



Interoffice Memorandum

October 20, 2018

TO: Mayor Teresa Jacobs
-AND-
Board of County Commissioners

FROM: Terry Olson, Administrator
Arts and Cultural Affairs Office
407-836-5540

SUBJECT: Approval of Contract #Y19-164
with United Arts of Central Florida, Inc.
Consent Agenda Item – Oct. 30, 2018

Since 1989, Orange County has contracted with United Arts of Central Florida, Inc. to provide operational support to both small and large arts organizations in order to strengthen the community cultural infrastructure, thereby helping to attract and retain high-wage businesses.

ACTION REQUESTED:

Approval and execution of Contract #Y19-164 between Orange County, Florida and United Arts of Central Florida, Inc. regarding the provision of funding for arts grants and services in the amount of \$1,313,880 for Fiscal Year 2018-2019 from the General Fund.

cc: Ajit Lalchandani, County Administrator
Eric Gassman, Deputy County Administrator

CONTRACT #Y19-164

between

ORANGE COUNTY, FLORIDA

and

UNITED ARTS OF CENTRAL FLORIDA, INC.

regarding

THE PROVISION OF FUNDING FOR ART GRANTS AND SERVICES

THIS CONTRACT is entered into by and between Orange County, Florida, a charter county and political subdivision of the State of Florida, located at 201 S. Rosalind Avenue, Fifth Floor, Orlando, Florida 32801 (the "County"), and United Arts of Central Florida, Inc., a nonprofit corporation under the laws of the State of Florida, located at is 2450 Maitland Center Parkway, Suite 201, Maitland, Florida, 32751 (the "Agency").

**ARTICLE I
SERVICES TO BE PERFORMED**

- A. The Agency shall provide services as outlined in **Exhibit "A,"** which is hereby incorporated by reference and made a part of this Contract.
- B. The Agency agrees to submit reports to the County according to the terms described in **Exhibit "A."** Failure to comply with the County's request for submission of such reports shall constitute ground for termination.
- C. The funding under this Contract is strictly for the uses and purpose outlined in **Exhibit "A"** of this Contract. In no event shall any funding received from the County be used for the lobbying of any county or municipality without discussion and approval of the Orange County Board of County Commissioners.
- D. The Agency shall notify the County, in writing, if sufficient staff, facilities, and equipment necessary to deliver the agreed upon services cannot be maintained. Failure to notify the County of any such deficiencies or to adequately provide the services described above, may be considered to be a breach of this Contract and may constitute grounds for termination if this Contract.
- E. All reasonable efforts should be made by the Agency to ensure the maximum allocation of funds is made to meet the intended purpose of this Contract. The Agency shall ensure that, if permitted by this Contract, a minimum of these grant funds will be used for general administrative overhead costs of the Agency.

ARTICLE II PAYMENTS

A. The total amount to be paid by the County under this Contract for services, shall be one million three hundred thirteen thousand eight hundred eighty dollars (\$1,313,880), so long as the Agency is in compliance with all terms and conditions of this Contract. Such amount, being the maximum compensation to be paid by the county to the Agency, will be for the services outlined in **Exhibit "A"** to this Contract.

B. Payment to the Agency shall be made by two equal bi-annual payments during the term of this Contract and shall be made pursuant to the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes. The first payment will be made after this Contract has been duly executed and a Delivery Order has been processed.

C. The name and address of the official payee to whom the County shall issue the checks shall be United Arts of Central Florida, Inc., 2450 Maitland Center Parkway, Suite 201, Maitland, Florida, 32751 -4140.

ARTICLE III TERM OF CONTRACT, TERMINATION, NOTICE, AND SUSPENSION

A. **Term.** The term of this Contract shall be from October 1, 2018 through September 30, 2019, contingent upon appropriation of funds by the Board of County Commissioners.

B. **Termination for Convenience.** Either party may terminate this Contract, for its convenience, thirty (30) days after receipt by the other party of written notice of intent to terminate.

C. **Funding Limitations.** In the event funds to finance all or part of this Contract do not become available, obligations of each party thereunder may be terminated upon no less than twenty-four (24) hours' notice in writing to the other party. The County shall be the sole and final authority as to the determination of the availability of funds and as to how any available funds will be allocated among its various service providers.

D. **Termination for Cause.** If the Agency breaches any term of this Contract, the County may:

1. Terminate the whole or any part of this Contract by providing the Agency with written notice of such breach and termination. Reasons for such termination by the County include, but are not in any way limited to, any of the following circumstances:
 - a. If the Agency fails to provide services called for by this Contract within the time specified in this Contract or any extension thereof; or

County Contract No. #Y19-164

- b. If the Agency fails to properly monitor and timely report its services to the County in accordance with the provisions of this Contract.
2. Send a written notice of breach with an opportunity to cure such breach. If the Agency fails to cure the breach to the satisfaction of the County within seven (7) business days, or the time provided by the County, whichever is the greater amount, the County may terminate this Contract in whole or in part, upon the receipt of written notice of termination by the Agency. Nothing in this subpart grants the Agency any right to be provided an opportunity to cure by the County.

