

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 23, 2022**

<b>AGENDA ITEM:</b>	
Approval of Arts and Culture Grant for the Children’s Theatre Play Classes with the City of Marysville Parks, Culture, and Recreation Department.	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Chris Taylor	Tara Mizell <i>TM</i>
<b>DEPARTMENT:</b>	
Parks, Culture, and Recreation	
<b>ATTACHMENTS:</b>	
Grant Paperwork	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
<b>SUMMARY:</b>	

The City of Marysville’s Parks, Culture, and Recreation Department has been awarded a grant from the Snohomish County Conservation and Natural Resources/Cultural Resources Division. This grant will assist in the development of current and future Children’s Theatre classes and camps at the Marysville Opera House and the Parks, Culture, and Recreation Department. This money will be specifically used for audio and visual upgrades for the classes, as well as the creation of a costume shop for children to borrow/donate costume pieces for future classes and camps.

<p><b>RECOMMENDED ACTION:</b>                  Staff recommends the City Council consider authorizing the Mayor to sign the attached Interlocal Agreement between Snohomish County and the City of Marysville for the Arts and Culture Grant.</p>
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COMPANY/GROUP: City of Marysville  
CONTACT PERSON: Jon Nehring, Mayor  
ADDRESS: 1019 State Avenue, Marysville, WA  
98270  
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 91-6001459  
PROJECT MANAGER TELEPHONE/E-MAIL: Chris Taylor, [ctaylor@marysvillewa.gov](mailto:ctaylor@marysvillewa.gov) 360-363-8408  
COUNTY DEPT: Snohomish County Parks and Recreation  
DEPT. CONTACT PERSON: Annique Bennett, Communications Specialist  
TELEPHONE/FAX NUMBER: (425) 740-4309  
PROJECT: Summer Theater Camp and Classes  
AMOUNT: \$2,000.00  
FUND SOURCE: 199 501094404901  
CONTRACT DURATION: Contract execution to December 31, 2022

#### ARTS AND CULTURE GRANT

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and City of Marysville.

#### Recitals:

WHEREAS, by Motion, the County Council approved the 2022 Arts Commission Work Plan, which included Small Arts and Culture Grant Program expenditures recommended to it by the Snohomish County Arts Commission at the levels set forth in that recommendation: and

WHEREAS the 2022 City of Marysville project was one of twenty-three (23) projects recommended by the Commission and authorized for funding in 2022.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to provide funding for the City of Marysville program described in the City of Marysville 2022 application. The scope of services and compensation is described in the "Schedule A" attached hereto and incorporated by this reference.

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The City of Marysville will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon mutual execution (the "Effective Date") and shall terminate on December 31, 2022. City of Marysville shall complete its obligations under the scope of service by no later than December 31, 2022. The County's obligations after December 31, 2022, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Reimbursement. The County will reimburse City of Marysville as set forth in the Project Application, which is attached hereto and by this reference made a part of this Agreement.

b. Overhead and Expenses. No claims for reimbursement of overhead (regular operating costs or expenses) will be allowed under this Agreement.

c. Invoices. Upon completion of City of Marysville's eligible expenses for the Project, City of Marysville shall submit a properly executed invoice to the County indicating the amount of eligible expenses for reimbursement. The invoice shall include an itemization of all reimbursable expenses incurred by City of Marysville, together with reasonable documentation substantiating such expenses (such as receipts, credit card statements), all in accordance with this Section 3.

d. Contract Maximum. Total reimbursable expenses under this Agreement, all fees and expenses included, shall not exceed \$2,000.00.

4. Independent Contractor. City of Marysville agrees that it is not an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that City of Marysville is not entitled to any benefits or rights enjoyed by employees of the County. City of Marysville specifically has the right to direct and control City of Marysville's own activities in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties' partners or joint ventures.

City of Marysville shall furnish, employ and have exclusive control of all persons to be engaged in performing City of Marysville's obligations under this Agreement (the "City of Marysville personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such City of Marysville personnel shall for all purposes be solely the employees or agents of City of Marysville and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to City of Marysville personnel, City of Marysville shall be solely responsible for compliance with all rules,

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laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from City of Marysville personnel when required by law.

Because it is an independent contractor, City of Marysville shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). City of Marysville agrees to indemnify, defend, and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

City of Marysville assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by City of Marysville and as to all duties, activities and requirements by City of Marysville in completion of the Project under this Agreement. City of Marysville shall assume exclusive liability therefor, and shall meet all requirements thereunder, pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

6. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name: Annique Bennett  
Title: Communications Specialist  
Department: Snohomish County Parks and Recreation | Cultural Arts Office  
Telephone: (425) 740-4309  
Email: Annique.Bennett@snoco.org

7. Records and Access; Audit; Ineligible Expenditures. City of Marysville shall maintain adequate records to support its invoices of reimbursable expenses. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by City of Marysville. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers, and records of City of Marysville that are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to City of Marysville, shall be refunded to the County by City of Marysville.

8. Indemnification and Hold Harmless. Except for the sole negligence of the County,

City of Marysville agrees to protect, defend and indemnify the County from any and all costs, claims, judgments and/or awards of damages, arising out of or in any way resulting from City of Marysville's activities and/or services associated with this Funding Agreement.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

9. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all its programs and activities, whether those programs and activities are federally funded or not.

10. Employment of County Employees. SCC 2.50.075, "Restrictions on future employment of County employees," imposes certain restrictions on the subsequent employment and compensation of County employees. City of Marysville represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

11. Compliance with Other Laws. City of Marysville shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

12. Compliance with Grant Terms and Conditions. City of Marysville shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds City of Marysville's work hereunder.

13. Prohibition of Contingency Fee Arrangements. City of Marysville warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for City of Marysville, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for City of Marysville, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

14. Force Majeure. If either party is unable to perform any of its obligations under this

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Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

15. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

b. If City of Marysville breaches any of its obligations hereunder and fails to cure the same within five (5) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall reimburse City of Marysville only for the eligible expenses, if any, accepted by the County in accordance with Section 3.

c. The County may terminate this Agreement upon five (5) business days' written notice to City of Marysville for any reason other than stated in subparagraph b above, in which case reimbursement shall be made in accordance with Section 3 hereof for the eligible expenses, if any, reasonably and directly incurred by City of Marysville prior to receipt of the termination notice.

d. Termination by the County hereunder shall not affect the rights of the County as against City of Marysville provided under any other section or paragraph herein. The County does not, by exercising its rights under this Section 23, waive, release, or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. At its sole option, the County may deduct from the final payment due City of Marysville (i) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (ii) any other set offs or credits including, but not limited to, the costs to the County of selecting and compensating another contactor to complete the work of the Agreement.

16. Notices. All notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the County:            Snohomish County Division of Parks and Recreation | Arts  
14405 179<sup>th</sup> Ave SE, Monroe WA 98272

The County or City of Marysville may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

17. Confidentiality. City of Marysville shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with City of Marysville's performance under this Agreement. City of Marysville may use such information solely for the purposes necessary to perform its obligations under this Agreement. City of Marysville shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

18. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of City of Marysville are needed for the County to respond to a request under the Act, as determined by the County, City of Marysville agrees to make them promptly available to the County. If City of Marysville considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, City of Marysville shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by City of Marysville and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify City of Marysville (a) of the request and (b) of the date that such information will be released to the requester unless City of Marysville obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If City of Marysville fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of City of Marysville to claim any exemption from disclosure under the Act. The County shall not be liable to City of Marysville for releasing records not clearly identified by the City of Marysville as confidential or proprietary. The County shall not be liable to City of Marysville for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

19. Prevailing Wage. In completing the Project, City of Marysville shall comply with Washington State Prevailing Wage laws. City of Marysville shall pay any laborers and mechanics performing work for the Project at wage rates not less than those prevailing on similar construction in the locality in accordance with 39.12 RCW pertaining to payment of state prevailing wages on public works projects. City of Marysville shall require all contractors and subcontractors to comply with RCW 49.28.060 and 49.28.065. City of Marysville shall file and ensure that any subcontractor file with Department of Labor and Industries a Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid. Compliance with this section is material to this Agreement, any breach of this Section 25 is cause for County termination under Section 23.

20. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the

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parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

21. Complete Agreement. This Agreement constitutes the entire understanding of the parties. Any written or verbal agreements that are not set forth herein or incorporated herein by reference are expressly excluded.

22. Conflicts between Attachments and Text. Should any conflicts exist between any attached application and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

23. No Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and City of Marysville. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

24. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

25. Severability. Should any clause, phrase, sentence, or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

26. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or City of Marysville and that upon execution of this Agreement it shall constitute a binding obligation of the County or City of Marysville, as the case may be.

27. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

28. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

“County”  
SNOHOMISH COUNTY:

City of Marysville:

\_\_\_\_\_  
County Executive                      Date

\_\_\_\_\_  
Jon Nehring, Mayor                      Date  
Date:  
Attest:





## **Schedule A**

### **Scope of Work**

#### **Project Budget Compensation**

1. City of Marysville will be reimbursed by the County for eligible expenses incurred in completing the Project pursuant to the Agreement in an amount not to exceed \$2,000.00.
2. City of Marysville will not be reimbursed for any expenses incurred by it which provide direct promotional benefit to a specific private business entity. To ensure timely closeout of the Project, City of Marysville shall submit its invoice to the County no later than sixty (60) calendar days after completion of the services authorized by this Agreement and, in any event, no later than December 31, 2022. City of Marysville's invoice shall be accompanied by a report summarizing the Project and how funds provided for the Project under this Agreement have enhanced arts and culture in Snohomish County. In no event shall City of Marysville's invoice be paid by the County if it is submitted after December 31, 2022, or if it is not accompanied by the required report.

#### **PROJECT SUMMARY**

Theater camp and classes occur after school during the school year and in the mornings during summer break. Each play is designed so that every child plays a speaking role, wears a costume, and gets to participate in the magic of live theater. This program emphasizes collaboration over competition.

**Schedule A**

**Eligible Expenses for Arts and Culture Grant Reimbursement**

**Examples of expenses not eligible for reimbursement:** Regular operations expenses of the organization such as utility bills, staff wages, vehicle maintenance, etc.

**Examples of eligible expenses include** Project vendors, venue and equipment rentals, promotions, supplies, and purchases, food, lodging, registrations, speakers, performer, teacher fees and stipends etc.

**REMEMBER:** For reimbursement, proof of payment is required (itemized receipts, credit card statements, etc.)

	<b>Project Line Item:</b>	<b>Expense:</b>
1	Lapel Mics/Connectivity Cables	\$1,500
2	Costume and Prop Pieces	\$500
3		
4		
	<b>Total:</b>	\$2,000
	<b>Total Grant Award:</b>	\$2,000

**Signature:**

**Email:** ctaylor@marysvillewa.gov