

**AGREEMENT FOR CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY
FUNDS ARTS NON-PROFIT RECOVERY PROGRAM**

THIS AGREEMENT ("Agreement") is entered into this 26th, day of April 2022, between The City of Oklahoma City ("the City") and Allied Arts of Oklahoma ("Allied Arts") for operation of program services for the City's Coronavirus State and Local Fiscal Recovery Funds Arts Non-Profit Recovery Program.

WITNESSETH:

WHEREAS, the United States is experiencing an outbreak of Novel Coronavirus-2019 also known as COVID-19; and

WHEREAS, due to the COVID-19 public health emergency many not-for-profit corporations have sustained and continue to sustain devastating economic losses causing them to be in need of assistance; and

WHEREAS, the City of Oklahoma City has received \$61,253,795 from the Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds) and expects to receive an additional \$61,253,795 in May 2022 for a total federal allocation of \$122,507,590; and

WHEREAS, the Fiscal Recovery Funds were provided pursuant to American Rescue Plan Act (ARPA) and are intended to provide support to state, local, and tribal governments responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses; and

WHEREAS, on September 14, 2021, City Council approved the Coronavirus State and Local Fiscal Recovery Funds Plan ("the Plan") and the category allocations contained therein; and

WHEREAS, the Plan provides for the use of Fiscal Recovery Funds for programs and projects to directly address the negative economic impacts caused by COVID-19 in the areas of housing, small businesses, non-profits, individual job training, and tourism recovery; and

WHEREAS, Allied Arts is a nonprofit corporation organized and existing under the laws of the State of Oklahoma, and its vision is to enrich lives through the advancement of the arts; and

WHEREAS, Allied Arts was formed in 1971 and helps ensure that local arts organizations have the tools and resources they need to remain strong and offer quality programming to Oklahoma City residents; and

WHEREAS, Allied Arts provides annual financial assistance to approximately 40 local arts organizations and due to Allied Art's experience and expertise, the City seeks to contract with Allied Arts for the management of its Arts Non-Profit Recovery Program to provide assistance to all arts and cultural non-profits, including those beyond Allied Arts designated organizations.

NOW THEREFORE, for and in consideration of the mutual promises herein expressed, the City and Allied Arts agree to the following terms and conditions:

I. SCOPE OF SERVICES

1.1 Contract Services. The Allied Arts is hereby engaged by the City to provide management service for the City's Arts Non-Profit Recovery Program ("the Program"). Allied Arts will manage the Program which will provide COVID-19 assistance to arts and cultural not-for-profit corporations providing services in Oklahoma City. All expenditures must be approved in writing by the City Manager or his designee prior to the expenditure of funds. The total amount of Fiscal Recovery Funds allocated for the Program is Nine Hundred and Twelve Thousand and Five Hundred Dollars (\$912,500). This amount shall be available for payment to eligible arts and cultural non-profits for approved expenses. This does not include the Fees for Service to be paid to Allied Arts as detailed in Section 2.1.

Allied Arts shall gather the required information from the arts and culture nonprofits (take applications), shall organize the required information, and shall submit the information to the City Manager or his designee along with a recommendation for approval or denial of the requested assistance. The City Manager or his designee shall have final decision-making authority on the approval of any assistance to be provided.

1.2 Program Requirements and Limitations.

The City's Arts Non-Profit Recovery Program has the following requirements and limitations which Allied Arts is required to apply and carry out. Allied Arts will obtain, organize, and maintain the required documentation from each applicant and submit the necessary information to the City Manager or his designee for review and approval or denial.

1.2.1 Eligibility. The following are the "Eligibility Requirements" for non-profits to be eligible for payment of Fiscal Recovery Funds under the City's Arts Non-Profit Recovery Program:

- 1) the non-profit is a 501(c)(3) or 501(c)(19); and
- 2) the non-profit is an Oklahoma City arts or cultural non-profit meaning it provides quality arts and cultural programming in Oklahoma City; and
- 3) the non-profit must be established and functioning at the time of the application and for at least the three years prior to its submission of its application for funds; and
- 4) the non-profit must have current financials and an active, volunteer board of directors; and
- 5) the non-profit is registered as a charitable organization with the State of Oklahoma; and
- 6) the non-profit is self-identified as "Arts, Culture, and Humanities" using the National Taxonomy of Exempt Entities system; and
- 7) the non-profit is headquartered in Oklahoma City; and
- 8) the non-profit has experienced "negative impact" or damages due to the COVID-19 public health emergency; and

- this can be shown through decreased revenue or gross receipts (relative to pre-pandemic revenue), increased costs due to covid, covid mitigation measures taken (excluding facility expansion), or challenges covering payroll, rent or mortgage, or other operating costs
- 9) the negative impact was experienced during the period beginning March 3, 2021 and ending December 31, 2024.