E. Impact of Termination. After receipt of a notice of termination, except as otherwise directed:

1. The Agency shall:
 - a. Remit to the County the remainder of any and all money advanced to the Agency pursuant to this Contract: (1) that has not been expended or utilized as contemplated by this Contract as of the date upon which the Agency received the County's notice of termination, or (2) if not a "per service" Contract, remit to the County the remainder of any and all money advanced to the Agency pursuant to this Contract in an amount pro-rated as of the date of the Agency's receipt of the County's notice of termination.
 - b. Stop working under this Contract on the date of receipt and to the extent specified in the notice of termination.
 - c. Place no further orders or subcontracts to the extent that they relate to the performance of the work, which was terminated.
 - d. Terminate all orders and subcontracts to the extent that they relate to the performance of the work, which was terminated.
 - e. Handle all property as directed by the County.
 - f. Finalize all necessary up to date reports and documents required under the terms of this Contract up to the date of termination, up to and including the final expenditure report due at the end of the project, if any, without reimbursement beyond that due as of the date of termination for services rendered to the termination date.
 - g. Take any other actions as directed in writing by the County.
2. The County shall pay for all services rendered and accepted per this Contract prior to the date upon which the Agency received the County's notice of termination.

3. The County may withhold final payment pending the receipt of all required documents.

F. **Notices.** Notices to either party provided for in this Contract shall be sufficient if sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the following addressees or to such other addressees as the parties may designate to each other in writing from time to time:

To the County:

Orange County Board of County Commissioners
Attention: Procurement Division
400 East South Street
Orlando, FL 32801

AND

Orange County Administrator
Administration Building, 5th Floor
201 S Rosalind Avenue
Orlando, Florida 32801

To the Agency:

United Arts of Central Florida, Inc.
2450 Maitland Center Parkway
Suite 201
Maitland, Florida, 32751

**ARTICLE IV
ASSIGNMENT, SUBCONTRACTS, AND SUB-AWARDS**

A. **Assignments.** The parties deem the services to be rendered by the Agency to be personal in nature. The Agency shall not assign any rights or duties under this Contract to any other party without the prior written permission of the County.

B. **Subcontracting.** The Agency shall not enter into any subcontracts for any of the work contemplated under this Contract without obtaining the prior written approval of the County, which shall be attached to the original Contract and subject to such conditions and provisions as the County may deem necessary; provided, however, that notwithstanding the foregoing, unless otherwise provided in this Contract, such prior written approval shall not be required for purchase by the Agency of such articles, supplies, equipment and services which are necessary and incidental to the performance of the work required under this Contract; and provided further, however, that no provision of this clause and no such approval by the County of any subcontracts shall be deemed in any event or manner to provide for the incurrence of any obligation of the County in addition to the total agreed upon price contained in this Contract.

C. **Sub-Awards.** Should the Agency provide any or all of the County funds to sub-awardees, the Agency shall include in written Agreements with such sub-awardees a requirement that records

of the sub-awardees be open to inspection and audit by the County to the same extent as those of the Agency.

D. **No Profit.** If the Agency, with County consent, chooses to outsource any of the services contemplated under this Contract, the Agency must ensure that the outsourced entity complies with the terms of this Contract. The Agency cannot make a profit from outsourcing obligations under this Contract.

ARTICLE V

INDEMNITY, LIABILITY, INDEPENDENT CONTRACTOR, AND INSURANCE

A. **Indemnity.** To the fullest extent permitted by law, the Agency 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 attorneys' 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 Agency or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable. Nothing contained herein shall constitute as waiver by the County of sovereign immunity or the provisions of Section 768.28, Florida Statutes.

B. **Liability.** In no event shall the County be responsible to the Agency for any indirect damages, incidental damages, consequential damages, exemplary damages of any kind, lost goods, lost profits, lost business, 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 a breach of term of this Contract.

C. **Independent Contractor.** The relationship of the parties to this Contract shall be an independent contractor relationship, and not an agency, employment, joint venture or partnership relationship. Neither party shall have the power to bind the other party or contract in the name of the other party. All persons employed by a party in connection with this Contract shall be considered employees of that party and shall in no way, either directly or indirectly, be considered employees or agents of the other party.

