



To: MAYOR AND COUNCIL

Agenda Item #: VIII. G.

From: Scott Neal
City Manager

Action

Discussion

Date: February 5, 2013

Information

Subject: MEMORANDUM OF UNDERSTANDING WITH EDINA CRIME PREVENTION
FUND FOR FALL INTO THE ARTS FESTIVAL

Action Requested:

Approve proposed memorandum of understanding (MOU) with the Edina Crime Prevention Fund for the annual Fall Into The Arts Festival.

Information / Background:

The annual Fall Into The Arts Festival is a major fundraising event of the Edina Crime Prevention Fund. The funds raised by the Crime Prevention Fund are used largely to supplement the operating and capital budgets of the Police Department.

Organizing and implementing the festival is complex operation that requires substantial coordination and cooperation between the Crime Prevention Board, their festival organizers and the City of Edina. The purpose of this memorandum of understanding is to resolve the respective roles and responsibilities of the parties in the present and to memorialize the relationships for the future in order that the festival continues to be a successful venture for the Crime Prevention Fund and the City of Edina.

The attached agreement was developed in conjunction with City staff and through a number of discussions with Crime Prevention Fund board members. The final document was prepared by the City Attorney and approved by the Crime Prevention Fund Board of Directors at their January 18, 2013 meeting.

**AGREEMENT BETWEEN
CITY OF EDINA AND THE EDINA CRIME PREVENTION FUND**

THIS AGREEMENT made this ____ day of _____, 2013, by and between **CITY OF EDINA**, a Minnesota municipal corporation ("City") and **THE EDINA CRIME PREVENTION FUND**, a Minnesota non-profit corporation ("ECPF"). City and ECPF, in consideration of the mutual covenants set forth herein, agree as follows:

1. **DESCRIPTION.** The Fall into the Arts Festival ("Festival") is an annual art show that is planned, coordinated and executed each year in September by the ECPF as a fund raising event for their charitable operations.
2. **FACILITIES.** The Festival shall occur at Centennial Lakes Park. The City shall reserve the park facilities the second weekend of September each year for the Festival. The Festival occurs on Saturday and Sunday. The ECPF shall have access to the Park and its facilities 24 hours prior to the start of the Festival for the purpose of preparing the Park for the Festival. The ECPF shall return the Park to the City no more than 12 hours after the completion of the Festival.
3. **TERM.** This Agreement is effective when signed by both parties and shall continue from year to year but may be terminated by either party upon one hundred days advance written notice to the other party.
4. **PARK RENTAL FEES.** The ECPF shall pay no park rental fee to the City so long as ECPF contributes a minimum of \$3,000 to the City each fiscal year.
5. **REIMBURSABLE EXPENSES.** The ECPF shall reimburse the City for expenses it incurs on behalf of the ECPF that are attributable to the Festival. Reimbursable expenses include such items as garbage bags, cleaning supplies, portable restroom rentals, etc. Reimbursable expenses shall be determined by the City following the completion of each Festival and the City will invoice ECPF following the final date of each Festival. ECPF shall pay the invoice within 30 days of receipt of the invoice.
6. **STAFFING COSTS.** City employees that perform work at the Festival shall remain employees of the City. The ECPF shall reimburse the City for direct staff costs for City employees that perform work on behalf of the ECPF at the Festival.
7. **OPERATIONAL SUPPORT.** The City will provide office space, storage space, telephone service, voice mail service and other operational support to the ECPF for the operation of the Festival. The City reserves the right to modify or change the level and nature of its operational support based on the operational needs of the City.
8. **ADVERTISING AND MARKETING.** The ECPF shall be responsible for all marketing efforts for the Festival. The City shall not pay for marketing efforts of the Festival. The ECPF shall not use City branding marks without the consent of the City. ECPF shall comply with all City signage regulations when marketing the Festival.

9. **USE OF CITY EQUIPMENT.** The use of City-owned motorized equipment is restricted to City employees.

