



Interoffice Memorandum

December 12, 2022

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Roseann Harrington, Mayor's Chief of Staff
Mayor's Office

GEA

SUBJECT: **Consent Agenda Item**

I-Drive CRA: Technology in support of the English Language Courses for Speakers of Other Languages (ESOL)

Funding in the amount of \$26,260 was provided in the FY 2022-23 adopted budget for the technology to be used with the English Language Courses for Speakers of Other Languages living and working in the I-Drive Community Redevelopment Area (CRA). These funds will be used to procure, asset tag, and deploy tablets in support of the UCF Global program design and delivery of Adult English Speakers of Other Languages for working professionals in the I-Drive CRA.

In order to expedite the disbursement of funds, it is required that the Board approve and execute the grant agreement.

This agreement has been reviewed by the County Attorney's Office.

ACTION REQUESTED: Approval and execution of Orange County, Florida and Aeras Foundation Inc. FY 2022-2023 Grant Agreement and authorization to disburse \$26,260 as provided in the FY 2022-23 adopted budget.

**ORANGE COUNTY, FLORIDA
AND
AERAS FOUNDATION INC.**

FY 2022-2023 GRANT AGREEMENT

THIS GRANT AGREEMENT, made and entered into this 15th day of December 2022, by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County," and AERAS FOUNDATION INC., a Florida not for profit corporation, hereinafter referred to as "Aeras."

WITNESSETH:

WHEREAS, the County has determined that there is a public interest for adult English language programs in order to support professional growth and upskilling for those who live and work in the I-Drive Community Redevelopment Area ("I-Drive CRA"); and

WHEREAS, employers represented in the I-Drive CRA Advisory Group have recommended such programs to help alleviate systemic talent shortages; and

WHEREAS, the County has partnered with UCF Board of Trustees to employ different instructional English as a Second Language education approaches to match diverse learner needs and goals ("I-Drive CRA ESOL Pilot Program"); and

WHEREAS, Aeras is a nonprofit serving underserved individuals in Orange County in partnership with educational, county, and nonprofit organizations to bridge the digital divide; and

WHEREAS, Aeras provides new and gently used technology and low-cost options to local students, nonprofits, and programs; and

WHEREAS, Aeras will procure, asset tag, and deploy 100 tablets, which will be used as an instructional tool for the I-Drive CRA ESOL Pilot Program for maximum learning; and

WHEREAS, the County desires to partner with Aeras to ensure the I-Drive CRA ESOL Pilot Program is met with efficient and effective tools for appropriate and meaningful learning; and

WHEREAS, Aeras has available the necessary personnel and materials to perform its obligations under this Agreement; and

WHEREAS, the County and Aeras desire to enter into this Agreement to memorialize the terms and conditions of their mutual understanding as set forth herein.

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

Section 1. County's Obligation.

1.1 The County has appropriated for the period commencing December 15, 2022 and ending September 30, 2023 up to Twenty-Six Thousand and Two Hundred and Sixty Dollars (\$26,260.00) ("County Contribution") to be administered and disbursed by Aeras solely for the purposes set forth in Exhibit "A". Any funds not spent or encumbered by September 30, 2023 for the designated purpose set forth in Exhibit "A" shall be returned to the County. At Aeras' request and for good cause shown, the Economic Development Administrator may, at his or her sole discretion, grant Aeras up to six (6) additional months to expend the funds. Any such request shall be submitted in writing to the Office of Economic, Trade & Tourism Development. The Economic Development Administrator shall issue a written decision in response to such request within 10 County business days. The County Contribution to Aeras shall be made in one installment upon full execution of this Agreement by both parties hereto and upon the County's receipt of an invoice.

1.2 No funds paid under this Agreement shall be expended for any lobbyist, as such term is defined in section 2-351 of the Orange County Code, to engage in any lobbying activities designed to influence decisions or other foreseeable actions of the Board of County Commissioners or the governing body of any other municipality located within Orange County. Furthermore, Aeras agrees that it shall not undertake, or cause to be undertaken, or participate in, any lobbying before the state legislature in order to advocate for or influence legislative decision making inconsistent with legislative priorities adopted by the Board of County Commissioners, without the prior written consent of the Board or the County Administrator.

1.3 No funds paid under this Agreement shall be expended for payment of any liability, claims, demands, damages, expenses, fees, fines, penalties, proceedings, actions and cost of actions, including attorney's fees or attorneys on appeal of proceedings or judgments of any kind and nature.