D. **Insurance.**

1. The Agency agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Contract the following types of insurance coverage with limits and on forms (including endorsements) as described in this "Insurance" subsection. These requirements, as well as the County's review or acceptance of insurance maintained by the Agency is not intended to, and shall not in any manner, limit or qualify the liabilities or obligations assumed by the Agency under this Contract.
2. The Agency shall require and ensure that each of its sub-contractors/consultants providing services hereunder (if any) procures and maintains until the completion

of their respective services, insurance of the types and to the limits specified in this "Insurance" subsection.

3. The Agency shall have in full force the following insurance coverage, and will provide Certificates of Insurance to the Agency prior to commencing operations under this Contract to verify such coverage:
 - a. **Workers' Compensation** – The Agency shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employer's Liability. Said coverage shall include a waiver of subrogation in favor of the County if services are being provided at County facilities. Elective exemptions as defined in Florida Statute 440, will be considered on a case-by-case basis. Any Agency using an employee leasing arrangement shall complete the Leased Employee Affidavit attached as **Exhibit "B."**
 - b. **Commercial General Liability** – The Agency shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$500,000 per occurrence. Agency further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured.
 - c. **Sexual Abuse and Molestation Coverage** with limits of not less than \$100,000 per occurrence shall also be included for those programs that provide services directly to minors. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.
 - d. **Commercial Crime or Third Party Fidelity Bond** - The commercial crime policy or fidelity bond shall include coverage for employee dishonesty on a blanket basis with limits of not less than the full amount of this agreement or as amended from time to time. The bond shall be endorsed to cover third-party liability and shall include a third-party beneficiary clause in favor of the County. The bond shall include a minimum twelve (12) month discovery period when written on a claims-made basis.
4. The Agency agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured –Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of the Orange County Board of County Commissioners.
5. Insurance carriers providing coverage required in this "Insurance" subsection must be licensed to conduct business in the State of Florida and must possess a current A.M. Best Financial Strength Rating of A-Class VIII.

6. Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.
7. The Agency shall provide to the County current certificates of insurance evidencing all required coverage prior to execution and commencement of any operations/services provided under this Contract. In addition to the certificate(s) of insurance the Agency shall also provide copies of the additional insured and the waiver of subrogation endorsements as required above.
8. For continuing service contracts, renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Agency has obtained insurance of the type, amount and classification as required for certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Agency has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically reference the respective Contract number. The certificate holder shall read:

Orange County Board of County Commissioners
Attention: Procurement Division
400 East South Street
Orlando, FL 32801

ARTICLE VI RECORDS

A. **Public Records.** The books, records, and accounts related to the performance of this Contract may be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Records or documents created by the Agency, or provided to the Agency under the terms of this Contract, may constitute as public records and the Agency agrees to assist the County in compliance with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes.

B. **Records Retention and Maintenance.** In the performance of this Contract, the Agency shall establish and maintain separate books, records, and accounts of all activities related to the Contract, in compliance with generally accepted accounting and record maintenance procedures. Books, records, and accounts related to the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County and shall be retained by the Agency for a period of five (5) years after termination of this Contract. In the event of litigation, claim, or audit findings, the record retention period shall be five (5) years from the time of resolution of the litigation, claim, or audit findings.

County Contract No. #Y19-164

C. The Agency shall maintain necessary records of board members by date of appointment, race, and sex. The Agency shall maintain records of employees by job classification, name, date of hire, race and sex, as it relates to this Contract.

D. If applicable, the County may request and the Agency shall provide original records.

E. If applicable, the County may request and the Agency shall provide an Agency staff member of Agency business record custodian, to be present during the time period while the County or its designee reviews the Agency's records.

**ARTICLE VII
EVALUATION**

A. The Agency agrees to cooperate with the County in an annual review to ensure that all applicable County guidelines and requirements for fund recipients are being complied with.

B. Upon request, the Agency shall provide to the County or the designee of the County any and all data needed for the purpose of program(s) evaluation, monitoring, or audit. This data shall include clients served, services provided, outcomes achieved, information on materials and services delivered, and any other data that may be required to adequately evaluate program(s) cost and effectiveness. Failure to provide the data may result in termination of this Contract.

C. In order to monitor compliance and quality assurance of the Agency's performance under this Contract, the Agency agrees to permit persons designated by the County to inspect the Agency's records for matters related to this Contract, including papers, documents, facilities, and goods and services of the Agency, and interview any clients and all current and former employees of the Agency. To accommodate this, the Agency shall provide its business records custodian, have adequate and appropriate work space for the County's designee to conduct evaluation, monitoring, and auditing.

D. Following such evaluation, monitoring, or audit, the County will deliver a report of its findings and recommendations with regard to the Agency's conformance with this Contract's terms and conditions to the Agency or the Board of Directors' President, and members, whenever applicable.

