

County Contract No. _____
DA Log No. _____

COOPERATION AGREEMENT

between

SALT LAKE COUNTY
for its Department of Community Services

and

THIS COOPERATION AGREEMENT (this "Agreement") is entered into by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah, for and on behalf of the Department of Community Services ("County") and _____, a Utah nonprofit corporation, a Utah nonprofit corporation ("Recipient"). County and Recipient may each be referred to herein as a "Party" and collectively as the "Parties."

RECITALS:

A. The County is a county existing pursuant to Article XI, Section 1 of the Utah Constitution, and the Department of Community Services is a department of the County pursuant to Salt Lake County Ordinances, § 2.06B.020.

B. The County receives funds ("TRCC Funds") pursuant to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, Utah Code Ann. §§ 59-12-601 *et seq.* (the "TRCC Act"). The TRCC Act provides that TRCC Funds may be used, among other things, for the development, operation, and maintenance of publicly owned or operated recreation, cultural, or convention facilities.

C. Recipient is a nonprofit organization meeting the requirements of Section 501(c)(3) of the Internal Revenue Code.

D. Recipient has requested TRCC Funds from the County to help it fund the project described in its TRCC Application attached hereto as **EXHIBIT A** and/or budget attached as **EXHIBIT B**. More specifically, Recipient requested TRCC Funds to support the _____. The County Council appropriated TRCC Funds _____ in the Salt Lake County Budget.

E. The Parties have determined that it is mutually advantageous to enter into this Agreement and believe that the County's assistance under this Agreement will contribute to the prosperity, moral well-being, peace, and comfort of Salt Lake County residents.

A G R E E M E N T:

NOW THEREFORE, in consideration of the premises and in compliance with and pursuant to the terms hereof, the Parties hereby agree as follows:

1 . COUNTY'S CONTRIBUTION.

A. Contribution of TRCC Funds. County agrees to reimburse up to _____ **dollars (\$0,000.00)** to Recipient from its 2024 TRCC Funds— all on the terms and subject to the conditions of this Agreement.

2 . RECIPIENT'S OBLIGATIONS AND REPRESENTATIONS.

A. Acknowledgement. Recipient acknowledges that the TRCC Funds provided to Recipient under this Agreement are County public funds received pursuant to the TRCC Act and Salt Lake County Code of Ordinances §3.10.030, 3.10.040, and 3.10.051, and therefore must be used for the development, operation, and maintenance of publicly owned or operated recreation, cultural, or convention facilities.

B. Allowable Uses and Limitation on Use.

(i) Recipient shall use the TRCC Funds provided under this Agreement solely to cover costs incurred by Recipient for the Project as described in **EXHIBIT A**, (application) and **EXHIBIT B**, (project budget).

(ii) Recipient shall not expend any TRCC Funds on: (a) fund-raising expenditures related to capital or endowment campaigns, grants or re-grants; (b) direct political lobbying, (c) bad debt expense, (d) non-deductible tax penalties, (e) operating expenses that are utilized in calculating federal unrelated business income tax; or (f) in any other manner that would be inconsistent with the use stated in Paragraphs 2A and 2B of this Agreement.

C. Project Completion Deadline. Recipient shall complete the project scope as outlined in Recipient's TRCC Application hereto as EXHIBIT A by **COMPLETION DATE**. Any scope change for the project must be requested and approved by the TRCC advisory board before the work is completed.

D. Match Requirement. If Recipient's TRCC Application attached hereto as **EXHIBIT A** and/or budget attached as **EXHIBIT B** indicate that Recipient will make a matching contribution toward the purpose for which TRCC Funds will be used by Recipient under this Agreement, Recipient shall make the matching contribution so indicated in the amount specified in Recipient's Application. If Recipient fails to make and expend such a matching contribution prior to **Match Date**, the County may require repayment of TRCC Funds from Recipient for noncompliance with this provision.

E. Reimbursement Deadline. Recipient shall furnish to County the TRCC Reimbursement Form, which can be found at <https://slco.org/community-services/trcc-support-program/>, together with such invoices or other supporting documentation as County may reasonably require. All requests for reimbursement under this Agreement shall be made on or before **REQUEST DATE**. Additionally, if it is later determined that Recipient used any portion of the TRCC Funds for anything other than for the purposes identified in Paragraph 2B above, Recipient shall immediately pay to the County an amount equal to the amount of TRCC Funds spent for purposes other than those identified in Paragraph 2B.

F. Reporting Requirements. Recipient shall submit to the County a completed copy of the TRCC Project Status Report, which can be found at <https://slco.org/community-services/trcc-support-program/>, no later than **REPORTING DATE**. All requests for reimbursement under this Agreement shall be made on or before **REQUEST DATE**.

G. Recordkeeping. Recipient agrees to maintain its books and records in such a way that any TRCC Funds received from the County will be shown separately on Recipient's books. Recipient shall maintain records adequate to identify the use of the TRCC Funds for the purposes specified in this Agreement. Recipient shall make its books and records available to the County at reasonable times.

