

AGENDA ITEM NO. 1H
COUNCIL MEETING 7/31/07
APPROVED BY

DEPARTMENT DIRECTOR 

CITY MANAGER

July 31, 2007

FROM: RANDALL L. COOPER, Director
Parks, Recreation and Community Services

BY: SHAUN SCHAEFER Interim Manager 
Community Services Division

SUBJECT: APPROVE MOU AGREEMENT FOR THE RENTING OF ROOM 201 AT THE VETERANS MEMORIAL AUDITORIUM BUILDING BY THE CENTER FOR MULTICULTURAL COOPERATION (CMC) FROM THE CITY OF FRESNO FOR THE PURPOSE OF OPERATING A DIGITAL COMPUTER CLUBHOUSE

KEY RESULT AREA: Customer Service

RECOMMENDATIONS

It is recommended that the Council approve the attached year-to-year MOU agreement for the use of Room 201 by the Center for MultiCultural Cooperation (CMC) at the City-owned Veterans Memorial Auditorium Building at 2425 Fresno Street in Fresno, California.

EXECUTIVE SUMMARY

For the past six months, the Parks, Recreation and Community Services Department (PRCS) has been in discussion with the CMC to rent property to them for the purpose of operating a digital clubhouse. PRCS and CMC have reached a MOU agreement. Examples of major provisions of the MOU agreement include:

1. CMC shall pay the City a monthly rent of \$250 for the first two years with an automatic provision for renewal.
2. PRCS will have access to the CMC Digital Clubhouse for programmatic usage when available.
3. CMC and the PRCS will collaborate on video production involving community members and stories.
4. PRCS will provide technical assistance/staff time for initial lab set up.
5. CMC shall be responsible for all technology lines and computer services within the CMC Digital Clubhouse.

KEY OBJECTIVE BALANCE

Customer Satisfaction: The renting of this property by the City will provide an additional community outlet for technology based programming resulting in additional customer satisfaction.

Employee Satisfaction: PRCS employees will have an additional collaborative partner and technology site to use which will result in extra resources and enhanced job satisfaction.

Financial Management: CMC will pay reasonable rent to occupy this room.

BACKGROUND

CMC is a 501(c)3 non-profit organization that is dedicated to improving and empowering youth and families of many cultures in a unique digital storytelling process. The CMC Digital Clubhouse will produce inter generational stories in such subjects as Stories of Service, Latino Legacy, Hmong Voices, and "Sowing the Seeds of Change." "Sowing the Seeds of Change" is a project that will give CMC students the ability to explore and document the agricultural history of the Fresno region and all of the various cultures that settled and contributed to the agrarian economy.

The PRCS staff was approached by members of CMC, who were interested in renting Room 201 at the Memorial Auditorium Building, to develop the room, and erect a digital clubhouse. After discussions with members of CMC regarding terms and conditions of the renting of Room 201, PRCS staff developed an MOU agreement with CMC. This decision was based on the fact that Room 201 at the Veterans Memorial Auditorium had been vacated by the Police Department and the improvement and usage of CMC will be a positive addition to the services offered in the Veterans Memorial Auditorium Building.

The MOU Agreement is being presented to Council for approval with the understanding that CMC will pay a monthly rent and abide by all conditions contained within the contract. The agreement will provide an additional source of income for the Department, and the Agreement will be year to year for two years with an automatic provision for renewal.

FISCAL IMPACT

The fiscal impact on the City's budget is that this rental will generate \$3,000 in annual revenue for the City.

Rpt to Council CMC Agree. 7-23-07

Attachment: MOU Agreement

MEMORANDUM OF UNDERSTANDING
Regarding
Valley Voices Youth Media Program,
administered by the Center for Multicultural Cooperation

This Memorandum of Understanding (MOU), is entered into by and between the CITY OF FRESNO, CALIFORNIA, a municipal corporation, through its Parks, Recreation and Community Service Department ("City"), and CENTER FOR MULTICULTURAL COOPERATION, a California nonprofit public benefit corporation "CMC".

WITNESS

WHEREAS, the City and CMC are cooperating/desire to cooperate in youth development and video production programs focused toward high school aged youth, including the Latino Legacy Program at Ted C. Wills Center and the Saturday CMC leadership program at Mosqueda Center; and

WHEREAS, CMC has all legal right and authority to utilize the Valley Voices Youth Media Program, as more completely described in Exhibit "A" hereto, incorporated herein; and

WHEREAS, the City and CMC believe that the incorporation of the Valley Voices Youth Media Program into their cooperation activities is in the public's interest and will further program goals including providing program participants with workplace knowledge, skill, and practical training, and to this end agree to coordinate and provide the contributions herein upon the terms and conditions in this MOU.