E. If deficiencies are noted, a written notice of corrective action will be issued to the Agency which will specify deficiencies and provide a timeline for correction of those deficiencies. Within the timeframe designated in the written notice of corrective action, the Agency will submit to the County's or designee a corrective action plan to rectify all deficiencies identified by the County. The Agency's failure to correct noted deficiencies, as outlined in the written notice of corrective action, may result in the Agency being deemed in breach of the Contract.

F. The Agency agrees to cooperate with the County on all reviews to ensure compliance with all applicable County guidelines and requirements for general fund recipients.

**ARTICLE VIII
AUDIT REMEDIES FOR IMPROPER USE OF FUNDS**

A. The County, the Orange County Comptroller, or the designee of either, shall have the right to audit all the Agency's records, including but not limited to those records related to the funds disbursed under this Contract, in order to ensure the Agency's compliance with the terms, conditions, and obligations of this Contract. The County and the Comptroller shall have full access to all Agency records, documents, and information, whether on paper or electronic media necessary to perform this audit.

B. The Agency shall establish and maintain a reasonable accounting system, which enables ready identification of Agency's cost of goods and use of funds. If applicable, such accounting system shall also include adequate records and documents to justify all prices for any and all items invoiced as well as all charges, expenses, and costs incurred in providing the goods for at least five (5) years after completion of this Contract. The County or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the Agency or its sub-consultants as required to comply with this section for the purpose of inspection or audit anytime during normal business hours at the Agency's place of business. This right to audit shall include the Agency's sub-consultants used to procure goods or services under the Contract with the County. The Agency shall ensure the County has these same rights with sub-consultant(s) and suppliers.

C. The County shall have all legal and equitable remedies available to it including, but not limited to, injunctive relief, the right to terminate contribution payments; payment of restitution for any funds utilized by the Agency in a manner which is not in conformance with the terms of this Contract.

**ARTICLE IX
CIVIL RIGHTS**

A. There shall be no discrimination against any employee, Consumer, or person served on account of race, color, sex, age, religion, ancestry, national origin, handicap, or marital status in the performance of this Contract. It is expressly understood that, upon receipt of evidence of such discrimination, the Recipient shall have the right to terminate this Contract for breach of contract.

B. The Agency shall comply with:

1. Title VI of the Civil Rights Act of 1964 (42 USC 2000d) in regard to persons served under this Contract;
2. Title VII of the Civil Rights Act of 1964 (42 USC 2000e) in regard to employees or applicants for employment; and

3. The Agency shall comply with Section 504 of the Rehabilitation Act of 1973 in regard to employees or applicants for employment and individuals served.

C. The County's policies of equal opportunity and nondiscrimination are intended to assure equal opportunities to every person, regardless of race, religion, sex, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided and enforced by section 17-314 of the Orange County Code and the County's relevant Administrative Regulations. It is also the County policy that person(s) doing business with the County shall recognize and comply with this policy and that the County shall not extend public funds or resources in a manner as would encourage, perpetuate or foster discrimination. As such:

1. The Agency shall adopt and maintain, or provide evidence to the County that the Agency has adopted and maintains, a policy of nondiscrimination as defined by Section 17-288, Orange County Code, throughout the term of this Contract.
2. The Agency agrees that, on written request, the Agency shall permit reasonable access to all business records or employment, employment advertisement, application forms, and other pertinent data and records, by the county, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this Contract; provided, that the Agency shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this Contract.
3. The Agency agrees that, if any obligations of this Contract are to be performed by subcontractor(s), the provisions of subparagraphs "C1" and "C2" of this section shall be incorporated into, and become a part of, that subcontract.

ARTICLE X SAFEGUARDING INFORMATION

A. **HIPAA Requirements.** Where applicable, the Agency will comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as well as all regulations promulgated thereunder (45 CFR Parts 160, 162, and 164).

B. The Agency shall not use or disclose any information concerning a recipient of services under this Contract for any purpose not in conformity with all applicable Federal, Florida State, and local laws, rules and regulations, except on written consent of the recipient, his or her attorney, or his or her responsible parent or guardian, and the County.

C. In the course and scope of performing services under this Contract, the Agency may receive, be exposed to or acquire confidential information including, but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identified as confidential ("Confidential Information") of another Party.

D. In the course and scope of performing services under this Contract, the Agency may receive, be exposed to or acquire confidential information including, but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identified as confidential ("Confidential Information") of another party. The Agency, including their employees, agents, or representatives, shall:

1. Not disclose to any third party the Confidential Information of the other party except as otherwise permitted by this Contract;
2. Only permit use of such Confidential Information by employees, agents and representatives that have a need to know in connection with performance of services under this Contract; and
3. Advise each of their employees, agents and representatives of their obligations to keep such Confidential Information confidential.

