

**STATE OF GEORGIA
COUNTY OF FULTON**

CONTRACT

**BETWEEN FULTON COUNTY, GEORGIA AND
MUSIC SOUTH CORPORATION**

THIS CONTRACT, entered into this ____ day of _____, 2023, between FULTON COUNTY, a political subdivision of the state of Georgia (hereinafter referred to as “Fulton County” or the “County”), and MUSIC SOUTH CORPORATION (MSC) d/b/a AFRICAN AMERICAN PHILHARMONIC ORCHESTRA & CHORALE located at 2565 Thornton Drive, Atlanta, GA 30349 (hereinafter referred to as “MSC”), and collectively the “Parties.”

WITNESSETH THAT:

WHEREAS, Fulton County, through its Department of Arts & Culture has determined a need for arts and related services in Fulton County; and

WHEREAS, Fulton County, through its Department of Arts & Culture, has determined that these services can best be performed by a non-profit, tax exempt 501(c)(3) entity; and

WHEREAS, pursuant to O.C.G.A. § 36-1-19.1, Fulton County is authorized and empowered under the laws of the State of Georgia to enter into contracts for services with individuals, organizations and institutions, for purely charitable reasons to include humanities and educational purposes, provided that the activities funded by any such contributions shall take place within the county making the contribution; and

WHEREAS, MSC is a Georgia non-profit, tax exempt 501(c)(3) organization that has a mission to connect people, the arts, and related services being funded under this Contract; and

WHEREAS, the Board of Commissioners, through the approval of the County’s budget for 2023, authorized and designated \$15,000.00 to the MSC to provide arts and related services for the citizens of Fulton County; and

WHEREAS, MSC guarantees, by and through this Contract, that it shall expend the funds under this Contract for arts programming and arts educational services consistent with its mission and non-profit status only, deriving no profit to the organization and on activities consistent with the Contract provisions outlined in Section 1.0 and Attachment “A” hereunder and such activities shall take place within the County.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereto agree as follows:

1.0 STATEMENT OF WORK

The County shall provide financial assistance in an amount not to exceed **\$15,000.00** to MSC to provide expanded programmatic resources to promote awareness and appreciation of the arts through programs and related activities in Fulton County.

2.0 COMPENSATION FOR SERVICES AND WORK

Funding for the services and work described in Section 1.0 herein, and in Attachment “A” shall be as follows: The total amount payable to MSC per the terms and execution of this Contract is not to exceed Fifteen Thousand Dollars (**\$15,000.00**).

Such payments shall be made upon execution of this Contract in one lump sum.

Music South Corporation d.b.a. African American Philharmonic Orchestra & Chorale (MSC) shall submit all necessary documentation to the Fulton County Department of Arts and Culture (“FCDAC”) as required in Attachment “A,” Scope of Work. This documentation shall be submitted to staff identified by the Director of Arts and Culture, the Contracts for Services team within the Department of Arts & Culture.

3.0 TERM OF AGREEMENT

Unless terminated by mutual agreement, or in accordance with other terms and provisions contained herein, the term of this Contract shall be upon execution through December 31, 2023, unless otherwise extended in writing or terminated by the County. MSC shall be eligible for reimbursement costs which are included within the scope of Sections 1.0 and 2.0 and Attachment “A” of this Contract. However, unless good cause is shown, should MSC not have displayed significant action toward this Contract and its Scope of Work prior to the sixth (6th) month anniversary of the signing of this Contract, then said Contract shall be deemed void and any and all funds not expended or obligated toward said Contract shall be immediately returned to the County.

4.0 TERMINATION OF AGREEMENT

4.1 TERMINATION OF AGREEMENT FOR CAUSE

Either County or MSC may terminate this Agreement in the event the other party fails to perform in a timely and proper manner its obligations in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party specifying the reasons for such intention to terminate or suspend the Agreement. The party receiving such notice under this provision shall have ten (10) days after receipt of service of the notice to correct the violation or cease the delay to the satisfaction of the aggrieved party. If such arrangements are not made,

the Agreement shall, upon expiration of said ten (10) days, be suspended or terminated without further notice. Upon such suspension or termination, MSC will be compensated by the County for expenses deemed by the County to be due and reasonable. Notice of termination shall be delivered by hand delivery or certified mail with receipt for delivery returned to the sender.

4.2 TERMINATION FOR CONVENIENCE OF THE COUNTY

Notwithstanding any other provisions, the County may terminate this Agreement for its convenience at any time by giving at least thirty (30) days prior notice in writing (hand delivery or certified mail with receipt) to MSC.

5.0 RECORDS, REPORTS AND AUDITS

The MSC shall maintain accounts and records, including personal property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be requested by the County to assure proper accounting for all funds, both public and private. Said records shall be made available for audit purposes to the County or its representative(s), and shall be retained for at least three (3) years after expiration of this Contract or completion of the program unless permission to destroy them is granted by the County. MSC's records and accounts shall at all times meet or exceed the applicable requirements of Federal, State and County laws, rules and regulations.

