees to indemnify, hold harmless, and defend County and its officers, elected officials, agents and employees, from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon the Coalition's acts or omissions in performing under this Agreement including, but not limited to, any claim that the Coalition used the Funds for ineligible purposes under ORS 461.540.

The Coalition shall not be required to indemnify County for any such liability arising solely out of negligent acts or omissions of the County in performing under this Agreement. However, neither the Coalition nor any attorney engaged by the Coalition shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall the Coalition settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.

- 10. Insurance.** The Coalition shall secure at its own expense and keep in effect during the term of the performance under this Agreement the insurance required, and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of the Coalition under this Agreement. The Coalition shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County DTD/Office of Economic Development 150 Beaver Creek Road Suite 334 Oregon City, OR 97045. Emailed to: ledmonds@clackamas.us

<input checked="" type="checkbox"/> Required - Workers Compensation: The Coalition shall comply with the statutory workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Abuse & Molestation endorsement with limits not less than \$1,000,000 per occurrence if not included in the Commercial General Liability policy.

11. Notices; Contacts. Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

A. Clackamas County.

Laura Edmonds
 Economic Development Manager, Office of Economic Development
 Clackamas County
 150 Beaver Creek Road
 Oregon City, OR 97045
ledmonds@clackamas.us | (503) 742-4366

B. Clackamas County Cultural Coalition.

Astra Davalos, *Co-Chair*
 Fool House Art Collective
astra@foolhouse.online
 Foolhouseoregon@gmail.com
 857-205-3882
 1st term expires Sept 2026

Chris Guntermann, *Co-Chair*
 Baker Cabin Historical Society
 cguntermann@hotmail.com
 971-409-0934
 1st term expires Sept 2026

Fiscal Sponsor:

Dianne Alves
Executive Director
Clackamas County Arts Alliance
PO Box 2181 Oregon City, OR 97045
dianne@clackamasartsalliance.org
Direct:503.481.1288

12. General Provisions.

- A. Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of County and Clackamas County without giving effect to the conflict of law provisions thereof. Any claim between County and the Coalition that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States County Court for the County of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. The Coalition, by execution of this Agreement, hereby consents to the in jurisdiction of the courts referenced in this section.
- B. Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations including, but not limited to, the requirement that use of the Funds under this Agreement be used for purposes consistent with ORS Chapter 461 and other applicable law. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. Access to Records.** The Coalition shall retain, maintain, and keep accessible all records relevant to this Agreement ("Records") for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. The Coalition shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, the Coalition shall permit the County's authorized

representatives' access to the Records at reasonable times and places for purposes of examining and copying.

E. Reserved.

F. Debt Limitation. This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

G. Severability. If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

H. Integration, Amendment and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

I. Interpretation. The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

J. Independent Contractor. Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship

K. No Third-Party Beneficiary. The Coalition and County are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

L. Subcontract and Assignment. The Coalition shall not enter into any subcontracts for any of the work required by this Agreement, or assign, or transfer any of its interest in this Agreement by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion.

County's consent to any subcontract shall not relieve the Coalition of any of its duties or obligations under this Agreement. By execution of this Agreement, County approves Coalition's use of the third parties identified in Exhibit A.

- M. Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- N. Survival.** All provisions in Sections 7, 8, 9, and 12 (A), (C), (D), (F), (G), (H), (I), (J), (K), (N), (Q), and (T) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- O. Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- P. Reserved.**
- Q. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- R. Force Majeure.** Neither the Coalition nor County shall be held responsible for delay or default caused by events outside of the Coalition or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, the Coalition shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- S. Reserved.**
- T. No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

Clackamas County

Clackamas County Cultural Coalition

Chair, Board of County Commissioners

Chris Guntermann
Chris Guntermann (Jan 17, 2025 12:48 PST)

By:

17/01/25

Date

Date

Approved as to Form:

Clackamas County Arts Alliance

Jane E. Vetto
County Counsel

Dianne Auer

By:

1/29/25

1/21/25

Date

Date:

EXHIBIT A

Use of Funds

The source of funds under this Agreement are \$100,000.00 of Lottery dollars budgeted in Clackamas County's Office of Economic Development FY 2024-25 adopted Budget. The Funds are proceeds from the Oregon State lottery and as such, are subject to the limitations of use set forth in the Oregon Constitution, Article XV, Section 4, and ORS 461.540. Use of funds is restricted to the following:

- (a) Creating jobs
- (b) Furthering economic development in Oregon
- (c) Financing public education

Clackamas County Cultural Coalition (the Coalition) may use the funds for the following eligible purposes:

Administration of an arts grant program on behalf of Clackamas County. Supporting a competitive grant program only to those projects located in Clackamas County or operating support to organizations located in Clackamas County. The Coalition will be required to utilize its existing competitive processes and systems in which to distribute funds.

Funding will support diverse projects throughout Clackamas County that specifically build cultural infrastructure, sustain and grow local assets, and remove barriers to cultural participation. Grant projects and support should include the following: artists, creatives, musical programs, theatre and organizations that provide direct support to arts and culture, history, heritage, humanities organizations and cultural creatives.

These priorities will specifically implement the Coalition's vision by:

1. Increasing public recognition and valuing of local culture;
2. Acknowledging the vibrancy that social, cultural and ethnic diversity bring;
3. Increasing public participation in local culture and cultivating projects that might otherwise be overlooked;
4. Supporting the inclusion of arts and culture in every community; and
5. Growing communications capacity for cultural groups, organizations, and artists/creatives

Types of Grants:

1. Project Grants Up to \$5,000 Annual application process
2. Operating Support Funds Up to \$5,000 Annual application process alongside project grant application process

Fund Distribution Timeline

Funds are to be distributed to grant recipients in accordance with the Coalitions annual program distribution timelines in the 2025 program year. In fiscal year 2025, the Coalition will be announcing the grant opportunity in March 2025 with grant funding decision in May 2025. The Coalition has planned the distribution of grants by June 30, 2025.

In addition, the Coalition agrees to:

The Coalition will utilize the services of the Clackamas County Arts Alliance (CCAA) as their fiscal agent for all administrative, financial and grant management, funding allocations, training services and other related activities. CCAA may receive a 15% administrative fee for all services provided from the \$100,000 grant issued to the Coalition.

The Coalition and their partners will support the Board of County Commissioners enabling them to understand the various needs as well as the positive impact of the arts and culture community in the County.

Request for funding. Upon full signature of this agreement, the Coalition must remit an invoice for full payment of the grant award.

Reporting

The Coalition shall provide one preliminary and one annual report to the Clackamas County Office of Economic Development. Reports shall be submitted to the following address:

Laura Edmonds
Economic Development Manager, Office of Economic Development
Clackamas County
150 Beaver Creek Road
Oregon City, OR 97045
ledmonds@clackamas.us | (503) 742-4366

The progress reports will include the following information:

- Reporting period
- Identify how funds were spent – provide specifics in a spreadsheet format
- Identify funding amount allocated to fiscal agent
- Identify how funding supported the mission of the Coalition

Reports are due by:

June 30, 2025 – A “preliminary status” report will be required in the form of an email, summarizing program development and estimated timelines in which the grant program will be delivered and funding allocated out to grant recipients.

Reports are due by:

A preliminary report will be required by May 2025 and all year-end “final” reports are to be provided to the Office of Economic Development no later than July/August 2025 in order to provide timely copies to the Clackamas County Board of Commissioners (the Board).

Annual reports must include:

- Spreadsheet containing a list of all grants awarded and to whom
- The amount of grant awarded
- The intended use of funds
- A Year-to-Date P&L and Balance Sheet
- Followed by the Coalitions annual report (when made public)

The Board may, at its discretion, request a presentation at a public meeting.