ARTICLE XI OTHER CONDITIONS

A. **Use of County Logo.** The Agency shall recognize Orange County on its printed promotional materials in a manner to be approved by the County. This recognition shall include the logo of the County in those materials in which all other Trustees' logos are listed. Additionally, the Agency shall work with the County to create separate and unique opportunities for display of the County's logo – subject to the approval of the County. The County shall be listed with all other Trustees on the Agency's stationary. Documentation of this recognition shall be submitted to the County upon request. The County shall provide a camera-ready logo selection sheet, or digital file of the appropriate logo(s).

B. **No Waiver of Sovereign Immunity.** Nothing contained in this Contract shall constitute, or be in any way construed to be, a waiver of the County's sovereign immunity, or the Agency's sovereign immunity if applicable, or the protections and provisions of Section 768.28, Florida Statutes.

C. **Written Modification.** Any alterations, variations, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by the legally authorized representatives of both parties and attached to the original of this Contract. The Parties agree to renegotiate this Contract in good faith if revisions of any applicable laws or regulations make changes in this Contract necessary.

D. **Governing Law.** This Contract, and any and all actions directly or indirectly associated herewith, shall be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.

County Contract No. #Y19-164

E. **Venue.** For any legal proceeding arising out of or relating to this Contract, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions shall be in the Orlando Division of the U.S. Middle District of Florida.

F. **Jury Waiver.** Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Contract.

G. **Attorneys' Fees and Costs.** With the exception of the indemnification terms of this Contract, the parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Contract, as well as for any litigation that arises either directly, or indirectly, from this Contract.

H. **Waiver.** No delay or failure on the part of the County to exercise any right or remedy accruing to the County upon the occurrence of an event of violation shall affect any such right or remedy, be held to be an abandonment thereof, or preclude the County from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

I. **Remedies.** No remedy conferred upon any party to this Contract is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy in this Contract shall preclude that party from exercising, or expanding the exercise of, any additional right, power, or remedy that party might have pursuant to this Contract or at law.

J. **Compliance with Laws.** It shall be the Agency's responsibility to be aware of federal, state, and local laws relevant to this Contract. The Agency shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or licenses necessary for its operations and maintain active status thereof during the entire term of this Contract and any extensions to this Contract. The Agency shall not take any action in violation of any applicable legal requirement that could result in liability being imposed on the County.

K. **No Third Party Beneficiaries.** Nothing in this Contract, express or implied, is intended to, or shall, confer upon any person other than the parties, their respective successors, and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Contract.

L. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Contract, including, by way of example only, the indemnification and public records provisions, shall survive the expiration, cancellation, or termination of this Contract.

M. **Severability.** The provisions of this Contract are declared by the parties to be severable. However, the material provisions of this Contract are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Contract. Therefore, should any material term, provision, covenant, or condition of this Contract be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefited by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefited party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

N. **No Representations.** Each party represents that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Contract. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Contract.

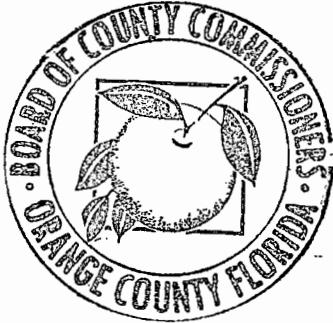
O. **Headings.** The headings or captions of articles, sections, or subsections used in this Contract are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Contract.

P. **Authority of Signatory.** Each signatory below represents and warrants that he or she has full power and is duly authorized by their respective party to enter into and perform this Contract. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Contract as stated.

Q. **Entire Contract.** This Contract, and any documents incorporated in this Contract, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Contract supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this Contract.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have signed and executed this Contract on the dates indicated below.



ORANGE COUNTY, FLORIDA

By: Orange County Board of County Commissioners

By: *A. J. Dalchanda*
Teresa Jacobs
Orange County Mayor

Date: 10.30.18

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

By: *Katie Smith*
Deputy Clerk

UNITED ARTS OF CENTRAL FLORIDA INC.

By: *Flora Maria Garcia*
Flora Maria Garcia, President & CEO
United Arts of Central Florida, Inc.

SCOPE OF WORK

Agency Summary:

The mission of United Arts of Central Florida (United Arts) is to: Enrich communities by investing in art, science and history.

Core values: Trust, Professionalism, Excellence, Inclusion, and Leadership.

United Arts' provides support through direct funding through grants, arts education and other contract services, collaborative fundraising, and capacity building and technical assistance opportunities. The agency is also a community convener, networker and advocate for the arts, and provides annual data regarding the economic impact of the arts and creative industries in Central Florida.

Services:

Pursuant to this Contract, the County is providing \$1,313,880.00 in total funding to be spent by the Agency in the following manner:

Spending Category	Percentage of Funding Provided (Est.)	Amount (Est.)
Grants to Orange County Organizations	85%	\$1,116,798.00
Agency's Direct Program and Services	8%	\$105,110.40
Overhead/Administrative Costs	7%	\$91,971.60
Total	100%	\$1,313,880.00

I. GRANTS

Operating Support Grants (OS)

The OS grant process includes a comprehensive evaluation that provides accountability as well as recommendations for strengthening the applicant organizations. Organizations can apply in one of three budget-size categories. Each organization is assessed on artistic merit, management and fiscal responsibility, and service to the community by a "citizen's review panel" of individuals with expertise in these areas. Over \$1.4 million in OS grants are awarded to Orange County organizations annually.

Mini-Grants

Small grants of up to \$2,500, Mini Grants are open to nonprofit organizations with operating budgets under \$25,000 or who do not provide a full year of programming, such as festivals. This program encourages a diverse palate of programming to reflect the diversity of residents in the Central Florida region. \$30,000 in Mini Grants were awarded in FY18. Over \$20,000 in Mini Grants are awarded to Orange County organizations annually.

Diversity Grants

Small grants of up to \$4,000. Diversity Grants are open to established 501(c)3 organizations located in and providing programming in the four-county region. This opportunity is geared toward incentivizing the creation of arts and cultural programming that will appeal to a wide range of ethnically and racially diverse audiences. The ultimate goal is to grow attendance, participation and involvement in arts and culture so that it is reflective of Central Florida's diverse communities. \$31,000 in Diversity Grants was awarded in FY18.

II. PROGRAMS AND SERVICES

A. FUNDRAISING

1. Collaborative Fundraising Campaign

The only campaign of its kind in the state, United Arts joins forces with its Large-budget Operating Support grantees for the annual Collaborative Campaign for the Arts to raise funds and awareness collectively in support of art, science and history.

United Arts provides participating organizations with one unified pledge form listing all their names and kicks it off with a collaborative mailing, allowing donors to give to all their favorite arts and cultural organizations with one commitment.

Donors have an opportunity to write in the name of arts and cultural organizations that are not listed on the form.

During the Collaborative Campaign, designated gifts to participating organizations are incentivized with a 15% match by United Arts.

United Arts works closely with the 14 participating cultural partner organizations to assist them in reaching their personal campaign fundraising goals.

In FY18, \$2,073,002 was raised during the Collaborative Campaign, including over \$49,592 for organizations whose names were written in by adoring donors.

Our 14 participating cultural partner organizations are based in Orange County. They raised \$1,673,367 through the campaign, earning \$251,005 in matching funds.

2. Workplace Giving

The primary goals of workplace campaigns are to raise funds for arts and culture within workplace environments and to raise awareness for the rich array of arts and cultural organizations, performances and exhibits in the region.

Workplace campaigns can vary in length and include on-site presentations by a United Arts representative, live performances, demonstrations and incentives for campaign participation.

Workplace giving sites range from single to multi-site locations and include corporate and government employers with options for giving through payroll deduction, as facilitated by participating companies.

Workplace campaigns may be held in conjunction with other fundraising entities to offer giving choices to employees, and as a convenience for employers.

3. Text-to-Give/Peer-to-Peer Fundraising.

United Arts subscribes to Mobile Cause to provide group access to progressive fundraising tools for our grantees and Collaborative Campaign partners. MobilCause offers:

- o Text-to-give fundraising tools, which are perfect for performance-based organizations that are in an ideal position to encourage audience members, before they turn off their phones or during intermission, to make a donation by texting to the code they provide.
- o A peer-to-peer fundraising portal allows Board members to set their own fundraising goals and fundraise on behalf of their organization.

B. CONTRIBUTOR BENEFITS

1. Orlando Arts Magazine (OAM)

Orlando Arts Magazine is United Arts' bi-monthly magazine, produced in partnership with Visit Orlando Inc. The magazine covers area arts and culture happenings and includes a cultural calendar. The magazine has a print run of 20,000 and a pass-on rate of 75,000. It is a donor premium for all contributions of \$50 or more. Annual pass-on readership is 450,000.

OAM prints the annual cultural Summer Camp Guide in the March/April issue and the Season Preview issue in September/October issue.

OAM partners with Orlando International Airport and Visit Orlando Inc. to distribute 25,000 rack cards quarterly to the visitor information centers at the airport, surrounding hotels, and arriving international visitors. The card provides Central Florida cultural highlights for a three-month time period and points viewers to the OrlandoAtPlay.com events website for more events. Annual impressions are 100,000.