H. Public Funds and Public Monies:

(i) Recipient agrees that the TRCC Funds are "public funds" and "public monies," meaning monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the State or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of "public funds" while in Recipient's possession.

(ii) Recipient, as Recipient of "public funds" and "public monies" pursuant to this and other agreements related hereto, expressly agrees that it, its officers, and its employees are obligated to receive, keep safe, transfer, disburse and use these "public funds" and "public monies" as authorized by law and this Agreement for TRCC qualifying purposes in Salt Lake County. Recipient understands that it, its officers, and its employees may be criminally liable under Utah Code Ann. § 76-8-402 for misuse of public funds or monies. Recipient expressly agrees that the County may monitor the expenditure of TRCC Funds by Recipient.

(iii) Recipient agrees not to make TRCC Funds or proceeds from such funds available to any public officer or employee or in violation of the Public Officers' and Employees' Ethics Act, Utah Code Ann. §§ 67-16-1, *et seq.* (1953, as amended).

I. Right to Verify and Audit. The County reserves the right to verify application and evaluation information and to audit the use of TRCC Funds received by Recipient under this Agreement, and the accounting of such use. If the County requests an audit, Recipient agrees to cooperate fully with the County and its representatives in the performance of the audit.

J. Noncompliance. Recipient agrees that the County may withhold TRCC Funds or other funds or require repayment of TRCC Funds from Recipient for noncompliance with this Agreement, for failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

K. Representations.

(i) No Officer or Employee Interest. Recipient represents and agrees that no officer or employee of the Recipient has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement.

(ii) Ethical Standards. Recipient represents that it has not: (a) provided an illegal gift in connection with this Agreement to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards in connection with this Agreement set forth in State statute or Salt Lake County Code of Ordinances § 2.07; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, in connection with this Agreement, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

3 . GENERAL PROVISIONS:

A. Entire Agreement. This Agreement and the documents referenced herein, if any, constitute the entire Agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party, or agents for either Party, that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

B. Term of Agreement. This agreement will become effective on the date when all Parties have signed it (the "Effective Date"). This Agreement shall terminate upon Recipient's full expenditure of the TRCC Funds received under this Agreement and upon Recipient's completion of the associated reporting requirements described in Paragraph 2F above, unless terminated earlier as provided in Paragraphs 3H, 3I, and 3J below. However, Recipient's obligations in Paragraphs 2E, 2F, 2G and 2H above and Paragraph 3E below shall survive the expiration or termination of this Agreement.

C. No Obligations to Third Parties. The Parties agree that Recipient's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to Recipient. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

D. Agency. No officer, employee, or agent of Recipient or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. Recipient and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

E. Indemnification. Recipient shall indemnify, defend, and hold harmless the County, its officers, employees and agents (the "Indemnified Parties") from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of (i) Recipient's breach of this Agreement; (ii) any acts or omissions of or by Recipient, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; (iii) or Recipient's use of the TRCC Funds. Recipient agrees that its duty to defend and indemnify the Indemnified Parties under this Agreement includes all attorney's fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the County. The Parties agree that the requirements of this Paragraph will survive the expiration or sooner termination of this Agreement.

F. Governmental Immunity and Liability. The County is a body corporate and politic of the State of Utah and is subject to the Governmental Immunity Act of Utah (the "Immunity Act"), Utah Code Ann. §§ 63G-7-101, *et seq.* Nothing contained in this Agreement is intended to modify the limits of liability set forth in the Immunity Act or the basis for liability as established in the Immunity Act. The Parties agree that the County will only be liable within the parameters of the Immunity Act, and in no case will any of the Indemnified Parties be liable to Recipient or to any third party for consequential damages. The Parties agree that the liability of the Indemnified Parties hereunder will be limited to the payment of the TRCC Funds pursuant to the terms and conditions of this Agreement and that the Indemnified Parties will have no other duty or obligation to Recipient or any other person. The Parties further agree that the provisions of this paragraph will survive the expiration or sooner termination of this Agreement.

G. Required Insurance Policies. Both Parties to this Agreement shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

H. Non-Funding Clause.

(i) The County has requested or intends to request an appropriation of TRCC Funds to be paid to Recipient for the purposes set forth in this Agreement. If TRCC

Funds are not appropriated and made available beyond December 31 of the county fiscal year in which this Agreement becomes effective, the County's obligation to contribute TRCC Funds to Recipient under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to contribute TRCC Funds to Recipient in succeeding fiscal years. The County's obligation to contribute TRCC Funds to Recipient under this Agreement will terminate and become null and void on the last day of the county fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds are budgeted and appropriated. The Parties agree that such termination of the County's obligation under this Paragraph will not be construed as a breach of this Agreement or as an event of default under this Agreement, and that such termination of the County's obligation under this Paragraph will be without penalty and that no right of action for damages or other relief will accrue to the benefit of Recipient, its successors, or its assigns as to this Agreement, or any portion thereof, which may terminate and become null and void.