6.0 INSPECTION OF FILES AND RECORDS

Fulton County Department of Arts & Culture shall at all reasonable times have access to the pertinent offices and books and records of MSC for inspection of the activities performed and expenses incurred under this Contract.

7.0 REVERSION OF ASSETS & EQUIPMENT

Upon expiration or termination of this Contract, MSC shall transfer to the County any County funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of County funds.

Further, in the event that MSC should sell or otherwise dispose of any property acquired with Fulton County funds, the manner of said disposition shall result in the County being reimbursed in an amount of the current fair market value of the property at that time less any portion of the value attributable to expenditures of non-Fulton County funds. In the event that such sale or disposition occurs more than ten (10) years after expiration or termination of this Contract, such reimbursement shall not be required.

8.0 COPYRIGHT AND PUBLICITY

No report or other document produced in whole or in part under this Contract shall be the subject of an application for copyright or considered to be trade secret by or on behalf of MSC without

the prior written consent of the County. All such reports or other documents shall become and be deemed the property of the County and title therein shall vest in the County. The document shall also be subject to the Georgia Open Records Act, unless exempt.

Further, any favorable publicity given to the services provided in Attachment A must identify Fulton County prominently as a sponsoring agency. Specifically, at all places of, and in all publications concerning the services funded under this Contract, MSC agrees to display and make known that the services were assisted under the auspices of Fulton County.

9.0 ASSIGNMENT OF CONTRACT

MSC shall not make any purported assignment of this Contract, any part thereof, or the funds, or delegate the duties herewith without prior written consent of the County.

10.0 CONFLICT OF INTEREST

No member, officer, or employee of the County or its designee or agents, no member of the governing body of the County, and no other official of the County who exercises or has exercised any functions or responsibilities with respect to the County-assisted activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit in any contract, subcontract with respect thereto, or the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

11.0 EQUAL OPPORTUNITY AND NONDISCRIMINATION

11.1 CIVIL RIGHTS ACT OF 1964 (AS AMENDED)

MSC shall comply with all requirements imposed by or pursuant to Title VI and Title VII of the Civil Rights Act, as Amended, Age Discrimination in Employment Act; Rehabilitation Act of 1973, as Amended, section 504; Equal Pay Act; The American with Disabilities Act of 1990, as Amended; Fair Housing Act, as Amended; and any other applicable Acts which prohibit/discriminate on the ground of race, color, religion, sex, age, national origin, handicap, disability, or familial status. No person in the United States shall be unlawfully excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Contract.

12.0 HOLD HARMLESS/ INDEMNIFICATION

MEG hereby warrants, represents, covenants and agrees to indemnify and save and hold harmless the County, its commissioners, officers, and employees, from any and all claims, losses, liabilities, damages, deficiencies or costs (including without limitation, reasonable attorney's fees and legal expenses) suffered or incurred by, or asserted against, such parties, whether arising in tort, contract, strict liability or otherwise, and including without limitation, personal injury, wrongful death or property damage, arising in any way from the actions or omissions of MSC its agents, employees, officers and directors. MSC does further hereby agree to release, indemnify, defend and hold

harmless the County, its commissioners, officers, and employees, from any injury (including death resulting therefrom), loss, claim or damage sustained by MSC's agents and employees, without regard to negligence. The language of this indemnification clause shall survive the termination of this Contract.

13.0 VARIATIONS OR MODIFICATIONS TO CONTRACT

This Contract constitutes the entire arrangement between the County and MSC, and there are no further written or oral contracts with respect thereto. No variation or modification of this Contract and no waiver of its provisions shall be valid unless in writing, approved by the Board of Commissioners, and signed by County and MSC's duly authorized representatives.

In the event of any material change or modification in MSC's Contract or any contract with any other funding source during the course of this Contract, MSC shall immediately notify the Department of Arts & Culture of such change. Nothing herein shall preclude MSC to pursue contract extensions with the County for subsequent years, with the approval of additional funding by the Board of Commissioners.

14.0 GOVERNING LAW

This Contract shall be governed in all respects, as to validity, construction, capacity, and performance or otherwise, by the laws of the State of Georgia.

15.0 NOTICES

For purposes of this Contract, any notices required to be sent to the Parties shall be hand delivered or mailed to the addresses provided below:

To Fulton County:

Fulton County Department of Arts and Culture
141 Pryor Street, Suite 2030
Atlanta, Georgia 30303

Copy to:

Office of the County Attorney
141 Pryor Street, Suite 4038
Atlanta, Georgia 30303

To Music South Corporation d.b.a.