2. United ArtsCard

The United ArtsCard is a donor premium for United Arts donors of \$100 or more. The card provides the bearer with 2-for-1 or discounted ticket opportunities at a variety of local arts and cultural happenings as well as a 15% discount to a variety of cultural organizations. Discounted tickets opportunities encourage donors to try a variety of cultural events and expand their cultural repertoire. Over 2,000 cards are distributed annually.

C. ARTS EDUCATION

1. In-School Arts Education Services.

(a) School-Age Programs - School-aged arts education programs that correlate to Sunshine State Standards and become an essential part of the school curriculum. Programming draws from

Lake, Orange, Osceola and Seminole counties, regardless of the location of the school being served.

Orange County Public Schools contracts with United Arts each year to facilitate curriculum based arts education services in the schools. From concert etiquette to musical selections to ballet positions, teachers prepare students weeks in advance for what they will see and hear. Services include in-school assemblies, hands-on workshops, and field trips to theaters and museums – in every genre from history, science, visual art, dance, music, and theater. Last year, the \$454,656 contract provided over 97,884 student experiences at a cost of \$4.64 per experience.

In FY18, for a second year funding, from Dr. Phillips Charities, with matching funds from Osceola County commissioners, Osceola School District and Tupperware Brands, infused arts programming into Osceola schools. Programs included:

- o VPK strings
- o 3rd grade – Center for Contemporary Dance
- o 4th grade – Osceola Arts “Behind the Scenes”
- o 5th grade - an expansion of the Orlando Philharmonic’s Young People’s Concerts to include charter schools
- o 8th grade – Central Florida Community Arts’ “Flying Lessons”
- o Middle school – Orlando Shakes ALIVE!, drawing classes through Crealdé School of Art and the BeeBop Buddies jazz program
- o High School students were exposed to the START Road to College program. This grant allowed 19,327 students to explore a broad array of arts and cultural experiences in a variety of genres, including four Orange County organization.

(b) Teachers Grants - United Arts partners with local corporations to provide grant funding for arts education. In FY18, United Arts raised \$40,000 in funding to support Teachers Grants throughout the four-county region, providing 13,222 in additional arts experiences. 4,240 Orange County students were served.

(c) Principals Appreciation Breakfast

OCPS Principals Appreciation Breakfast - The 12th annual breakfast brought together over 300 principals and community leaders to celebrate the arts in Orange County Public Schools and educate new teachers and administrators on available programming and the importance of arts education experiences. Principals shared stories and program ideas on the impact the arts have on their students in terms of performance in school, graduation rates and the number of students who continue on to college level studies. In FY18, the event was again held at the Dr. Phillips Center for the Performing Arts and included the Third Annual Arts Principal Awards to honor the elementary, middle and high school principal who support and promote arts education and arts participation in their schools. Winning principals each received arts supplies courtesy of Sam Flax and \$1,000 for additional art supplies for their schools. United Arts secured sponsors to underwrite the event.

Osceola County Principals Appreciation Breakfast - Over 160 principals and arts administrators gathered at the Gaylord Palms resort to applaud the arts and cultural achievements of the school district and celebrate Kissimmee's 135th birthday. United Arts secured sponsors to underwrite the event.

2. Arts Education Event Website.

United Arts' Arts Education website, UAArtsEd.com provides a singular location where public, private and home school educators and administrators can learn about arts education programs available to school-age children as well as family-friendly events and camps for children of all ages. Lessons include performing arts, visual arts, literacy, science and history genres and are offered as field trips, workshops, in-school performances, and weekend events. The interactive website lets users search for programs, book offerings and provide feedback on programs experienced.

3. Career Pathways to Creative Sector Jobs.

Career Pathways to Creative Sector Jobs is a career-training program designed to prepare youth for back-of-house arts and entertainment jobs at area theme parks and cultural institutions. Funded through a grant from JPMorgan Chase (2014), United Arts coordinated efforts with Evans High School, Orange County Public Schools, University of Central Florida (UCF), Valencia College, and Children's Home Society of Florida to implement this pilot program at Evans High School. Through this program, students are able to earn a vocational certificate upon graduation or continue on to receive a two-year degree from Valencia or a four-year degree from the University of Central Florida, depending on the level of complexity they wish to pursue. Curriculum in this program is designed specifically to reflect the job skills needed for employment in the arts and entertainment industry.

In 2016, United Arts received a second grant from JPMorgan Chase to replicate this program in Osceola County, at the new STEAM High School (Science, Technology, Engineering, Arts & Math) that will open in 2018.

This program can be replicated in any school that wishes to make the arts industry a part of their curriculum.

III. ADDITIONAL SERVICES

1. Contracts for Service.

United Arts facilitates arts programming in the community through over-arching contracts with local businesses, school districts and government agencies. Our annual contract with the Greater Orlando Aviation Authority provides cultural performances at the airport in July and December, and a contract with Bioclinica Research provides cultural programming for seniors. These opportunities connect the region's arts and cultural organizations with new contract service opportunities as well as assists them in reaching new audience in unique ways.

