

AGREEMENT
Between
CITY OF EDMONDS, WASHINGTON AND
EDMONDS PUBLIC FACILITIES DISTRICT
For the Display of Chihuly Artwork

The following is an agreement (“Agreement”) between the CITY OF EDMONDS (hereinafter referred to as the "City"), and the EDMONDS PUBLIC FACILITIES DISTRICT (hereinafter referred to as the "PFD") (collectively, the “Parties”) for the display of certain artwork.

WHEREAS, the Edmonds City Council has accepted, on behalf of the City, the donation of two pieces of art created by Dale Chihuly (the “Artwork”) in custom cases and wishes to continue to have the Artwork displayed at the Edmonds Center for the Arts (“ECA”) facility; and

WHEREAS, the PFD has agreed to keep the Artwork on exhibit at the ECA facility;

NOW, THEREFORE, in consideration of the promises, covenants, conditions and performances set forth below, the Parties hereto agree as follows:

1. Responsibilities of the PFD.

1.1 The PFD will continue to provide the space currently designated on the stairwells at the ECA facility for the exhibition of the Artwork in the cases.

1.2 The PFD will be responsible for the general maintenance of the display cases, such as changing light bulbs as necessary and keeping the cases clean.

1.3 The PFD will inform the City of any need to move or repair the Artwork or the display cases before any such action is undertaken. If any issue arises in connection with the Artwork other than maintenance of the display cases, the PFD will refer such issues to the City of Edmonds Arts Commission.

1.4 The PFD will take reasonable precautions to ensure the security of the Artwork, such as keeping the display cases locked when not being cleaned or maintained, and locking all exterior entrances to the ECA facility during non-business hours.

1.5 The PFD will work with the City to ensure that the signage provided for the Artwork is adequate.

2. Responsibilities of the City.

2.1 The City will bear all costs associated with placing the Artwork on display at the ECA facility, and will work with the PFD to ensure that the signage provided for the Artwork’s display cases is adequate.

2.2 The City will include a description of the Artwork in its citywide public art tour brochure when it is next revised.

2.3 The City will obtain and keep in place all necessary insurance for the Artwork.

2.4 The City shall defend, indemnify and hold the PFD, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising from or in connection with the PFD's performance, or nonperformance, of this Agreement, except to the extent that claims, injuries, damages, losses or suits are caused by the sole negligence of the PFD, its officers, officials, employees or volunteers. This promise to indemnify and hold harmless shall include a waiver by the City of the immunity provided under Title 51 RCW, but only to the extent necessary to fully effectuate this promise. This provision shall survive the termination and/or expiration of this Agreement.

3. Miscellaneous.

3.1 Term/Termination of Agreement. The Parties agree that the PFD will keep the Artwork on display at the ECA facility for an indefinite period. Either party may terminate this Agreement at any time and for any reason upon giving the other party written notice of such termination no fewer than ten (10) business days in advance of the effective date of said termination.

3.2 Relationship between the Parties. Nothing in this Agreement shall be interpreted to or in fact create an agency or employment relationship between the Parties. No officer, official, agent, employee or representative of one party shall be deemed to be the same of the other party for any purpose. The PFD and the City shall each be solely responsible for all acts of its officers, officials, employees, volunteers and representatives during the performance of this Agreement.

3.3 Entire agreement, integration and amendment. This Agreement contains the entire agreement and understanding between the Parties relating to the rights and obligations created hereby, and supersedes all prior and contemporaneous negotiations, understandings, and agreements, written or oral, between the Parties. Any prior discussions or understandings are deemed merged with the provisions herein. This Agreement shall not be amended, assigned or otherwise changed or transferred except in writing with the express written consent of the Parties hereto. Any action to interpret or enforce this Agreement shall be brought before the Superior Court of Snohomish County, Washington, and the Parties agree that, as between them, all matters shall be resolved in that venue.

3.4 Notices. Notices required by this Agreement shall be provided as follows:

Notices to the City of Edmonds shall be sent to the following address:

**City of Edmonds
121 5th Avenue N
Edmonds, WA 98020**

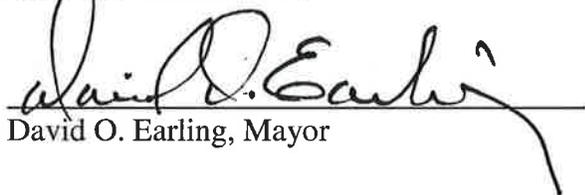
Notices to the Edmonds Public Facilities District shall be sent to the following address:

**Edmonds Public Facilities District
410 Fourth Avenue North
Edmonds, WA 98020**

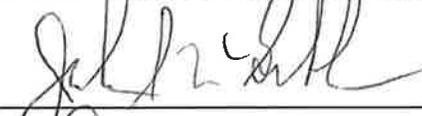
Receipt of any notice shall be deemed effective three days after deposit of written notice in the U.S. mails, with proper postage and properly addressed.

DATED this 8th day of November, 2012.

CITY OF EDMONDS:


David O. Earling, Mayor

EDMONDS PUBLIC FACILITIES DISTRICT:

By:  10/25/12
Its: PRESIDENT

ATTEST/AUTHENTICATED


Sandra S. Chase, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney