

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the “MOU”) is entered into this ___ day of _____, 2019, between Tri-Cities Arts Alliance, Inc. (dba: Atlanta Tri-Cities Arts Association), Box 87518, College Park, Georgia 30337, a non-for-profit 501(c) (3) corporation existing under the laws of the State of Georgia (hereinafter “TCAA”), and the City of Hapeville, a municipal and political subdivision of the State of Georgia (hereinafter “CITY”) to memorialize the agreement of the parties concerning their ongoing relationship for the purpose of conducting the LocalMotion Arts Festival, hereinafter known as “LocalMotion”.

Recitals

WHEREAS, since 2017, TCAA has organized, promoted and conducted LocalMotion as a unique annual event and community celebration;

WHEREAS, it is the intent of the City of Hapeville and Tri-Cities Arts Alliance, Inc. to work in cooperation and partnership with the each other to annually produce LocalMotion; and

WHEREAS, the City of Hapeville seeks to continue its support of LocalMotion at the same level as in previous years, TCAA and the CITY enter into this MOU that delineates the respective rights and obligations of the parties and defines their relationship for LocalMotion.

Agreement

NOW THEREFORE, for these reasons, and in consideration of the conditions, covenants and agreements set forth below, TCAA and the City agree as follows:

1. RELATIONSHIP BETWEEN THE PARTIES

The parties agree that the relationship of the parties is between two separate and independent entities. There is not a joint venture, partnership, employer-employee relationship or any principal-agent relationship.

2. EXCLUSIVITY

TCAA shall have exclusive operational and vending control over and within the geographic area and locations at which LocalMotion will be conducted, as such geographic area and locations are defined in the Special Event Open Container District application and permits relating thereto (the “LocalMotion Event Area”). The CITY shall not (a) authorize or permit any other person or entity to conduct any other community event, or (b) grant any other person or entity a transient merchant license to conduct any type of business, within the City of Hapeville during the time period of LocalMotion, which begins the third Saturday of October and ends the same day, without TCAA’s prior approval. Businesses or residents located within the LocalMotion Event Area shall be allowed access to and from their establishments or residences and are allowed the use of sidewalk areas, doorways and any other private property owned by or leased by such business or individual which is immediately adjacent to such business or residence.

3. SECURITY FOR THE LOCALMOTION FESTIVAL OF THE ARTS

TCAA shall be responsible to pay 50% of the required police staffing costs for LocalMotion. All security and police staffing, as may be required, is to be provided by certified law enforcement officers or other licensed and certified private security personnel.

TCAA will contract with Hapeville Police Department officers to fill the required security positions based on historical data and as required by the Chief of Police through the WPD special operations/community events coordinator. TCAA will pay Hapeville Police Department officers at the special-event rate of \$40 per hour or an amount agreed upon between TCAA and the individual officer. In the event sufficient numbers of Hapeville Police Department officers do not sign up to fill the required positions, security staffing may be obtained by employing licensed and certified private security personnel and certified law enforcement from other jurisdictions, as approved by the CITY through the Hapeville Police Department. Officers hired by TCAA shall be considered contract employees of TCAA. Hapeville Police Department Officers hired for LocalMotion shall be entitled to workers compensation coverage provided by the City of Hapeville.

The City of Hapeville agrees to pay for extraordinary public-safety services which exceed the requirements set forth above. The Hapeville Police Department will work in cooperation with TCAA to define what represent necessary safety components for use during LocalMotion. In addition, Hapeville Fire Department will work in cooperation with TCAA to define the necessary fire-safety components for use during LocalMotion.