(a) Events Website – OrlandoAtPlay.com serves Central Florida and showcases arts and cultural events and experiences available throughout the seven-county region. The platform provides the capability to screen content by location and share content via an RSS feed. We are

also able to link a dynamic pull to a hyperlink on a website for an ongoing up-to-date listing of events with the click of the mouse. Weekly newsletters go out to over subscribers (currently over 7,200) highlighting special offerings and discounted events for the week. Due to United Arts' active marketing campaign, the site attracts visitors from all over the world and enjoys a user demographic that spans all age ranges. From metro buses emblazoned with the OrlandoAtPlay.com logo to ads in local magazines and playbills to national and international TripAdvisor, Facebook and Google AdWords digital advertising campaigns, OrlandoAtPlay.com trumpets to the world the diverse cultural offerings that are available in the Central Florida region. There are as many as 1,100 events available on the site at any one time and nearly 132,000 users explored the site in FY18. Orlando continues to be the top user origination city.

(b) Technical Assistance Workshops – United Arts hosts grant workshops for potential and current applicants of United Arts grant programs and Orange County TDT grant programs, information sessions on State of Florida grant programs, and capacity-building opportunities in fundraising and marketing. Our UA 101 sessions share information about the various free resources United Arts has available including the OrlandoAtPlay.com events website and Orlando Arts Magazine, as well as training sessions on Mobile Cause's text-to-give platform, a United Arts sponsored fundraising tool. We host community forums and workshops on issues that impact the region's arts and cultural community, and partner with the Central Florida Foundation to present the State of the Arts address.

(c) Diversity - United Arts is committed to arts and cultural programming that is as diverse as the community we serve. Our Diversity Grants encourage programming that speaks to a broader audience; our grant application process requires thoughtful consideration on how our arts organizations market themselves and who they are reaching as well as an internal look at boards and staff and how they reflect the greater community.

United Arts has formed several task forces to assist us in making the arts more welcoming. These groups can help us expand our views and our reach:

- o African-American Task Force
- o Hispanic Task Force
- o Millennial Task Force
- o Asian Task Force (in FY19)

As a follow up to our 6-workshop series held in FY16 focused on Marketing to Diverse Audiences with sessions dedicated to Hispanic, African-American, Asian and Caribbean cultures and how they communicate and share information, United Arts currently offers Diversity Grants to assist organizations with adapting or creating programming to attract diverse audiences.

2. Grants Management Services

United Arts provides full service grant management services that includes assistance with developing grant guidelines and applications, grant application review and the management of approved grants, including reporting review and funds dissemination. United Arts manages TDT Cultural Tourism and Cultural Facilities Funding for Orange County Arts & Cultural Affairs. In FY18, United Arts managed over \$4.2 million in funding awarded to 29 organizations.

3. Economic Impact Research 5

In 2017, Americans for the Arts published its most recent updated study on the impact that arts and culture have on our local and national economy. Arts & Economic Prosperity 5 (AEP5), demonstrates that nonprofit arts and culture is a \$400 million industry in the Central Florida Region supporting 13,764 full-time equivalent jobs. 9,630 of those jobs are in Orange County, generating \$265 million in total industry spending and \$9.9 million in local government revenue. The study shows that 46% of Orange County audiences are non-residents and spend an average of \$37.58 per event attended, not including the cost of admission. With 3.8 million attendees per year, cultural event attendees generate over \$110 million per year in revenue for Orange County businesses. Complete study results are available on the United Arts website.

4. Creative Industries Report

Also with Americans for the Arts, the Creative Industries report expands the AEP5 study for the Central Florida region to include the for-profit creative industries. Included in the report are nonprofit museums, symphonies and theaters, for-profit film, architecture and advertising firms, and, unique to this area, the large number of artists employed in the theme parks in creative jobs. Orange County boasts 4,284 arts related businesses employing 31,507 people. This is 58% of the arts related businesses in the Orlando Region and 78% of the employees.

5. Board of Director Leadership

(a) Community Leader Engagement

Contributors to United Arts at the \$100,000 and higher level may designate a representative to serve on the United Arts Board of Directors. The inclusion of our major supporters on the Board of Directors fosters greater understanding of and involvement in the direction of the organization. United Arts continues to engage community leaders in its work on committees, task forces, strategic planning, and grants review panels, as well as participate with area partners on their panels, events, study groups, and related cultural collaborations. Monthly meetings are held with cultural providers, and periodically with area leaders to discuss industry-related concerns.

LEASED EMPLOYEE AFFIDAVIT

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ **Date:** _____