African American Philharmonic Orchestra & Chorale:
2565 Thornton Drive,
Atlanta, GA 30349

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, each party attest that the individual(s) executing the Contract in its behalf has both express and apparent authority to bind the respective entity to the terms and conditions of the Contract and has hereto caused the Contract to be executed and delivered on this, the _____ day of _____, 2023.

**MUSIC SOUTH CORPORATION (MSC)
d/b/a AFRICAN AMERICAN
PHILHARMONIC ORCHESTRA & CHORALE**

Attest:

Name, Board Chair
Music South Corporation

(Signature)

Name

Executive Director
Title

(Seal)

Fulton County, Georgia

Attest:

Robert L. Pitts, Chair
Board of Commissioners

Tonya Grier,
Clerk to the Commission(Seal)

Approved as to Content:

Approved as to Form:

David Manuel, Director
Department of Arts & Culture

Office of the County Attorney

ATTACHMENT “A”

SCOPE OF WORK

MUSIC SOUTH CORPORATION (MSC)

In consideration of the not to exceed amount of FIFTEEN THOUSAND DOLLARS (\$15,000.00) allocated to MSC, MSC agrees to perform services and provide the following program administration:

A. Program Administration and Evaluation

1. MSC agrees to provide arts and cultural services on a scheduled basis during regular hours for the benefit of the general public.
2. MSC present a community concert series.

B. Recognition of Support Requirements

1. Logo and Credit Requirements

MSC will recognize the support of the County by using the updated Fulton County Government logo and the accompanying credit line in all press releases, advertisements, website, videos, programs, playbills, brochures, reports, catalogues, and any other promotional, publicity, programmatic or advertising materials produced in printed, broadcast, and electronic formats for the contracted services.

2. Logo and Credit Line Usage

MSC must use the Fulton County Government logo and accompanying credit line and agree to adhere to the following logo and credit line usage rules:

- I. The Fulton County logo consists of a tree enclosed by a circle, which includes the words “Fulton County” at the bottom. The image cannot be separated, distorted, or altered in any way.
- II. Adhere to the “Fulton County Logo 2023, Usage Guidelines.”
- III. The placement and size shall be consistent with the level of support provided by Fulton County in comparison to the support provided by any other funders, including other private, corporate, individual or foundation sources.
- IV. The logo should be surrounded by as much clear space as possible. A minimum area of isolation is to be applied in all situations and should be at least 1/8 inches around the entire space of the logo.

- V. The logo must be accompanied by the appropriate credit line, which is determined by the level of support of this Contract:

"Major funding for this organization is provided by the Fulton County Board of Commissioners."

- VI. MSC agrees to give credit to Fulton County when there is the potential for national attention by listing Fulton County as "Fulton County, Atlanta, Georgia."

C. Fulton County Support Recognition

MSC agrees to recognize the support of the County through the Department of Arts & Culture Contracts for Services Program by complying with the following requirements:

- I. When MSC lists sponsors and supporters in printed or electronic materials, included but not limited to annual reports, newsletters, brochures, plaques, catalogues, and website, MSC agrees to acknowledge Fulton County support among listing of sponsors appropriate to its level of support.
- II. MSC agrees that recognition of Fulton County and the above-mentioned logo and credit line will be larger and more prominent in printed, electronic, or broadcast material than other funders, including other public, private, corporate, individual or foundation sources, if the Fulton County support is significantly greater.
- III. When the County is the single largest supporter of MSC's programs, MSC agrees to give special prominence to Fulton County logo and to list Fulton County in the most prominent position among listings of supporters for the organization.
- IV. MSC agrees to display the Fulton County logo, signage, or banner that acknowledges Fulton County support at the site of contracted events.

A. Verbal Acknowledgment

MSC agrees to give verbal acknowledgment to Fulton County by using the credit line listed above in pre-program introductions, curtain speeches, or other forms of verbal communication with the audience in all of the contracted services.

B. Publications and Promotional Materials

A copy of all electronic and printed programs, catalogues, press releases, invitations, newsletters, annual reports, postcard announcements, brochures, or other material that is published in conjunction with the services outlined in Paragraph I shall be sent to

FCDAC Director, FCDAC Deputy Director, the Contracts for Services Team, and to the members of the Arts Council immediately upon publication and at least three (3) weeks prior to Fulton County-funded performances/presentations.

Correspondence to FCDAC Director, FCDAC Deputy Director, and the Contracts for Services Team shall be mailed to them at the FCDAC's main office: 141 Pryor St., SW, Suite 2030, Atlanta, GA 30303. Correspondence to Arts Council members shall be directed to their individual addresses using the mailing list provided to MSC at the beginning of the contract cycle or any updates distributed by FCDAC during the contract period.

C. Contract funding will be paid out in one disbursement.

<https://fc0365.sharepoint.com/sites/CountyAttorney/CACContracts/Arts/Arts 2023 Special Projects BOC Awards/MSA-African American Philharmonic.docx>