



Item #15.

Staff Report 082-19

TO: Mayor and City Council
FROM: Eric Holmes, City Manager
DATE: 7/1/2019

SUBJECT Creation of Culture, Arts & Heritage Commission as a Public Development Authority

Key Points

- On April 16, 2018, the City Council adopted a new Culture, Art & Heritage Plan.
- In the 2019-2020 biennial budget, the Council adopted \$400,000 per year to support the implementation of the plan including appointment of a new Culture, Arts & Heritage Commission.
- The City Council is being asked to approve an ordinance, charter and bylaws creating a new Culture, Arts & Heritage Commission as a public development authority.

Strategic Plan Alignment

Goal 5: Continue to build high quality historical and cultural experiences for residents and visitors.

Goal 5, Objective 5.2: Build a vibrant, regionally recognized arts and cultural community.

Present Situation

On April 16, 2018, the City Council adopted a new Culture, Art & Heritage Plan, the City's first in 25 years. The plan includes hiring a full-time Cultural Services Manager, appointing a new Culture, Arts & Heritage Commission, restoring the Cultural Grant program, developing a public art program and actualizing the existing downtown Arts District.

In the 2019-2020 biennial budget, the Council adopted \$400,000 per year to support the implementation of the plan including appointment of the new Culture, Arts & Heritage Commission. This funding is limited term for the duration of the current biennium. The Council appropriated these funds on a limited term basis in anticipation of establishing permanent, ongoing dedicated funding for the program as part of the larger Stronger Vancouver initiative, which is currently under consideration.

At their March 1 retreat this year, the City Council directed creation of the Culture, Arts & Heritage

Commission as a Public Development Authority (PDA) similar to the City Center Redevelopment Authority (CCRA) and charge them with the responsibility for implementing the Culture, Art & Heritage Plan. Through programs, ownership and management of physical assets including buildings and public art and through community partnership, the Commission will facilitate development of a strong culture, arts and heritage environment. The Commission may acquire and manage real property; secure financing; undertake the development or redevelopment, construction and maintenance of structures and facilities, including public amenities; and enter into agreements with cultural, public and other not-for-profit entities or with private developers proposing to develop public facilities or retail for the purposes of promoting art, culture and/or heritage.

Advantage(s)

The Commission may acquire and manage real property; secure financing; undertake the development or redevelopment of structures and facilities, including public amenities; and enter into agreements with cultural, public and other not-for-profit entities or with private developers proposing to develop public facilities or retail for the purposes of promoting art, culture and/or heritage.

Disadvantage(s)

If the City Council does not establish ongoing dedicated funding for the Culture, Arts and Heritage program as part of the Stronger Vancouver package or through another avenue, the Commission may have limited resources that would also proportionately limit their effectiveness and projected results.

Budget Impact

The City Council approved \$400,000 per year in the 2019-2020 biennial budget to support the revitalization of the City's Cultural Program including a new Culture, Arts & Heritage Commission and a full-time Cultural Services Manager who will support the commission in addition to other activities. One of the recommendations of A Stronger Vancouver is for the City Council to adopt a 5% admissions tax that would be used to support the Cultural Program after the 2019-2020 biennium.

Prior Council Review

- March 1, 2019 Council retreat
- Council workshop on June 10, 2019

Action Requested

On Monday, July 1, 2019, subject to second reading and public hearing, approve an ordinance, charter and bylaws creating the Culture, Arts and Heritage Commission as a public development authority.

Jeanette (Jan) Bader, Program & Policy Development Manager, 487-8606

ATTACHMENTS:

- ▣ Ordinance
- ▣ Exhibit A - Charter
- ▣ Exhibit B - Bylaws

6/24/2019

7/1/2019

ORDINANCE NO. M-4271

AN ORDINANCE rescinding and replacing VMC 2.88; establishing the Culture, Arts and Heritage Commission as a Public Development Authority, granting a Charter to the Commission, approving Bylaws for such Commission and providing for an effective date.

WHEREAS, on April 16, 2018, the Vancouver City Council adopted a new Culture, Arts and Heritage Plan (“Plan”); and

WHEREAS, to oversee the implementation of the Plan, the City Council wishes to establish the Culture, Arts and Heritage Commission as a Public Development Authority, under RCW 35.21.730 to 35.21.757; and

WHEREAS, the Culture, Arts and Heritage Commission will undertake, assist with and otherwise facilitate the development of a strong cultural, arts and heritage environment in the City of Vancouver through programs, ownership and management of physical assets including buildings and public art, and through community partnerships; and

WHEREAS, the Culture, Arts and Heritage Commission is established as a Public Development Authority to administer and execute federal grants or programs, to receive and administer private funds, issue debt, and/or provide goods or services for any lawful public purpose; and to perform any lawful public purpose or function; and

WHEREAS, lawful public purposes or public functions include but are not limited to improving the administration of authorized federal grants or programs, improving governmental efficiency and services and improving general living conditions in the city of Vancouver, including but not limited to those especially related to culture, heritage, and the arts.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. The Charter of the Culture, Arts and Heritage Commission as reflected in the attached Exhibit “A” is granted.

Section 2. The Bylaws of the Culture, Arts and Heritage Commission as reflected in the attached Exhibit “B” are approved.

Section 3. Chapter 2.88 of the Vancouver Municipal Code as adopted by Ordinance M-3116 and as last amended by Ordinance M-3385 is repealed.