1.2.2 Limitations. A non-profit seeking Fiscal Recovery Funds cannot have received any other federal funds intended or used to cover the expenditures seeking to be recovered. The following are further limitations on the funding available to eligible non-profits:

- non-profits with budgets of \$100,000 or less can receive up to 50% of its organizational budget
- non-profits with budgets between \$101,000 and \$500,000 can receive up to 20% of its organization budget
- non-profits with budgets between \$501,000 and \$1,000,000 can receive up to 10% of its organization budget
- non-profits with budgets more than \$1 million can receive up to 5% of its organization budget.

1.2.3 Assistance Available. The following are the types of financial assistance available to an eligible non-profits; however the amount of assistance provided must be proportional to the impact/damage directly experienced by the non-profit:

- replacement of full-time, part-time, seasonal employee positions lost due to Covid-19 on or after March 3, 2021; and
- reimbursement of costs incurred between March 3, 2021 and December 1, 2024 for Covid-19 mitigation efforts; and
- reimbursement of costs incurred between March 3, 2021 and December 1, 2024 for technology to implement virtual programming; and
- reimbursement of costs incurred between March 3, 2021 and December 1, 2024 for remote working technology; and
- a grant equal to the amount of lost revenues due to Covid-19 on or after March 3, 2021.

Payment of Fiscal Recovery Funds under the City's Arts Non-Profit Recovery Program must meet the eligibility requirements and limitations provided above and must be approved in writing by the City Manager or his designee prior to payment. Upon approval of payment the City shall transfer the approved amount of funds to Allied Arts, who will cut the individual payments to approved applicants.

II. COMPENSATION

2.1 Fee for Services. In exchange for the operation services provided by Allied Arts under this Agreement, the City agrees to pay \$87,500 for services rendered. Allied Arts is a vendor being

paid this amount for its services and not a subrecipient of the City. The Fee for Services shall be paid to Allied Arts within fourteen (14) business days of full execution of this contract. If this Agreement is terminated prior to December 31, 2023, then Allied Arts shall return \$45,000 of such fee to the City.

III. REPORTING, AUDITING AND DOCUMENTATION

3.1 Reporting. Allied Arts is required to provide quarterly update reports on the status of the City's program. This report shall include at least the number of non-profits assisted and the amount of funds expended on the program for that quarter and to date.

3.2 Audit Requirement. Allied Arts agrees that the funds provided pursuant to this Agreement were provided by the federal government to the City pursuant to ARPA and are subject to audit by the City and/or the federal government. Allied Arts agrees it will fully cooperate in any audit of its records at no additional expense to the City.

3.3 Document Retention. Allied Arts agrees to retain records regarding payments of Fiscal Recovery Funds, including, but limited to, all applications, supporting documents provided, attestation documents, and checks cut, as well as all documents to support the Allied Arts administrative costs such as payroll information, timesheets, and invoices.

IV. GENERAL TERMS

4.1 Term. This Agreement shall become effective as of the date provided in the first paragraph of this Agreement and shall terminate when all funding available under this Agreement for distribution has been paid out to eligible non-profits or on December 31, 2024, whichever is sooner.

4.2 Termination. Allied Arts agrees that the City has the authority to terminate this Agreement for cause or for convenience. For purpose of this clause, "cause" shall include, but not be limited to, failure to use the Fiscal Recovery Funds in the manner required in this Agreement or failure to disclose a disbarment, suspension, or exclusion from government contracts per Executive Orders 12549 and 12689 or for being listed on the government-wide exclusions in the System for Award Management (SAM) in accordance with the OMR guidelines at 2 CFR § 180. Allied Arts shall return service fee as provided for in Section 2.1.

4.3 Denial of Disbarment. Allied Arts agrees and herein attests to the fact that neither it nor any of its agents or agencies are currently or have previously been subject to a federal disbarment, suspension or exclusion from federal contracts.

4.4 Anti-Lobbying. Allied Arts agrees that it or any agent or agency thereof, will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352.