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual covenants herein contained and such other and further consideration as is hereby acknowledged, the parties agree as follows:

1. PARTICIPATING AGENCIES AND DESIGNATED CONTACT PERSONS

City: Randall Cooper
Director, Fresno Parks Recreation and Community Services
2326 Fresno Street, RM 101
Fresno, CA 93721
(559) 621-2900

CMC: John Minkler
Executive Director, Center for Multicultural Cooperation
PO Box 27442
Fresno CA 93729
(559) 907-9534

2. ROLES, CONTRIBUTIONS AND RESPONSIBILITIES

A. City:

City, subject to all constitutional and local law requirements, and this MOU, will use best efforts to provide/cause to be provided by not later than August 2007:

- Access by CMC to Fresno Connect computer Labs in Fresno upon mutual agreement.
- A space for office and youth meetings at the Veteran's Memorial Building Room 201 at a monthly rate of \$250/month.
- Collaboration with CMC staff on grant applications to fund programs which benefit both City and CMC.
- Technical assistance/staff time for initial Lab set up.

B. CMC:

CMC, consistent with its Valley Voices Youth Program (Program) will provide/cause to be provided:

- The Program available for usage by youth and adults in the City of Fresno.
- Staff sufficient to administer, operate and manage the Lab during Program operation.
- Organize, publicize and supervise public presentations of youth produced videos at City facilities.
- Credit given to City on videos produced in this Program with City's consent.
- Allow City to use at no cost to City youth produced videos for promotion and educational purposes, excluding use of these products for sale or profit.
- A collaboration of video productions agreed upon by both CMC and the City of Fresno.
- Access by City of Fresno to CMC Veteran's Memorial Building Room 201 upon mutual agreement.

3. REIMBURSEMENT TO PARTIES

Each party shall bear any and all of their costs incurred by it in pursuit of this MOU. Without limiting the foregoing, nothing in this MOU shall commit the taxing authority or general fund of the City.

4. EFFECTIVENESS, DURATION AND TERMINATION

This Agreement shall be effective upon its complete execution by the parties' authorized agents and shall remain in effect for an initial term running through July 30, 2009. This Agreement shall renew automatically from year to year, provided that either party may at any time terminate this Agreement (i) without cause at the party's convenience by giving not less than 2 months (sixty (60) days) prior written notice to the other party, (ii) with cause upon written notice to the other party following the other party's failure to reasonably

cure an event of non-performance hereunder following thirty (30) days written notice thereof. Termination shall be effective as of the date specified in said notice of termination.

5. RECORDKEEPING AND PERFORMANCE DATA

Each party shall keep and maintain proper records and documentation sufficient to substantiate its contributions hereunder, and shall make such available for review and audit upon the reasonable request of the other party for a period of three (3) years following expiration or earlier termination of this MOU.

6. COMPLIANCE WITH GOVERNING LAW

Each party shall comply with all federal, state and local laws, rules and regulations in its pursuit hereof. No party in its performance of this MOU shall employ discriminatory practices on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

7. CAPACITY OF CITY AND CMC

Each party is acting in an independent capacity. Nothing in this MOU and nothing in the course of dealings between the parties hereunder shall be deemed to create any fiduciary relationship, trust, partnership, joint venture, agency or employment relationship, jointly and severally.

In addition and without limitation, each party shall be solely responsible for all matters relating to payment of its employees, including, but not limited to, compliance with applicable social security withholding and all other regulations governing such matters.

8. INDEMNIFICATION AND INSURANCE

To the furthest extent allowed by law, CMC shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by City, CMC or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this MOU. CMC's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of City or any of its officers, officials, employees, agents or volunteers.

If CMC should subcontract all or any portion of the services to be performed under this MOU, CMC shall require each subcontractor to indemnify, hold harmless and defend City

and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

The preceding two paragraphs shall survive termination or expiration of this MOU.

Throughout the life of this MOU, CMC shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VI" in Best's Insurance Rating Guide, or (ii) authorized by City's Risk Manager. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury and \$2,000,000 aggregate for products and completed operations.

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "any auto" with limits of liability of not less than \$1,000,000 per accident for bodily and property damage. Only required if automobiles are to be operated on City property.

(ii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance (if MMC has employee(s) or at such time as he/she employs such person(s) during the life of this Agreement) with minimum limits of \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

Defense costs shall be provided as an additional benefit and not included within the above limits of liability. CMC shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and CMC shall also be responsible for payment of any self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of City of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this Agreement, CMC shall provide a new certificate evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, CMC shall file with City a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name City, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so CMC's insurance shall be primary and no contribution shall be required of City. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, agents, employees and volunteers. CMC shall have furnished City with the certificate(s) and applicable endorsements for ALL required insurance prior to City's execution of this MOU. CMC shall furnish City with copies of the actual policies upon the request of City's Risk Manager and this requirement shall survive termination or expiration of this MOU.