~~2.88.010 — Established — Purpose.~~

~~A. There is established a City of Vancouver cultural commission.~~

~~B. The purpose of such commission shall be to encourage and support the arts in this community and to expand the educational benefits of such activities by encouraging citizen participation. The commission also shall serve as a central clearinghouse for cultural activities, shall provide guardianship of public art assets, shall provide public information about arts activities in the city or affecting the city, shall develop public and private funding sources for arts activities, shall develop and publish a calendar or newsletter, and from time to time shall offer technical assistance workshops to the public or arts groups. The commission shall also serve in an advisory capacity to the city council on matters relating to cultural events and activities as well as matters involving international relations through sister city and similar programs including but not limited to such areas as protocol, international bonds, hosting foreign guests, dignitaries and travelers and fund raising to support such programs. (Ord. M-3385, 1998; Ord. M-3316, 1994)~~

~~2.88.020 — Members — Terms — Officers — Removal.~~

~~A. The Vancouver cultural commission shall have eleven members who are residents of Clark County and who have demonstrated an interest in cultural matters. Members shall be appointed for three year terms; provided, of the nine initial members, three shall be appointed to a three year term, three to a two year term, and three to a one year term. Subsequent appointments shall be to fill any unexpired term or to a three year term. Members shall be appointed by the mayor subject to confirmation by the city council. Service of members may not exceed two consecutive full terms.~~

~~B. The commission each year shall elect a chair and vice chair and such other officers as it finds necessary.~~

~~C. Any member may be removed by the mayor and city council for misconduct or for missing more than three meetings.~~

~~(Ord. M 3385, 1998; Ord. M 3316, 1994)~~

~~**2.88.030 — Meetings-Quorum.**~~

~~A. The commission shall hold meetings at least monthly and may hold such other meetings as it finds necessary or desirable. Meetings shall be held in the city.~~

~~B. A majority of the appointed members of the commission shall constitute a quorum. (Ord. M-3116_3, 1994)~~

Section 4. A new Chapter 2.88 to the Vancouver Municipal Code is adopted to read as follows:

Chapter 2.88

Culture, Arts and Heritage Commission

Section 2.88.010 Authority Created -Purpose

A. There is established by the Vancouver City Council a Culture, Arts & Heritage Commission (“Commission”) as a public development authority pursuant to RCW 21.730.757 as amended.

B. A public development authority is created to administer and execute federal grants or programs; to receive and administer private funds, goods or services for any lawful public purpose, issue debt, and to perform any lawful public purpose or public function. Lawful public purposes or public functions include, but are not limited to, improving the administration of authorized federal grants or programs, improving governmental efficiency and services and improving the general living conditions in the City of Vancouver as authorized under the Act.

C. The purpose of the Culture, Arts and Heritage Commission is to undertake, assist with and otherwise facilitate the development and promotion of a thriving cultural, arts and heritage environment in the city of Vancouver through programs, ownership of physical assets including buildings and public art, and through community partnerships. The Commission may acquire and manage real property; secure financing; undertake the development or redevelopment, construction and maintenance of structures and facilities, including public amenities; and enter

into agreements with cultural, public and other not-for-profit entities or with private developers proposing to develop public facilities or retail for the purposes of promoting art, culture and/or heritage in the City of Vancouver. Such activities shall be consistent with the Culture, Arts and Heritage Plan adopted by the City Council.

As desirable and appropriate, the Commission shall serve as a vehicle to undertake or assist with the establishment, development, operation and maintenance of public Culture, Arts and/or heritage facilities in the city of Vancouver. Consistent with applicable law and utilizing all lawful means, the Commission shall work to facilitate and maximize private section participation in such projects.

D. For the purpose of securing the exemption from Federal income taxation for interest on obligations of the Commission, the Commission constitutes an authority and instrumentality of the City of Vancouver (within the meaning of those terms in regulations of the United States Treasury and rulings of the Internal Revenue Service prescribed pursuant to Section 103 and Section 145 of the Internal Revenue Code of 1986, as amended).

2.88.020 Definitions

As used in this chapter:

- A. "Act" means Chapter 35.21.730 through 35.21.757, RCW.
- B. "Board of directors" or "board" means the governing body vested with the management of the affairs of the authority.
- C. "Director" means a member of the board.
- D. "Bonds" means any bonds, promissory notes, interim certificates, debentures, certificates of indebtedness or other obligations issued by the public authority pursuant to the Act, this chapter and the Charter.
- E. "Bylaws" means the rules adopted for the regulation of management of the affairs of the public authority adopted by ordinance codified in this chapter and all subsequent amendments thereto.
- F. "Charter" means the articles of the organization of the public authority as adopted by the ordinance codified in this chapter and subsequent amendments thereto.
- G. "City" means the City of Vancouver, Washington.

- H. “City clerk” means the clerk of the city council or a person authorized to act on his or her behalf.
- I. “City Council” means the legislative authority of the City as established under Article II of the Charter for the City of Vancouver.
- J. “Insolvent” or “insolvency” means an inability of the public authority to pay debts as they become due in the usual course of its affairs.
- K. “Manager” means the manager of the City of Vancouver.
- L. “Mayor” means the mayor of the City of Vancouver.
- M. “Open Public Meetings Act” means RCW Chapter 42.30 as now or hereafter amended.
- N. “Public authority” or “authority” means the Culture, Arts and Heritage Commission (“Commission”) created under this chapter.
- O. “Resolution” means an action of the board of directors with the quorum required in Section 2.88.100 (B) of this chapter.
- P. “State” (when used as a noun) means the State of Washington.
- Q. “Voting membership” means the total number of voting positions on the board as authorized by the Charter, whether filled or vacant.

2.88.030 City Liability Limited

The authority is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. All liabilities incurred by the authority shall be satisfied exclusively from the assets and properties of the authority and no creditor or other person shall have right of action against the city, town, or county creating the authority on account of any debts, obligations, or liabilities of the authority.

2.88.040 Powers

Except as otherwise limited by the State Constitution, state statute, the Charter for the City of Vancouver, this chapter or the Charter of the Commission, the Commission shall have and may exercise all lawful powers necessary or convenient to the effect the purposes for which the authority is organized and to perform authorized corporate functions, including, without limitations, the power to:

- A. Own and sell real and personal property;
- B. Contract for any corporate purpose with the United States, a state and any political subdivision or agency of either, and with individuals, associations and corporations;
- C. Sue and be sued in its name;
- D. Lend and borrow funds;
- E. Do anything a natural person may do;
- F. Perform all manner and type of community services and activities;
- G. Provide and implement such municipal and community services and functions as the city council may by ordinance direct;
- H. Transfer any funds, real or personal property, property interests or services;
- I. Receive and administer federal or private funds, goods or services for any lawful public purpose;
- J. Purchase, lease, exchange, mortgage, encumber, improve, use or otherwise transfer or grant security interests in real or personal property or any interests therein; grant or acquire options on real and personal property; and contract regarding the income and receipts from real and personal property;
- K. Issue negotiable bonds and notes in conformity with applicable provisions of state law in such principal amounts as in the direction of the public authority shall be necessary or appropriate to provide sufficient funds for achieving any corporate purposes; provided, however, that all bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets, properties or credit of such public authority, and no creditor or other person shall have any recourse to the assets, credit or services of the city thereby, unless the city council shall by resolution expressly guarantee such bonds or notes;
- L. Contract for, lease and accept transfers, gifts or loans of funds or property from the United States, a state and any municipality or political subdivision or agency of either, including property acquired by any such governmental unit through the exercise of its power of eminent domain, and from corporations, associations, individuals or any other source, and to comply with the terms and conditions therefore;

M. Manage, on behalf of the United States, a state and any municipality or political subdivision or agency of either, any property acquired by such entity through gift, purchase, construction, lease, assignment, default or exercise of the power of eminent domain;

N. Recommend to the United States, a state and any municipality or political subdivision or agency of either, the transfer or commitment of any property which, if committed or transferred to the public authority, would materially advance the public purposes for which the public authority is chartered;

O. Initiate, carry out and complete such improvements of benefit to the public consistent with its Charter as the United States, a state and any municipality or political subdivision or agency of either may request;

P. Recommend to the United States, a state and any municipality or political subdivision or agency of either such tax, financing and security measures as the public authority may deem appropriate to maximize the public interest in activities in which the public authority by its Charter has a particular responsibility;

Q. Lend its funds, property, credit or services for corporate purposes, or act as a surety or guarantor for corporate purposes;

R. Provide advisory, consultative, training, educational and community services or advice to individuals, associations, corporations or governmental agencies, with or without charge;

S. Control the use and disposition of corporate property, assets and credit;

T. Invest and reinvest its funds;

U. Fix and collect charges for services rendered or to be rendered, and establish the consideration (if any) for property transferred;

V. Maintain books and records as appropriate for the conduct of its affairs;

W. Conduct corporate affairs, carry on its operations, and use its property as allowed by law and consistent with the Act, this chapter, its Charter and its bylaws; name corporate officials, designate agents and engage employees, prescribing their duties, qualifications and compensation; and secure the services of consultants for professional services, technical assistance or advice;

X. Identify and recommend to the United States, a state and any municipality or political subdivision or agency of either, the acquisition by the appropriate governmental entity, for transfer to or use by the public authority, of property and property rights, which, if so acquired, whether through purchase or the exercise of eminent domain, and so transferred or used, would materially advance the purposes for which the public authority is chartered;

Y. Hire staff and contract with lawyers, accountants and others to provide services;

Z. Exercise and enjoy such other powers as may be authorized by law.

2.88.050 Limitation of Powers

The Commission in all activities and transactions shall be limited in the following respects:

A. The Commission shall have no power of eminent domain nor any power to levy taxes or special assessments.

B. The Commission may not incur or create any liability that permits recourse by any party or member of the public to any assets, services, resources or credit of the city. All liabilities incurred by the Commission shall be satisfied exclusively from the assets and credit of the Commission; no creditor or other person shall have any recourse to the assets, credit or services of the city on account of any debts, obligations, liabilities, acts or omissions of the Commission.

C. No funds, assets or property of the Commission shall be used for any partisan political activity or to further the election or defeat of any candidate for public office; nor shall any funds or a substantial part of the activities of the Commission be used for publicity or educational purposes designed to support or defeat legislation pending before the Congress of the United States, or the legislature of the state or the city council; provided, however, that funds may be used for representatives of the Commission to communicate with members of Congress, state legislature or city council members concerning funding and other matters directly affecting the Commission, so long as such activities do not constitute a substantial part of the Commission's activities and unless such activities are specifically limited in its Charter.

D. All funds, assets or credit of the Commission shall be applied toward or expended upon services, projects and activities authorized by the Charter. No part of the net earnings of the Commission shall inure to the benefit of, or be distributable as such, to the board members, officers of the Commission or other private persons, except that the Commission is authorized and empowered to:

1. Compensate Commission officials and others performing services for the Commission, including legal counsel, a reasonable amount for services rendered and reimburse reasonable expenses actually incurred in performing their duties;

2. Assist Commission officials as members of a general class of persons to be assisted by a Commission-approved project or activity to the same extent as other members of the class as long as no special privileges or treatment accrues to such corporate official by reason of his or her status or position in the Commission;

3. Purchase insurance to protect and hold personally harmless any of its officials (including its employees and agents) from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, in good faith, of duties for, or employment with, the Commission and to hold these individuals harmless from any expenses connected with the defense, settlement or monetary judgments from such actions, claims or proceedings. The purchase of such insurance and its policy limits shall be discretionary with the board, and such insurance shall not be considered to be compensation to the insured individuals. The powers conferred by this subsection shall not be exclusive of any other powers conferred by law to purchase liability insurance; and

4. Sell assets for a consideration greater than their reasonable market value or acquisition costs, charge more for services than the expense of providing them, or otherwise secure an increment in a transaction, or carry out any other transaction or activity, as long as such gain is not the principal object or purpose of the Commission's transactions or activities and is applied to or expended upon services, projects and activities as aforesaid.

E. The Commission shall not issue shares of stock, pay dividends, make private distribution of assets, make loans to its board members or employees or otherwise engage in business for private gain.

2.88.060 Commission review and concurrence

A. At least twice each year, the Commission shall, at its meeting, review monthly statement of income and expenses which compare budgeted expenditures to actual expenditures.