Section 2. Aeras' Obligation.

2.1 **Representation of Aeras.** Aeras represents that it will use its best efforts to procure, asset tag, and deploy 100 tablets for the I-Drive CRA ESOL Pilot Program consistent with the parameters set forth in the Scope of Services, attached hereto as "Exhibit A."

2.2 **Aeras as Independent Contractor.** The parties expressly acknowledge that Aeras is acting as an Independent Contractor, and nothing in this Agreement is intended or shall be construed to establish an agency, partnership or joint venture relationship between the parties.

2.3 Unlawful Discrimination. Aeras, in performing its obligations under this Agreement, shall not unlawfully discriminate against any worker, employee, applicant or member of the public because of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin.

2.4 Accounting. Aeras will utilize such accounting procedures and practices in maintenance of the records of receipts and disbursements of the funds contributed by the County as will be in accordance with generally accepted accounting principles.

2.5 Non-Profit Status. Aeras agrees to maintain its corporate, non-profit status in the State of Florida throughout the term of this Agreement. If Aeras should, during the term of this Agreement, lose its corporate status, it shall immediately notify the County in writing, and the County reserves the right to terminate this Agreement immediately.

2.6 Right to Inspect and Audit Accounts. During the term of this Agreement, Aeras, with respect to the receipt and expenditure of funds provided under this Agreement, shall permit County staff and the Orange County Comptroller and his staff to inspect and audit Aeras books and accounts at any time during normal working hours, provided that reasonable notice is given to Aeras prior to any such inspection. Any costs incurred by Aeras as a result of a County audit shall be the sole responsibility of and shall be borne by Aeras. In addition, should Aeras provide any or all of the County's funds to sub-recipients, then, and in that event, Aeras shall include in written agreements with such sub-recipients a requirement that records of the sub-recipient be open to inspection and audit by the County or the County's designee.

2.7 Maintenance of Records; Audit. For a period ending five (5) years after the expiration or termination of this Agreement, Aeras shall make all records and documents relating to this Agreement available for inspection and copying by the County or any agent designated by the County.

2.8 Assignment. Aeras may not assign its rights hereunder, without the prior written consent of the County. Failure to comply with this section may result in immediate termination of this Agreement.

2.9 Indemnification. To the fullest extent permitted by law, Employer shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the Employer, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. Nothing contained herein shall constitute a waiver of the County's sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability of any kind for the acts, omissions, and/or negligence of the other party, its officers, officials, employees, agents, or contractors.

Section 3. Term and Termination.

3.1 Term and Termination. The term of this Agreement shall commence upon full execution by both parties hereto and shall continue until September 30, 2023. However, this Agreement can be earlier terminated by either party at any time, with or without cause, upon no less than fifteen (15) days' notice in writing to the other party. Said notice shall be delivered by certified mail or in person to the business address of the party upon whom such notice is served. Upon termination, any unexpended portion of the County Contribution and all equipment purchased with the County Contribution shall be returned to the County.

Section 4. Miscellaneous.

4.1 Entire Agreement. This Agreement constitutes the entire agreement between the parties. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. No other agreement, whether verbal or written, with regard to the subject matter hereof, shall be deemed to exist.

4.2 Waivers. Performance of this Agreement by either party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

4.3 Assumption of Risk. Each party to this Agreement assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of that party and its officers, employees, servants, and agents thereof while acting within the scope of their employment. The County and Aeras further agree that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; or (2) a waiver of the County's sovereign immunity of the State of Florida beyond the waiver provided in Section 768.28, Florida Statutes.

The County expressly retains all rights, benefits, and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes, and nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability beyond any statutory waiver. The parties acknowledge and agree that the County is a subdivision of the state and that the cap on the amount and liability damages against the County, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort in Florida Statute section 768.28.

4.4 Limitation of Damages. In no event will either party be responsible for any, indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this Agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

4.5 Force Majeure. No default, delay, or failure to perform on the part of either party shall be considered a default, delay, or failure to perform hereunder, if such default, delay, or failure to perform is due to causes beyond either party's reasonable control including, but not limited to, strike, lockouts, or inactions of governmental authorities; epidemics; war; embargoes; fire; earthquake; acts of God; or default of a common carrier. In the event of such default, delay, or failure to perform, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay, or failure to perform.

4.6 Waivers. Performance of this Agreement by either party, after notice of default of any of the terms, covenants or conditions, shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of such default shall be construed or act as a waiver of any subsequent default.