If at any time during the life of the MOU or any extension, CMC fails to maintain the required insurance in full force and effect, all work under this MOU shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this MOU.

If CMC should subcontract all or any portion of the services to be performed under this Agreement, CMC shall require each subcontractor to provide insurance protection in favor of City, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with CMC and City prior to the commencement of any work by the subcontractor.

9. ATTORNEYS FEES

If a party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this MOU, the prevailing party in such proceeding or action shall be entitled to recover from the other party its/their reasonable attorney's fees and legal expenses.

10. PRECEDENCE OF DOCUMENTS

In the event of any conflict between the body of this MOU and any exhibit/attachment hereto, the terms and conditions of the body of this MOU shall control and take precedence over terms and conditions expressed within the exhibit/attachment. Furthermore, any terms or conditions contained within any exhibit/attachment hereto which purport to modify the allocation of responsibility or liability between the parties, provided for within the body of this MOU, shall be null and void.

11. NOTICES

Any notice required or intended to be given to a party under the terms of this MOU shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, return receipt requested, with postage prepaid, addressed to the party

to which notice is to be given at the party's address set forth in Section 1 of this MOU or at such other address as the parties may from time to time designate by written notice.

12. BINDING

Once this MOU is signed by all the parties, it shall be binding upon, and shall inure to the benefit of, the parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

13. ASSIGNMENT

There shall be no assignment by any party of its rights or obligations under this MOU without the prior written approval of the other party. Any attempted assignment by a party, its successors or assigns, shall be null and void unless approved in writing by the other party.

14. WAIVER

The waiver by any party of a breach by the other of any provision of this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this MOU.

No provisions of this MOU may be waived unless in writing and approved by and signed by all parties to this MOU. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

15. GOVERNING LAW AND VENUE

This MOU shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this MOU and any rights and duties hereunder shall be Fresno, California.

16. HEADINGS

The section headings in this MOU are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this MOU.

17. SEVERABILITY

The provisions of this MOU are severable. The invalidity or unenforceability of any one provision in this MOU shall not affect the other provisions.

18. INTERPRETATION

The parties acknowledge that this MOU in its final form is the result of the combined efforts of the parties and that, should any provision of this MOU be found to be ambiguous in any

way, such ambiguity shall not be resolved by construing this MOU in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

19. ENTIRE MOU

It is mutually understood and agreed that the foregoing constitutes the entire MOU between the parties. Any modifications or amendments to this MOU must be in writing signed by an authorized agent of each party.

IN WITNESS THEREOF, the parties have caused their authorized agents to execute this MOU:

ATTEST:

CITY OF FRESNO,
a municipal corporation

By: _____
Rebecca E. Klisch
City Clerk, City of Fresno

By: _____
Randall Cooper, Director
Parks, Recreation and Community Services
Department

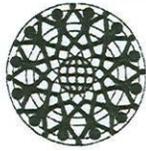
APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

Center for Multicultural Cooperation
a California nonprofit public benefit corporation

By: R 7-27-27
Deputy Robert Conley

By: John Minkler
John Minkler,
Executive Director, CMC

Attachment: Exhibit A-Description of Valley Voices Youth Media Program



Voices of the VALLEY

About VOICES OF THE VALLEY

The **Center for Multicultural Cooperation (CMC)**, a 501(c)3 non-profit organization, is dedicated to inspiring and empowering youth and families of the many cultures in the Central Valley to play an active role in shaping the future of the Information Age by expressing their **history, culture, ideas, perspectives and insights** through the power of digital communications. Through “**intergenerational digital storytelling**”, we seek to foster the production of a **rich tapestry of life stories** based on the personal experiences of veterans and cultural leaders. These digital stories can be shared-in English and other languages-with the Central Valley at community screenings and with a global audience over the Internet.

These “digital stories” are often more compelling and poignant expressions of personal courage, persistence and good humor than what typically finds its way to the screen. Handcrafted by people who have unique and powerful perspectives on life, they enrich and empower the lives of us all, helping to break down barriers between people and strengthening the bonds of community. In an increasingly diverse society, it is important that the values of these cultures are understood and respected by all Americans, and that these cultures have a greater “share of voice” in the media of the Information Era. The **VOICES OF THE VALLEY** initiative seeks to address these issues by providing a unique way to give voice to these communities and encourage the development of the skills necessary for people of all ages to participate more fully in the “digital dialogue” of the 21st century.

Current Projects of VOICES OF THE VALLEY

- **DIGITALLY ABLED PRODUCERS PROJECT**
- **STORIES of SERVICE**
- **LATINO LEGACY**
- **HMONG VOICES**

For more information contact Brandon Wright (559) 355-7740 or email brandon@cmcweb.org

A Project of the Center for Multicultural Cooperation a 501(c)3 non-profit organization