B. At least once per year, the Commission shall set goals for the next twelve (12) months.

C. General or particular authorization or review and concurrence of the Commission by resolution shall be necessary for any of the following:

1. Adoption of an annual or biennial budget:

2. Transfer or conveyance of an interest in real estate other than release of a lien or satisfaction of a mortgage after payment has been received and the executive of a lease for a current term less than one year;

3. The contracting of debt, issuances of notes, debentures or bonds and the mortgaging of pledging of Commission assets or credit to secure same;

4. An action by the Commission as surety or guarantor;

5. All unbudgeted expenditures and all capital expenditures in excess of twenty-five thousand dollars and all other transactions in which:

a. The consideration exchanged or received by the Commission exceeds the greater of the previous year's operating budget by twenty-five thousand dollars;

b. The performance of the Commission shall extend over a period exceeding one year from the date of the execution of duties, or assigns duties to, the city, the state, the United States or other governmental entity;

6. Any substantial project or major activity, outside the limits of the city pursuant to a contract between another city or county as authorized by RCW 35.21.740;

7. Certification of annual reports and statements to be filed with the city clerk as true and correct in the opinion of the Commission and its members except as noted;

8. Proposed amendments to the Charter and bylaws;

9. Such other transactions, duties and responsibilities as the Charter shall repose in the Commission or the Commission may reserve.

2.88.070 Code of ethics-Conflict of interest

A. Every member of the Commission and every officer and employee of the Commission shall be subject to Article XI, Section 11.07 of the Charter for the City of Vancouver, as amended and all other applicable statutes and ordinances.

B. The Commission may adopt additional conflict of interest and ethical rules in considers appropriate.

2.88.080 Members—Terms—Removal.

A. Culture, Arts and Heritage Commission shall be composed of nine (9) members appointed by the City Council. Commencing on September 9, 2019, the terms of office of such members shall be as follows: (1) three members shall be appointed to terms expiring on December 31, 2021; (2) three members shall be appointed to terms expiring December 31, 2022; (3) three members shall be appointed to terms expiring on December 31, 2023.

B. Commission members shall serve three- (3) year terms and may serve a maximum of two consecutive terms. Upon expiration of a member’s term, they shall continue to serve until their successor is appointed by the City Council and assumes their Commission position.

C. The existing Commission members shall recommend new members to the City Council who shall appoint the Commission members. Members shall be leaders in the cultural, heritage, arts or business community with experience relevant to the purpose of the Commission.

D. Any member of the Commission may be removed with or without cause by resolution of the City Council.

E. A vacancy on the Commission shall be deemed to exist in the case of death or disability, upon receipt of a letter of resignation or upon removal of any member as provided herein. Vacancies on the Commission shall be filled by appointment in the same manner in which members of the Commission are regularly appointed. Any person selected to fill a vacancy on the Commission shall serve the balance of the term of the person being replaced.

2.88.090 Officers

The commission each year shall elect a president, vice president, secretary/treasurer and such other officers as it finds necessary. The President and Vice President shall be the agents of the Commission for the service of process and shall have such duties as outlined in the Charter and Bylaws.

2.88.100 Meetings-Quorum- Open Pubic Meetings- Minutes.

A. The commission shall meet as necessary but not less than four (4) times per year. Special meetings of the Commission may be called as provided for by the Bylaws.

B. At majority of the current membership of the Commission must be present at any regular or special meeting to comprise a quorum.

C. Notice of meetings shall be given in a manner consistent with the Open Public Meetings Act, Chapter 42.30 RCW. At such meetings, any person present shall have a reasonable opportunity to address the Commission either orally or in writing.

D. Copies of the minutes of all regular or special meetings of the Commission shall be posted on the City's website and be made available to any person or organization that requests them, as required by state law. Minutes of closed executive sessions need not be made available.

2.88.110 Charter

A. The Charter of the Commission (the "Charter"), attached hereto and incorporated herein as Exhibit A of this ordinance, is hereby approved.

B. Upon the effective date of the ordinance codified in this chapter, the Charter shall be issued in duplicate originals, each bearing the city seal attested by the city clerk. One original shall be provided to the Commission. The city clerk shall give notice of the issuance of the Charter to the Secretary of State and furnish a copy thereof and of this chapter upon request.

2.88.120 Commencement of authority's existence- Compliance with Charter

The authority shall commence its existence upon the issuance of the Charter. The authority shall conduct its affairs in accordance with the Charter.

2.88.130 Proposing charter amendments

A. The Commission may propose to the city council that its Charter be amended by resolution of its board passed by a procedure outlined in its Charter at a regular or special meeting of which fifteen (15) days advance written notice was given to Commission members.

B. The Charter may be amended only by ordinance of the city council. A Charter amendment proposed by the Commission shall take effect and become a part of the Charter upon approval by the city council and issuance of a revised Charter by the city clerk.

2.88.140 Bylaws

A. The initial bylaws (the "bylaws") of the Commission, attached hereto and incorporated herein as Exhibit B of this ordinance, are hereby approved. The power to alter, amend or repeal the bylaws or adopt new ones shall be vested in the Commission. The bylaws may contain any provisions for the regulation and management of the affairs of the Commission not inconsistent with law or the Commission Charter.

B. Amendments to the bylaws shall not take effect until ten days after the filing of the same with the city clerk, unless such amendment(s) shall have been passed by unanimous vote of the Commission and an earlier effective date be set.

C. As necessary and appropriate, the city council may amend the bylaws by ordinance.

2.88.150 Corporate offices and officers- Fidelity bond.

The Commission, at its discretion, may require the posting of a fidelity bond by each corporate official responsible for handling accounts and finances in an amount determined by the Commission to be adequate and appropriate. If the bond is required, the official may hold the corporate office only as long as the bond continues in effect.

2.88.160 Deposit of public funds

All moneys belonging to or collected for the use of the authority, coming into the hands of any corporate official or officer thereof, shall be deposited in a qualified public depository as determined by the Washington Public Deposit Protection Commission. Such moneys may be invested at the direction of the Commission by resolution, in investments which would be lawful for the investments of city funds.

2.88.170 Indemnification of Commission Members

The Commission elects to defend and indemnify its present and former officials and their successors, spouses and marital communities to the full extent authorized by law. In addition, the right of indemnification shall inure to each Commission member or officer and his or her spouses and marital communities upon his or her appointment to the Commission and in the event of his or her death shall extend to his or her heirs, legal representatives and estate. Each person who shall act as member or officer of the Commission shall be deemed to do so in reliance upon such indemnification and such rights shall not be exclusive of any other right which he or she may have.