4.5 Independent Contractor. The Parties expressly agree that the relationship hereby created is that of an independent contractor and no other relationship is created or deemed to be created between the Parties. This Agreement specifically does not create any partnership or joint venture between the Parties or render any Party liable for any of the debts or obligations of any other Party.

4.6 Indemnification. Allied Arts agrees to release, defend, and indemnify the City, and hold the City harmless against any losses, claims, damages, liabilities, expenses (including all reasonable legal fees and expenses), judgments, fines, audit findings or settlements resulting from the intentional acts or omissions, negligence, and/or misconduct of the Allied Arts. Any such indemnification or payment shall be made by Allied Arts within thirty (30) days of an appropriate finding of facts, whether by mutual agreement, a court of law, or audit findings of the federal government. Should the federal government conclude that any Fiscal Recovery Funds were misused by Allied Arts or Subcontractor, or that Allied Arts or Subcontractor failed to retain sufficient documentation to prove that said funding was not misused by the Allied Arts, and the federal government requires the City to repay such funds, Allied Arts will indemnify the City for all such amounts. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

4.7 Entire Agreement. The provisions of this Agreement, and the Exhibits attached hereto, shall constitute the complete and exclusive statement of understanding between the Parties, which supersedes all previous agreements, written or oral, and all communications between the Parties relating to the subject matter of this Agreement except as specifically set out in this Agreement.

4.8 Notices. All notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties at the following addresses. Addresses may be changed by either Party giving ten (10) days prior written notice thereof to the other Party.

The City:

Craig Freeman, City Manager
The City of Oklahoma City
200 N. Walker, 3rd Floor
Oklahoma City, Oklahoma 73102

With copy to:

Amy Simpson, City Clerk
The City of Oklahoma City
200 N. Walker, 2nd Floor
Oklahoma City, Oklahoma 73102

Allied Arts:

Deborah McAllister Sumner
Allied Arts President/CEO
1015 N. Broadway Ste 200
Oklahoma City, OK 73102

4.9 Applicable Law and Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the state of Oklahoma. The laws of the state of Oklahoma shall be applied to every interpretation, action, enforcement or other legal or equitable proceeding involving this Agreement, and any duty, right, interest, covenant, obligation and activity under this Agreement. Any dispute, legal proceeding or action which may arise between the City and Allied Arts arising out of or in connection with this Agreement shall be adjudicated before a court located in Oklahoma City, Oklahoma. The City and Allied Arts submit to the exclusive personal jurisdiction of the courts of the State of Oklahoma located in Oklahoma City.

4.10 Compliance with Law. In providing these services, Allied Arts shall comply with all municipal, state, and federal laws and regulations, including but not limited to Federal Clean Air Act and the Federal Water Pollution Control Act.

4.11 Assignment. In as much as this Agreement is a personal service agreement which relies on the personal integrity, financial standing and unique ability and expertise of Allied Arts to assist in the operation the Programs, it has been agreed by Parties that Allied Arts may not assign its interest or obligations in said Agreements without prior written consent of the City.

4.12 Severability. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

4.13 Amendment. This Agreement may only be amended in a writing approved by Allied Arts and the City Council of The City of Oklahoma City.

4.14 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

4.15 Descriptive Headings. The headings of the Sections of this Agreement are inserted or annexed for convenience of reference only and shall not affect the meaning, construction, interpretation or effect of said Section of this Agreement.

IN WITNESS WHEREOF, the Parties adopt and approve this Agreement.

Approved this 18th day of April, 2022.

ALLIED ARTS OF OKLAOMA

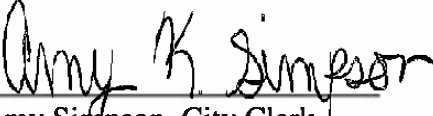
Reborah McAniff Sennet
President

ATTEST:
Bailey M. Brown
Secretary

APPROVED BY the Mayor and City Council of the City of Oklahoma City this
26th day of April, 2022.

THE CITY OF OKLAHOMA CITY

ATTEST:

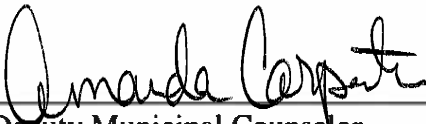

Amy Simpson, City Clerk





MAYOR DAVID HOLT

REVIEWED as to form and legality.


Deputy Municipal Counselor