4. IN- KIND SERVICES FOR LOCALMOTION

Aside from the public-safety services outlined above, the CITY agrees to provide in-kind services to TCAA commensurate with previous participation in LocalMotion. The CITY's in-kind contribution will be understood to include additional services and items required specifically for LocalMotion which the CITY would not provide in the absence of LocalMotion. Such in-kind services may include, but are not limited to:

- Use of Jess Lucas Y-teen Park facilities, space and parking;
- Placement and removal of barricades upon streets and public parking lots as needed;
- Additional trash removal prior to, during and after the festival;
- Additional staffing to assist artist and vendor set up and breakdown;
- Event parking signage placement;
- Use of available CITY picnic tables, portable bleachers, etc., if requested;
- Promotion of LocalMotion to the community and media via the CITY newsletter, CITY website, social media, Destination Marketing Organization resources and other available channels; and

- Other similar services that the CITY has provided to TCAA for past festivals.

The CITY will also designate the Main Street Manager to facilitate and coordinate TCAA requests related to any Festival activities and facilitate any necessary multi-departmental meetings with representatives of TCAA.

TCAA may request the CITY to provide additional levels of cash sponsorship, and/or in-kind services in excess of the amount of the CITY's in-kind contribution and/or cash sponsorship set forth in this MOU. Any requests for such additional services must be made no later than thirty days in advance of the festival event for which such services are requested. Such requests shall be made to the Main Street Manager, and must be approved by the City Manager and/or the City Council depending upon the amount of any such request.

TCAA agrees to waive event fees for the City of Hapeville.

5. CITY SPONSORSHIP

In addition to the in-kind services outlined in section 4 above, the City of Hapeville will provide TCAA with \$15,000 in cash sponsorship for LocalMotion. In exchange, TCAA shall include the City of Hapeville as a sponsor, providing the CITY with sponsor promotion, recognition and all other benefits.

6. INDEMNIFICATION

The parties agree to indemnify and hold harmless the other party, its governing board, officers, agents, and employees against any and all claims, damage, liability, injury expense, demands, causes of actions, judgments including court costs and attorney's fees arising out of or resulting from the negligence or intentional acts of its officers, agents or employees. In the event such loss is proximately caused by the acts of parties and their officers, agents or employees, each shall be responsible for its proportionate share of claimant's damages under the law of the state of Georgia.

The parties agree this provision shall survive the termination of this MOU.

7. GOVERNING LAW

The parties agree that the law of the state of Georgia shall govern this MOU, and that any suit or cause of action by either party against the other shall be filed in the Fulton County Superior Court.

8. COMPLETE AGREEMENT

The parties agree that this MOU constitutes the entire agreement of the parties and that no prior agreement or representation, written or oral, shall be binding or of any force or effect. Further, this MOU may not be amended, modified, altered or enlarged except in writing signed by the duly authorized representatives of the parties hereto.

9. AGREEMENT BINDING

The parties agree that this MOU shall be binding upon the successors and legal representatives of the parties hereto. Neither party shall assign this MOU or any of their respective rights, obligations or interest in it.

10. TERM

The term of this MOU will be for two (2) years from the date of the parties' execution, with a one year automatic extension, unless a party gives written notice to the other party, not less than sixty (60) days prior to such anniversary date, that the term of the MOU shall not be extended. Such notice shall be given as provided for by Section 12 below. The City's obligations in the second and any subsequent year(s) shall be subject to the sufficiency of annual appropriations properly budgeted and available for such purposes.

11. NOTICES

All notices with respect to this MOU shall be given by first class mail or hand-delivery to the parties as follows:

CITY:

City Manager, City of Hapeville
3468 N. Fulton Avenue
Hapeville, Georgia 30354

TCAA:

Armistead Perry
1876 Princeton Ave #101
College Park, GA 30337

12. SEVERABILITY

If any term, provision, covenant or condition of this MOU is ruled invalid, void, or unenforceable by a court of competent jurisdiction, this MOU will nonetheless remain in full force and effect as to all remaining terms, provisions, covenants and conditions.

IN WITNESS HEREOF, the duly authorized representatives of the parties have hereunto set their hand on the date and year written.

Tri-Cities Arts Alliance, Inc.

City of Hapeville

By: _____

By: _____

Chief Executive Officer

Mayor, City of Hapeville

Date: _____

Date: _____