2.88.180 Establishment and maintenance of office and records

A. The Commission shall maintain a principal office at a location within the limits of the city;

B. The Commission shall maintain all of its records in a manner consistent with the Preservation and Destruction of Public Records Act, RCW Chapter 40.14 as now or hereafter amended.

2.88.190 Reports and information

The Commission shall present an annual report to the City Council, either in writing or during a City Council workshop or other appropriate forum.

2.88.600 Audits and inspections

The Commission shall, at any time during normal business hours and as often as the city council or state auditor deem necessary, make available to the City council and the state auditor for examination all of its financial records, and shall permit the city council and state auditor to audit, examine and make excerpts or transcripts of such records and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all the aforesaid matters. The city council and state auditor shall have no right, power or duty to supervise the daily operations of the Commission but shall oversee such operations only through their powers to audit, modify the Charter and bylaws and remove board members as st forth in this chapter, all for the sole purpose of correcting any deficiency and assuring that the purposes of the authority are reasonably accomplished.

Section 5. This ordinance shall go into effect thirty days after final passage.

Read first time: June 24, 2019

Ayes: Councilmembers Lebowsky, Glover, Stober, Turlay, Hansen, Mayor McEnerny-Ogle

Nays: Councilmembers None

Absent: Councilmembers Paulsen

Read second time: July 1, 2019

Passed by the following vote: 5-1

Ayes: Councilmembers Paulsen, Lebowsky, Glover, Stober, Mayor McEnerny-Ogle

Nays: Councilmembers Turlay

Absent: Councilmembers Hansen

SIGNED this 1st day of July, 2019

DocuSigned by:
Anne McEnerny-Ogle
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Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:

Carrie Lewellen

661359AB277E439...

Natasha Ramras, City Clerk

By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

DocuSigned by:

E. Bronson Potter

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E. Bronson Potter, City Attorney

SUMMARY

ORDINANCE NO. M-4271

AN ORDINANCE rescinding and replacing VMC 2.88; establishing the Culture, Arts and Heritage Commission as a Public Development Authority, granting a Charter to the Commission, approving Bylaws for such Commission and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

**CHARTER OF THE
CULTURE, ARTS AND HERITAGE COMMISSION**

As adopted pursuant to
City of Vancouver Ordinance M-_____

Issued and Certified by the City Clerk
on _____, 2019

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**CHARTER
OF THE CULTURE, ARTS AND HERITAGE COMMISSION**

NAME

The name of this authority shall be the Culture, Arts and Heritage Commission (herein referred to as "Commission").

ARTICLE II

AUTHORITY AND LIMIT ON LIABILITY

Section 2.01 Authority. The Commission is a public authority organized pursuant to RCW 21.730.757, as amended and Ordinance M-_____ of the City of Vancouver, Washington, ("Ordinance").

Section 2.02 Limit on Liability. All liabilities incurred by the Commission shall be satisfied: (a) in the case of obligations or liabilities of the Commission which are not limited recourse in nature, exclusively from the assets, credit, and properties of the Commission, or (b) in the case of obligations or liabilities of the Commission which, by their terms, are limited resource obligations, from such assets, properties or revenues of the Commission as shall be specifically pledged thereto or otherwise identified as being the source of payment of such limited recourse obligations or liabilities, and no creditor or other person shall have any right of action against or recourse to the City of Vancouver, Washington (the "City"), its assets, credit, or services, on account of any debts, obligations, liabilities or acts or omissions of the Commission.

Section 2.03 Mandatory Disclaimers. The following disclaimer shall be posted in a prominent place where the public may readily see it in the Commission's principal and other offices. It shall also be printed or stamped on all contracts, bonds, and other documents that may entail any debt or liability by the Commission.

The Commission is a public authority organized pursuant to Ordinance M-_____, of the City of Vancouver and the laws of the State of Washington, RCW 35.21.730 through RCW 35.21.757. RCW 35.21.750 provides as follows: "[A]ll liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission, or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority."

Provided that, in the case of any obligations or liabilities of the Commission which, by their terms, are limited recourse in nature, in lieu of the foregoing disclaimer, the following

disclaimer shall be printed or stamp on all contracts, bonds and other documents relating to or evidencing such limited recourse obligations or liabilities of the Commission:

The obligations of the Commission with respect to (describe the contract, bond or other limited recourse obligation] shall be and remain limited recourse obligations of the Commission payable solely and only from [describe the particular properties, assets or revenues of the Commission from which the limited recourse obligation is payable]. In no event shall such obligations be payable from or by recourse against any properties, assets or revenues of the Commission (other than those described in the preceding sentence), nor shall such obligations be payable from or by recourse against any properties, assets or revenues of the City of Vancouver, Washington, the State of Washington or any other political subdivision of the State of Washington. No person to whom such obligations are owed shall have any recourse or right of action against the Commission, the City of Vancouver, Washington, the State of Washington or any other political subdivision thereof on account of such obligations or any liabilities, of whatsoever nature, arising in connection therewith except to enforce for the payment thereof out of [describe the particular properties, assets or revenues of the Commission from which the limited recourse obligation is payable].

ARTICLE III

DURATION

The duration of the Commission shall be perpetual except as provided in the Ordinance.

ARTICLE IV

PURPOSE

The purpose of the Commission is to provide an independent legal entity under state law and City ordinance to undertake, assist with and otherwise facilitate the development of a strong cultural, arts and heritage environment in the city of Vancouver through programs, ownership of physical assets including buildings and public art, and through community partnerships.

The Commission may acquire and manage real property; secure financing; undertake the development or redevelopment, construction and maintenance of structures and facilities, including public amenities; and enter into agreements with cultural, public and other not-for-profit entities or with private developers proposing to develop public facilities or retail for the purposes of promoting art, culture and/or heritage in the city of Vancouver.

Such activities shall be consistent with the Culture, Arts and Heritage Plan adopted by the City Council. The priority focus of the Commission shall be to undertake, assist with and

otherwise facilitate the development and promotion of a thriving culture, arts and heritage environment consistent with the City’s Culture, Arts and Heritage Plan. Consistent with applicable law and utilizing all lawful means, the Commission shall work to facilitate and maximize private section participation in such projects. As desirable and appropriate, the Commission shall serve as a vehicle to undertake or assist with the establishment, development, operation and maintenance of public culture, arts and/or heritage facilities in the City of Vancouver.