4.7 No Third-Party Beneficiaries. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or entity other than the parties to the Agreement.

4.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any litigation occurring as a result of this Agreement shall be held in the Ninth Circuit Court in and for Orange County, Florida, and shall be governed by the laws of the State of Florida.

4.9 Severability. It is agreed by and between the parties that if any covenant, condition or provision contained in this agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, conditions or provisions herein contained.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set below.

[EXECUTION PAGE FOLLOWS]

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

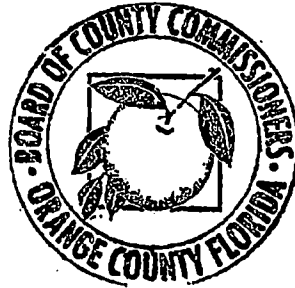
By: Bruno. B. B. B.
for Jerry L. Demings
Orange County Mayor

Date: January 10, 2023

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: Katie Smith
Deputy Clerk

Date: January 10, 2023



AERAS FOUNDATION INC.

David Collins
David Collins,
Chief Executive Officer

Date: 11/28/22

EXHIBIT A

SCOPE OF SERVICES

I-DRIVE CRA PILOT PROGRAM: ENGLISH LANGUAGE COURSES FOR SPEAKERS OF OTHER LANGUAGES – LEARNER DEVICES

ACTIVITY FOR WHICH FUNDING IS REQUESTED

Funding for the amount of \$26,260 for FY2022 and FY2023 will be used to support the procurement, set up, and distribution of tablets to participants in the Adult English Speakers of Other Languages program pilot in the I-Drive CRA. The program will run in 8-week cycles ending in June 2023. Foundational, Beginner, and Intermediate/High learners will have access to digital content and trainers from UCF Global through a related agreement approved by the Board of County Commissioners in September 2022.

Tablet devices will be offered to participants to

- 1) Augment in-person training for Foundational and Beginner learners
- 2) Deliver online training for Intermediate/High level learners

As of October 11, 2022, there are 70 students enrolled in the pilot program with Rosen Hotels and Resorts ("Rosen), UCF Global (UCF), and Orange County. The County is granting the funds to Aeras to purchase the tablets and provide to the students participating in the I-Drive CRA ESOL Pilot program.

Aeras Foundation will:

- Procure tablets for distribution to participants in the program,
- Tag and provide log for inventory management purposes,
- Implement mobile device management tools for ease of access to web browser and UCF Education Platform,
- Remove all personal information from the devices before they are reissued to any future users.

Rosen will manage the internal distribution of devices to their employees.

Aeras may determine disposition upon completion of the program.

DEVICE REQUIREMENTS

Quantity:

Up to 100 new tablets, 100 protective covers. Count to be determined based on participation in week 4 of classes.

Specifications:

- Internet access WIFI. Will not be funding Cellular Plans.
- Ability to run video (sample at: [OEP Demo Course \(ucf.edu\)](https://ucf.edu/oep-demo-course))

- Ability to type responses (so a keyboard function)
- Ability to record and share videos through the learning platform (for language practice)

COST DETAIL

Item	Price Each	Max Qty	Cost at Max Qty
(New) Samsung Galaxy Tab A7 - tablet - Android - 32 GB - 10.4" OR COMPARABLE	\$190	100	\$19,000
(New) UAG Rugged Case for Galaxy Tab A7 10.4 w Kickstand & Hand strap - Scout OR COMPARABLE	\$30	100	\$3,000
Aeras Foundation Admin Fee: design, deployment, and implementation of the process, program, hardware purchase, asset tracking and distribution	NA	NA	\$3,000
Mobile Device Management (MDM): Hexnode will provide application restrictions, load UCF education applications, Pearson applications. MDM will be removed and device wiped upon completion of the pilot, prior to disposition.	\$1.80/month	100	\$1,260 (assumes 7 months for remainder of pilot program)
Max Total			\$26,260

Actual quantity to be determined based on participation in week 4 of classes.
Payment due upon receipt of invoice from Aeras Foundation.

Additional Sponsorship Expectations/Deliverables:

NO FUNDS PAID UNDER THIS AGREEMENT SHALL BE EXPENDED FOR PAYMENT OF ANY LIABILITY, CLAIMS, DEMANDS, DAMAGES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS OR COST OF ACTIONS, INCLUDING ATTORNEY'S FEES OR ATTORNEYS ON APPEAL OF ANY PROCEEDINGS OR JUDGMENTS OF ANY KIND AND NATURE