

RESOLUTION NO. 398

A RESOLUTION TO APPROVE A CONTRACT WITH
THE ST. LOUIS CIVIC ORCHESTRA FOR PERFORMING ARTS

WHEREAS, the City wishes to enter into a contract with St. Louis Civic Orchestra for performance art and performance art education and services, and;

WHEREAS, the City Council has budgeted certain monies for performance art and performance art education and services, and;

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens that St. Louis Civic Orchestra be engaged to provide performance art and performance art education and services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, MISSOURI AS FOLLOWS:

1. That the City of Chesterfield hereby agrees to contract with St. Louis Civic Orchestra for performance art and performance art education and services, as detailed in the attached contract; and
2. That the City Administrator shall be authorized to execute said contract in a form similar to that attached as Exhibit A, and
3. That this Resolution shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2013.

Bruce Geiger, Mayor

ATTEST:

Judith A. Naggiar, City Clerk

**PERFORMING ARTS CONTRACT BETWEEN THE
CITY OF CHESTERFIELD, MISSOURI AND ST. LOUIS CIVIC ORCHESTRA**

This Arts Contract ("Contract") made and entered into on this _____ day of January, 2013, by and between the City of Chesterfield (hereinafter referred to as "City") and the Clayton Symphony Orchestra doing business and identified hereafter as the "St. Louis Civic Orchestra or SLCO" a Missouri Not-for-Profit Corporation.

The City, by and through its City Council, enters into this agreement with SLCO for the purpose of providing quality and diverse programming of the performing arts; to promote performing arts; and to provide performing arts education in the City of Chesterfield, Missouri and related events under the terms and conditions described herein.

NOW THEREFORE in consideration of the promises, agreements, covenants, and warranties set forth herein, the parties hereto agree as follows:

Section 1. Scope of Services.

SLCO shall perform the following services that shall be available to all the residents of the City during 2013:

- A. Performing Arts. SLCO will promote the performing arts through approximately 4 performances each year at the William D. Purser Center at the Logan College of Chiropractic in Chesterfield and 1 performance each year at the Chesterfield Amphitheater. SLCO may modify the location of its performances from time to time based on factors pertaining to appropriateness of venues, such as cost, schedule availability and audience development.
- B. Educational Programs. SLCO currently sponsors the Florence Frager Young Artist Competition, which recognizes local high school performers who demonstrate excellence in music performance and intends to continue to recognize outstanding young musicians in its programming schedule. SLCO will consult with City about opportunities for future educational components of its operations.
- C. Community Events. In addition to the Chesterfield Amphitheater concert referred to in Section 1.A. above, SLCO will consult with City to determine other opportunities for performance within the scope of its operational capabilities. SLCO will consult with other arts organizations funded by City, such as Chesterfield Arts and Stages, to identify prospects for future collaborations among arts organizations.
- D. Public Art. SLCO will serve as Resource/Liaison to the City and businesses in the community in the area of performing arts and will assist in the City's Master

Arts Plan. A representative of SLCO will be able to assist the City of Chesterfield's public art & performing arts efforts as needed.

Section 2. Payment

The City shall pay SLCO Twenty Five Thousand Dollars (\$25,000.00) for services described in Section 1 above.

Section 3. Fees For Admission.

SLCO will not charge admission fees for its annual performance at Chesterfield Amphitheatre. However, SLCO may charge reasonable fees for its other community performances and activities.

Section 4. No Discrimination In Use or Facilities.

SLCO for itself, successors in interest and assigns, as a part of the consideration hereof, agrees that no person on the grounds of race, color, religion, creed, sex, age, ancestry, national origin, disability or veteran status shall be excluded, from participation in, denied the benefits of or otherwise be subjected to discrimination in the use and enjoyment of services described in Section 1 above.

Section 5. Representations and Warranties.

In order to induce City to enter into this contract, SLCO makes the following representations and warranties:

SLCO is a not-for-profit corporation, duly organized, validly existing and in good standing under the laws of the State of Missouri; SLCO has all necessary power and authority to own and transfer its property and to transact the business in which it is engaged; SLCO has full power and authority to enter into this contract, to execute and deliver the documents required of SLCO herein, and to perform these obligations hereunder.

Section 6. Term.

This Contract shall commence upon execution by the duly authorized representatives of both parties and shall terminate on December 31, 2013 unless sooner terminated by the parties.

Section 7. Legal Relations

No employee, volunteer, board member or officer of SLCO shall be deemed to be an independent contractor, employee or volunteer of the City. No liability shall attach to the City or SLCO by reason of entering into this Contract except as expressly provided herein.

Section 8. Notice

All notices and other communications required, permitted, or desired to be given hereunder shall be in writing and shall be mailed by registered or certified mail, postage pre-paid, return receipt requested, or delivered by hand-delivery against receipt, or delivered by overnight delivery service to the following addresses:

If to SLCO: Larry Levin, President
St. Louis Civic Orchestra
P.O. Box 410053
St. Louis, MO 63141

If to City: Michael G. Herring, City Administrator
City of Chesterfield, Missouri
690 Chesterfield Parkway West
Chesterfield, Missouri 63017.

With a copy to: Robert M. Heggie
Attorney at Law
Stewart, Mittleman, Heggie & Henry, L.L.C.
222 S. Central Ave., Suite 501
St. Louis, Missouri 63105

Any notice given by registered or certified mail or by overnight delivery service shall be deemed to have been given on the date of the registration or certification thereof, or on the date deposited with the applicable overnight delivery service as the case may be, and any notice delivered by hand-delivery shall be deemed to have been given when actually delivered to the applicable address.

Section 9. Entire Agreement.

This Contract contains the entire agreement between SLCO and City and there are no other terms, conditions, promises, understandings, statements of representations, express or implied concerning the agreement contemplated hereunder. Any amendment, alteration, change, or modification hereof, shall not be effective unless set forth in a written instrument executed by SLCO and City.

Section 10. Remedies cumulative.

All rights, privileges, and remedies afforded either party by this Contract shall be deemed cumulative and the exercise of one such remedy shall not be deemed to be a waiver of any other right, remedy, or privilege provided for herein.

Section 11. Partial invalidity.

If any provisions of this Contract or the application thereof of any party or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract shall not be affected thereby and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned have executed this Contract as of the date of first above written.

St. Louis Civic Orchestra

City of Chesterfield, Missouri
A Third-Class City Organized
Under the laws of Missouri

By:

LARRY LEVIN
Its President

By:

MICHAEL G. HERRING
Its City Administrator