For the purpose of securing the exemption from Federal income taxation for interest on obligations of the Commission, the Commission constitutes an authority and instrumentality of the City of Vancouver (within the meaning of those terms in regulations of the United States Treasury and rulings of the Internal Revenue Service prescribed pursuant to Section 103 and Section 145 of the Internal Revenue Code of 1986, as amended).

ARTICLE V

POWERS

Section 5.01 Powers. The Commission shall have and may exercise all lawful powers conferred by state laws, the Ordinance, this Charter and its Bylaws. The Commission in all of its activities and transactions shall be subject to the powers, procedures, and limitations contained in the Ordinance.

Section 5.02 Indemnification. To the extent permitted by law, the Commission shall protect, defend, hold harmless and indemnify any person who becomes a director, officer, employee or agent of the Commission and who is a party or threatened to be made a party to a proceeding by reason related to that person's conduct as a director, officer, employee or agent of the Commission, against judgments, fines, penalties, settlements and reasonable expenses (including attorneys' fees) incurred by him or her in connection with such proceeding, if such person acted in good faith and reasonably believed his or her conduct to be in the Commission's best interests and if, in the case of any criminal proceedings, he or she had no reasonable cause to believe his conduct was unlawful. The indemnification and protection provided herein shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract or by vote of the Commission members. The Commission may purchase and maintain appropriate insurance for any person to the extent provided by the applicable law.

ARTICLE VI

COMMISSION

Section 6.01 Composition. The Commission shall be composed of nine (9) members appointed by the City Council. Commencing on _____, 2019, the terms of office of such members shall be as follows: (1) three members shall be appointed to terms expiring on

December 31, 2021; (2) three members shall be appointed to terms expiring December 31, 2022; (3) three members shall be appointed to terms expiring on December 31, 2023. Upon expiration of the foregoing terms of members, members shall serve until their successors are appointed and assume their Commission positions.

The existing Commission members shall recommend new members to the City Council who shall appoint the Commission members. Members shall be leaders in the cultural, heritage, arts or business community with experience relevant to the purpose of the Commission. The City Manager may designate City staff to support the Commission as necessary.

Section 6.02 Concurrence and Quorum Defined. “Concurrence” as used in this Article, may be obtained at any regular or special commission meeting by an affirmative vote of a majority of the Commission members voting on the issue, provided that such majority equals not less than six (6) votes. A quorum to commence a Commission meeting shall be no fewer than six (6) members.

Section 6.03 Officers and Division of Duties. The Commission shall have four or more officers. The same person shall not occupy both the office of President and any office responsible for the custody of funds and maintenance of accounts and finances. The initial officers of the Commission shall be President, Vice President, Secretary/Treasurer and Executive Director. Additional officers may be provided for in the Bylaws of the Commission. The President and Vice President shall be the agents of the Commission for the service of process. The Commission shall oversee the activities of the corporate officers, establish and/or implement policies and shall have stewardship for management and determination of all corporate affairs.

The Executive Director shall be the chief administrative staff person to the Commission. The Commission may contract with the City of Vancouver to provide staff including an executive director, financial management and/or legal counsel. The Executive Director shall have primary responsibility for all matters involving the day-to-day operations of the Commission and shall make recommendations to the Commission on practices, policies and programs of the Commission.

Section 6.04 Executive Committee. The Bylaws may provide for an Executive Committee which shall be appointed and/or removed by the Commission, and shall have and exercise such authority of the Commission in the management between meetings of the Commission, as may be specified in the Bylaws.

Section 6.05 Committees. The appointment of other committees shall be provided for in the Bylaws.

Section 6.06 Removal of Commission Members. In addition to trusteeship and termination or dissolution, respectively, if it is determined that any or all of the Commission members should be removed with or without cause, the City Council may by resolution remove any or all Commission members. The term of any Commission member removed pursuant to

this section shall expire when the member receives a copy of the resolution removing them from office.

A vacancy or vacancies on the Commission shall be deemed to exist with the death, disability, resignation or removal of membership. Vacancies on the Commission shall be filled by appointment in the same manner in which members of the Commission are regularly appointed. Any person selected to fill a vacancy on the Commission shall serve the balance of the term of the person being replaced.

ARTICLE VII

MEETINGS

Section 7.01 Commission Meetings.

1. The Commission shall meet as necessary but not less than four (4) times a year.
2. Special meetings of the Commission may be called as provided in the Bylaws.

Section 7.02 Open Public Meetings. Notice of meetings shall be given in a manner consistent with the Open Public Meetings Act, Chapter 42.30 RCW. At such meetings, any person present shall have a reasonable opportunity to address the Commission either orally or in writing.

Section 7.03 Minutes. Copies of the minutes of all regular or special meetings of the Commission shall be posted on the City's website and be made available to any person or organization that requests them, as required by state law. Minutes of closed executive sessions need not be made available. The minutes of all Commission meetings shall include a record of individual votes on all matters requiring Commission concurrence.

ARTICLE VIII

BYLAWS

The initial Bylaws may be amended to provide additional or different rules governing the Commission and its activities as are not inconsistent with this Charter. The Commission may provide in the Bylaws for all matters related to the governance of the Commission, including but not limited to matters referred to elsewhere in the Charter for inclusion therein.

ARTICLE IX

AMENDMENT TO CHARTER AND BYLAWS

Section 9.01 Proposals to Amend Charter and Bylaws. Proposals to amend the Charter or Bylaws shall be presented in a format which strikes over materials to be deleted and underlines new material.

Any Commission member may introduce a proposed amendment to the Charter or to the Bylaws (which may consist of new Bylaws) at any regular meeting or any special meeting for which ten (10) days' advance notice has been given to members of the Commission.

Section 9.02 Commission Consideration of Proposed Amendments. If notice of a proposed amendment to the Charter or Bylaws is provided to Commission members fifteen (15) days prior to any regular or special meeting, then the Commission may vote on the proposed amendment at such meeting. Amendments, within the scope of the original amendment, will be permitted at the meeting at which the vote is taken.