10. **PARKING.** The City agrees to share its parking rights with ECPF for the term of the Festival. ECPF is subject to parking rules and restrictions imposed by the owners of private parking facilities in the Centennial Lakes Park area.

11. **BEER AND WINE.** Pursuant to City Council Resolution 2006-83, the City will operate an on-sale municipal dispensary at the Festival for the sale of beer and wine.

12. **WORKER'S COMPENSATION.** The ECPF shall obtain and maintain for the duration of this Agreement, statutory Worker's Compensation Insurance and Employer's Liability Insurance as required under the laws of the State of Minnesota if the ECPF has any employees.

13. **COMPREHENSIVE GENERAL LIABILITY.** ECPF shall obtain the following minimum insurance coverage and maintain it at all times throughout the life of the Agreement, with the City included as an additional named insured. The ECPF shall furnish the City a certificate of insurance satisfactory to the City evidencing the required coverage:

Bodily Injury:	\$2,000,000 each occurrence \$2,000,000 aggregate products and completed operations
Property Damage:	\$2,000,000 each occurrence \$2,000,000 aggregate

Contractual Liability (identifying the contract):

Bodily Injury:	\$2,000,000 each occurrence
Property Damage:	\$2,000,000 each occurrence \$2,000,000 aggregate
Personal Injury:	\$2,000,000 aggregate

Comprehensive Automobile Liability (owned, non-owned, hired):

Bodily Injury:	\$2,000,000 each occurrence \$2,000,000 each accident
Property Damage:	\$2,000,000 each occurrence

14. **INDEMNITY.** ECPF agrees to indemnify and hold the City harmless from any claim made by third parties resulting from the Festival or arising under this Agreement except for the

willful misconduct of the City. In addition, the ECPF shall reimburse the City for any cost of reasonable attorney's fees it may incur as a result of any such claims.

15. NOTICES. All notices, certificates or other communications required to be given to the City and ECPF hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered or certified form with postage fully prepaid and addressed as follows:

If to the City:	City of Edina Attention: City Manager 4801 W. 50th Street Edina, Minnesota 55424-1330
If to ECPF	The Edina Crime Prevention Fund 4801 W. 50 th Street Edina, Minnesota 55424-1330

16. MISCELLANEOUS.

- A. Data Practices. All data created, collected, received, maintained or disseminated for any purpose in the course of this Agreement is governed by the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statute, or any state rules adopted to implement the act, as well as federal regulations on data privacy.
- B. Assignment. Neither party may assign, sublet, or transfer any interest or obligation in this Agreement without the prior written consent of the other party, and then only upon such terms and conditions as both parties may agree to and set forth in writing.
- C. Waiver. In the particular event that either party shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or any succeeding breach of this Agreement by either party, whether of the same or any other covenant, condition or obligation.
- D. Governing Law/Venue. The laws of the State of Minnesota govern the interpretation of this Agreement. In the event of litigation, the exclusive venue shall be in the District Court of the State of Minnesota for Hennepin County.
- E. Severability. If any provision, term or condition of this Agreement is found to be or become unenforceable or invalid, it shall not effect the remaining provisions, terms and conditions of this Agreement, unless such invalid or unenforceable provision, term or condition renders this Agreement impossible to perform. Such remaining terms and conditions of the Agreement shall continue in full force and effect and shall continue to operate as the parties' entire Agreement.

- F. Entire Agreement. This Agreement represents the entire agreement of the parties and is a final, complete and all inclusive statement of the terms thereof, and supersedes and terminates any prior agreement(s), understandings or written or verbal representations made between the parties with respect thereto.
- G. Permits and Licenses. ECPF shall procure all permits and licenses, pay all charges and fees therefore, and give all notices necessary and incidental to this Agreement.

CITY OF EDINA

THE EDINA CRIME PREVENTION FUND

BY: _____
James Hovland, Mayor

BY: _____
Its: _____

AND _____
Scott Neal, City Manager

AND _____
Its: _____