(ii) If TRCC Funds are not appropriated and made available to fund performance by the County under this Agreement, the County shall promptly notify Recipient of such non-funding and the termination of this Agreement. However, in no event, shall the County notify Recipient of such non-funding later than thirty (30) days following the expiration of the county fiscal year for which TRCC Funds were last appropriated for contribution to Recipient under this Agreement.

I. Termination.

(i) Event of Default. The occurrence of any one or more of the following constitutes an "Event of Default" as such term is used herein:

(a) Failure of Recipient to comply with any of the terms, conditions, covenants, or provisions of this Agreement that is not fully cured by Recipient on or before the expiration of a thirty (30)-day period commencing upon the County's written notice to Recipient of the occurrence thereof.

(b) Recipient no longer plans to use the TRCC Funds for the purposes and in the manner specified in this Agreement.

(c) Recipient no longer qualifies for receipt of TRCC Funds under the laws of the State of Utah or under Salt Lake County ordinances or policy.

(d) The County's determination to contribute TRCC Funds to Recipient under this Agreement was based upon the submission of erroneous information, or the County reasonably determines that any representations made by Recipient under this Agreement are untrue.

(ii) County's Remedies in the Event of Default. Upon the occurrence of any Event of Default, the County may, in its sole discretion, and in addition to all remedies conferred upon the County by law or equity and other provisions of this Agreement,

pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(a) Withhold further contributions of TRCC Funds to Recipient; and/or

(b) Seek repayment of any TRCC Funds previously paid to Recipient under this Agreement; and/or

(c) Terminate this Agreement.

(iii) Termination Prior to Disbursement. The County may terminate this Agreement for convenience by providing thirty (30)-day's written notice specifying the nature, extent and effective date of the termination. However, the County may not terminate this agreement once the TRCC Funds have been provided to Recipient and have been expended by Recipient for the purposes set forth by this Agreement.

J. Force Majeure. Neither Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after this Agreement becomes effective. "Event of Force Majeure" means an event beyond the control of the County or Recipient that prevents a Party from complying with any of its obligations under this Agreement, including but not limited to: (i) an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); (ii) war, acts or threats of terrorism, invasion, or embargo; or (iii) riots or strikes. If an Event of Force Majeure persists for a period in excess of sixty (60) days, the County may terminate this Agreement without liability or penalty, effective upon written notice to Recipient.

K. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

L. Compliance with Laws. The Parties shall comply with all applicable statutes, laws, rules, regulations, licenses, certificates and authorizations of any governmental body or authority in the performance of its obligations under this Agreement, including, but not limited to, those laws requiring access to persons with disabilities as well as the laws governing non-discrimination against all protected groups and persons in admissions and hiring.

M. Records. Financial records, supporting documents, statistical records and all other records pertinent to this Agreement and the TRCC Funds provided under this Agreement must be kept readily available for review by the County from time to time upon the County's request. Such records must be retained and maintained for a minimum of three (3) years after the end of a budget period. If questions still remain, such as those raised as a result of an audit, records must be retained until completion or resolution of any audit in process or pending resolution. Such records may be subject to the Utah Government Records Access and Management Act, Utah Code Ann. §§ 63G-2-101 *et seq.*

N. Assignment and Transfer of Funds. Recipient shall not assign or transfer its obligations under this Agreement nor its rights to compensation under this Agreement without prior written consent from the County. Recipient shall use the TRCC Funds provided pursuant to this Agreement exclusively and solely for the purposes set forth in the Agreement.

O. Amendments. This Agreement may be amended, enlarged, modified or altered only by an instrument in writing signed by both Parties.

P. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement will remain operative and binding on the Parties.

Q. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

R. Warrant of Signing Authority. The person or persons signing this Agreement on behalf of Recipient warrants his or her authority to do so and to bind Recipient. The County may require Recipient to return all TRCC Funds paid to Recipient based upon a breach of warranty of authority.

S. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

Each Party hereby signs this Agreement on the date written by each Party on the signature pages attached hereto.

[The balance of this page was left blank intentionally – Signature pages follow]

SIGNATURE PAGE FOR THE COUNTY

SALT LAKE COUNTY:

By _____
Mayor Jennifer Wilson or Designee

Dated: _____, 2024

Approved by:

DEPARTMENT OF COMMUNITY SERVICES

By _____
Robin Chalhoub
Department Director

Dated: _____, 2024

Reviewed and Advised as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By _____
Senior Deputy District Attorney

[Signatures continue on next page.]

SIGNATURE PAGE FOR RECIPIENT

By _____

Name: _____

Title: _____

Dated: _____, 2023

EXHIBIT A
TRCC Application

EXHIBIT B
Project Budget