Section 9.03 Vote Required for Amendments to Charter or Bylaws. Resolutions of the Commission approving proposed amendments to the Charter or Bylaws require an affirmative vote of a majority of the Commission members voting on the issue.

Section 9.04 City Council Approval of Proposed Charter Amendments. Proposed Charter amendments adopted by the Commission shall be submitted to the City Council. The Commission's Charter may be amended only by ordinance as provided in the Ordinance.

ARTICLE X

COMMENCEMENT

The Commission shall commence its existence effective upon the issuance of its Charter as sealed and attested by the City Clerk and the holding of the initial commission meeting.

ARTICLE XI

APPROVAL OF THE CHARTER

ORIGINAL CHARTER APPROVED by Ordinance M-_____, adopted by the City Council of the City of Vancouver on _____, 2019.

CERTIFICATE

I, the undersigned City Clerk of the City of Vancouver, Washington DO HEREBY CERTIFY that the attached CHARTER OF THE CULTURE, ARTSS AND HERITAGE COMMISSION is a true and correction original of such charter as authorized by Ordinance M-_____ of the City.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the official seal of the City this day of _____, 2019.

Natasha Ramras, City Clerk

**BYLAWS
OF
CULTURE, ARTS AND HERITAGE COMMISSION
OF VANCOUVER, WASHINGTON**

**ARTICLE I
Purpose**

The purpose of the Culture, Arts and Heritage Commission of Vancouver, Washington, is to undertake, assist with and otherwise facilitate the development and promotion of a thriving cultural, arts and heritage environment in the city of Vancouver through programs, ownership of physical assets including buildings and public art, and through community partnerships.

**ARTICLE II
Commission**

Section 2.01 Commission Composition. The Culture Art and Heritage Commission shall be composed of nine (9) members. Members shall be leaders in cultural, heritage, arts or business community with experience relevant to the purpose of the Commission. One seat on the Commission shall be reserved for the City of Vancouver’s representative on the Clark County Arts Commission. In the event that either that individual is unwilling to serve or the Clark County Arts Commission is dissolved, the position will be filled through the process outlined in Section 2.02.

Section 2.02 Appointment of Commission Members. Members of the Commission are appointed by the Vancouver City Council. In the event of a vacancy, the City will solicit interest in the position through its standardized Boards and Commission process. An ad hoc subcommittee of the Commission will then review applications and may choose to interview applicants. The full Commission shall recommend new Commission members to the City Council for appointment.

Section 2.03 Vacancies. A vacancy on the Commission shall be deemed to exist in the case of death or disability, upon receipt of a letter of resignation or upon removal of any member as provided herein. Vacancies on the Commission shall be filled by appointment in the same manner in which members of the Commission are regularly appointed. Any person selected to fill a vacancy on the Commission shall serve the balance of the term of the person being replaced.

Section 2.04 Attendance at Meetings. If any Commission member has an unexcused absence for more than three consecutive regular or special meetings of the Commission, such Commissioner may be recommended for removal from the Commission by the City Council. Commission members may not appoint representatives or designees to attend meetings on their behalf.

Section 2.05 Term of Office. Commission members shall serve three- (3) year terms and may serve a maximum of two consecutive terms. Upon expiration of a member's term, they shall continue to serve until their successor is appointed and assumes their Commission position.

Section 2.06 Removal of Commission Members. If it is determined that any or all of the Commission members should be removed with or without cause, the City Council may by resolution remove any or all Commission members.

ARTICLE III **Officers**

Section 3.01 Officers Designated. The officers of the Commission shall be President, Vice President, Secretary/Treasurer and Executive Director. Such other offices as may be deemed necessary may be created by resolution of the Commission. No person may simultaneously hold more than one office. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Commission may prescribe.

Section 3.02 Election of Officers. The President, Vice President and Secretary/Treasurer shall be elected by the Commission at the first regular meeting of each year, for a one-year term. No officer may serve more than two consecutive one-year terms. Each elected officer shall hold office until his or her successor is elected. The first elected officers of the Commission shall be elected by the Commission at its organizational meeting or as soon as practicable following the Commissions creation.

Section 3.03 Powers and Duties.

a. President. The President shall be the chief executive officer of the Culture, Arts and Heritage Commission and shall have general supervision over the business of the Commission, subject to the control of the full Commission. The President shall preside at all meetings of the Commission. The President may sign and execute, in the name of the Commission, contracts, deeds, leases, grants and other instruments duly authorized by the Commission and generally shall perform all duties that may from time to time be assigned to such office by the Commission.

b. Vice President. The Vice President shall perform all duties of the President at the request of the President or in case of the absence, disability or other inability to perform of the President, and, when so acting, shall have all the powers of and be subject to all restrictions upon, the President.

c. Secretary/Treasurer. The Secretary/Treasurer shall:

1. Certify and keep at the office of the Commission the original or copy of the Bylaws, as they may be amended;
2. See that all notices of Commission meetings are duly given in accordance with the provisions of these Bylaws or as required by law;
3. Record the proceedings of each meeting of the Commission;
4. Be the custodian of the records and seal of the Commission;
5. Keep at the office of the Commission and/or on-line, minutes of all meetings of the Commission whether regular or special.
6. Present a report on the financial operations of the Commission at each regularly scheduled meeting.

Section 3.04 Executive Director. The Executive Director shall be the chief administrative officer of the Commission, responsible for the day-to-day operations of the Commission and for carrying out the policies and directives. The Executive Director shall make recommendations to the Commission on practices, policies and programs. He or she shall have such powers and perform such duties as may be prescribed from time to time by the Commission. The Executive Director may be an at-will employee of the Commission in which case they may be removed with or without cause by the Commission or they may be a City of Vancouver employee assigned by the City Manager to serve as the Executive Director for the Commission.

Section 3.05 Vacancies in Officer Positions. The Commission shall fill any elected office which becomes vacant with a successor who shall hold office for the unexpired term and until his or her successor shall have been duly elected.

Section 3.06 Removal of Officers. Upon reasonable prior notice to all members of the alleged reasons for dismissal, the Commission by an affirmative vote of the majority of the whole Commission may remove any elected officer from his or her office when it is judged to be in the best interests of the Commission.

ARTICLE IV
Committees

Section 4.01 Executive Committee. The Executive Committee of the Commission, if established, shall consist of the Executive Director and Elected Officers. The Executive Committee shall exercise the authority of the Commission in management between meetings of the Commission.

Section 4.02 Public Art Committee. The Commission shall appoint a Public Art Committee as a standing subcommittee of the Commission. The Public Art Committee shall be a minimum of five members and shall include one Commission member who shall serve as chair and, at minimum, one professional artist. The Committee shall review and make recommendations to the Commission on proposed donations, acquisitions, relocations or deaccession of City or Commission owned public art.

Section 4.03 Advisory Committees. The Commission may such establish advisory committees as it deems necessary to report on possible projects or activities and shall fill such committees by appointment of qualified persons.

ARTICLE V
Meetings of the Commission

Section 5.01 Regular Commission Meetings. The Commission shall meet as necessary but not less than four (4) times per year; provided, however, that the Commission may alter such regular times and place by resolution. The location and time and date of the meetings will be determined by the Commission.

Section 5.02 Notice of Special Commission Meetings. Notice of all special meetings of the Commission shall be given by the Executive Director or by the person or persons calling the special meeting by delivering via mail and/or e-mail, written notice at least seven days prior to the time of the meeting to each Commission member. In addition, the Commission shall provide notice of special meetings to any individual specifically requesting it in writing. If the President deems than an emergency exists, the President may shorten the notice of a special meeting to not less than twenty-four hours with written notice provided to all Commission members via e-mail.

The time and place of the special meeting and the business to be transacted must be specified in the notice. Final dispositions shall not be taken on any other matter at such meetings.

Section 5.03 Quorum. At majority of the current membership of the Commission must be present at any regular or special meeting to comprise a quorum. Meetings without a quorum will be recessed to the earliest possible date.

Section 5.04 Meetings by Conference Telephone. Members of the Commission may participate in regular or special meetings by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting, including without limitation, members of the public attending the meeting can hear each other at the same time. Participation in a meeting by such means shall constitute a presence at such meeting. Those participating by conference telephone should announce their presence when joining the meeting. A quorum at a regular or special meeting is achieved if at least one-third of the members are present, provided that the additional members needed to comprise a quorum attend by telephone or similar communications device.

Section 5.05 Open Public Meetings. Notice of Commission meetings shall be given in a manner consistent with the Open Public Meetings Act, Chapter 42.30 RCW. At the meetings, any attendee shall have a reasonable opportunity to address the Commission either orally or in writing.

Section 5.06 Parliamentary Authority. The rules of *Robert's Rules of Order* (revised) shall govern the Commission in all cases to which they are applicable, where they are not inconsistent with the Charter or with the special rules of order the Commission may set forth in the Bylaws.

Section 5.07 Minutes. Summary minutes will be taken at all regular and special meetings of the Commission. Copies of the minutes shall be posted on the City and/or Commission's website and be made available to any person or organization that requests them. Minutes are not taken of closed executive sessions.

Section 5.08 Notice to the City Council. Notice of all meetings and minutes of all meetings of the Commission shall be given to the Clerk of the Vancouver City Council. The Commission shall present an annual report to the City Council either in writing or during a City Council workshop or other appropriate forum.

ARTICLE VII **Amendments to Bylaws**

Section 6.01 Proposals to Amend the Bylaws. Any Commission member may introduce a proposed amendment to the Bylaws at any regular or special meeting for which ten (10) days' advanced notice has been given to members of the Commission.

Section 6.02 Vote Required for Amendments to Bylaws. Resolutions of the Commission approving proposed amendments to the Bylaws require an affirmative vote of a majority of the Commission members voting on the issue.

ARTICLE VII
Administrative Provisions

Section 7.01 Books and Records. The Commission shall keep current and complete books and records of accounts and shall keep minutes of the proceedings of its meetings.

Section 7.02 Fiscal Year. The Fiscal Year of the Commission shall commence January 1 and end December 31 of each year, except the first fiscal year which shall run from _____ 2019 to December 31, 2019.

Section 7.02 Principal Office. The principal office of the Commission shall be City Hall, 415 W. 6th Street, Vancouver, Washington, 98668. The Commission may establish by resolution a different location as its principal office.

ARTICLE VIII
Approval of Bylaws

These Bylaws were initially approved by the chartering authority, the Vancouver City Council and are effective as of _____, 2019.

Certificate Of Completion

Envelope Id: 41C395723230483CA59468C6EBC8E609

Status: Completed

Subject: Documents from AIRLIFT for you to Sign

Source Envelope:

Document Pages: 34

Signatures: 3

Envelope Originator:

Certificate Pages: 2

Initials: 0

Amanda Delapena

AutoNav: Enabled

415 W. 6th Street

Envelopeld Stamping: Enabled

P.O. Box 1995

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Vancouver, WA 98668

amanda.delapena@cityofvancouver.us

IP Address: 54.214.117.26

Record Tracking

Status: Original

Holder: Amanda Delapena

Location: DocuSign

7/1/2019 8:33:26 PM

amanda.delapena@cityofvancouver.us

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: City of Vancouver

Location: DocuSign

Signer Events

Signature

Timestamp

Anne McEnergy-Ogle

anne.mcenery-ogle@cityofvancouver.us

City of Vancouver

Security Level: Email, Account Authentication
(None)

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Signed: 7/1/2019 8:34:03 PM

Signature Adoption: Uploaded Signature Image

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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

E. Bronson Potter

bronson.potter@cityofvancouver.us

City of Vancouver

Security Level: Email, Account Authentication
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Signature Adoption: Pre-selected Style

Using IP Address: 67.51.183.250

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Carrie Lewellen

carrie.lewellen@cityofvancouver.us

City of Vancouver

Security Level: Email, Account Authentication
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Signature Adoption: Pre-selected Style

Using IP Address: 67.51.183.250

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events

Signature

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Editor Delivery Events

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Agent Delivery Events

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Intermediary Delivery Events

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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	7/2/2019 11:22:46 AM
Completed	Security Checked	7/2/2019 11:22:46 AM

Payment Events	Status	Timestamps
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