

COTTONWOOD HEIGHTS

RESOLUTION No. 2022-52

A RESOLUTION APPROVING AND ACCEPTING A GRANT FROM THE UTAH DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT FOR FY 2022-23

WHEREAS, section 2.140.401 of the COTTONWOOD HEIGHTS CODE (the “Code”) establishes the “Cottonwood Heights Arts Council” (the “Arts Council”) for the city of Cottonwood Heights (the “City”); and

WHEREAS, following application (the “Application”) by the City on behalf of the Arts Council, the Utah Department of Cultural and Community Engagement (the “State”) awarded a \$4,500 grant (the “Grant”) to the City for use during FY 2022-23 by the Arts Council in connection with the project(s) specified in the Application; and

WHEREAS, the City desires to approve and accept the Grant on behalf of the Arts Council; and

WHEREAS, the City’s municipal council (the “Council”) met in regular session on 4 October 2022 to consider, among other things, (a) approving and accepting the Grant as proposed, and (b) authorizing the City to execute and deliver the grant agreement (the “Agreement”) required by the State before releasing the Grant funds to the Arts Council; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve and accept the Grant and to authorize the City to execute and deliver the Agreement to the State as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Cottonwood Heights that (a) the Grant is hereby accepted and approved, and (b) the City’s mayor and recorder, and (as necessary) any appropriate officer of the Arts Council, are authorized and directed to execute and deliver the Agreement and any related documents and instruments on behalf of the City and the Arts Council.

This Resolution, assigned no. 2022-52, shall take effect immediately upon passage.

PASSED AND APPROVED this 4th day of October 2022.

ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By: 
Paula Melgar, Recorder



By: 
Michael T. Weichers, Mayor

VOTING:

Michael T. Weichers	Yea <u>X</u>	Nay ____
Douglas Petersen	Yea <u>X</u>	Nay ____
J. Scott Bracken	Yea <u>X</u>	Nay ____
Shawn E. Newell	Yea <u>X</u>	Nay ____
Ellen Birrell	Yea <u>X</u>	Nay ____

DEPOSITED in the office of the City Recorder this 4th day of October 2022.

RECORDED this 5 day of October 2022.



Contract #

STATE OF UTAH - GRANT AGREEMENT

- PARTIES: This grant is between the following agency of the State of Utah:
Department Name: Utah Dept of Cultural and Community Engagement_Agency Code: 710 Division Name: Arts and Museums, referred to as (STATE), and the following GRANTEE:

Cottonwood Heights City
DBA: Cottonwood Heights Arts Council
Name
2777 East Bengal Blvd
Address
Cottonwood Heights UT 84121
City State Zip

LEGAL STATUS OF GRANTEE

- ☐ Sole Proprietor
☐ Nonprofit Corporation
☐ For-Profit Corporation
☐ Partnership
☒ Government Agency

Contact Person Ann Eatchel
Phone #(801) 944-7040
Email aeatchel@ch.utah.gov
Federal Tax ID# 202154375
Vendor # VC0000107970 Commodity Code #99999

- GENERAL PURPOSE OF GRANT: This grant is to be used for general operations as outlined in the FY22/23 Arts & Museums General Operating Support guidelines.
- GRANT PERIOD: Effective Date: 07/01/22 Termination Date: 6/30/23 unless terminated early or extended in accordance with the terms and conditions of this grant. Renewal options (if any): None. All payments under this grant will be completed within 90 days after the Termination Date.
- GRANT COSTS: GRANTEE will be paid a maximum of \$4500 for costs authorized by this grant.
- ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions
ATTACHMENT B: Scope of Work
ATTACHMENT C: Payment Schedule
ATTACHMENT D: Utah Division of Arts & Museums Certification and Statement of Assurances

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

- DOCUMENTS INCORPORATED INTO THIS GRANT BY REFERENCE BUT NOT ATTACHED:
a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this grant. IN WITNESS WHEREOF, the parties sign and cause this grant to be executed.

GRANTEE COTTONWOOD HEIGHTS

STATE

Grantee's signature

10/4/2022
Date

Agency's signature

Date

Michael T. Weichers, Mayor
Type or Print Name and Title

Director, Division of Finance

Attachment A: Standard Terms and Conditions for Grants (Government)

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a. **"Contract"** means these terms and conditions, the Contract Signature Page(s), and all other attachments and documents incorporated by reference.
 - b. **"Contract Signature Page(s)"** means the cover page(s) that the State and Grantee sign.
 - c. **"Grantee"** means the individual or entity which is the recipient of grant money from the State. The term "Grantee" includes Grantee's agents, officers, employees, and partners.
 - d. **"Non-Public Information"** means information that is deemed private, protected, controlled, or exempt from disclosure under the Government Records Access and Management Act (GRAMA) or as non-public under other applicable state and federal laws. Non-public information includes those records the State determines are protected after having properly received a written claim of business confidentiality as described in Utah Code § 63G-2-309. The State reserves the right to identify additional information that must be kept non-public under federal and state laws.
 - e. **"State"** means the State of Utah Department, Division, Office, Bureau, Agency, or other state entity identified on the Contract Signature Page(s).
 - f. **"Grant Money"** means money provided by the State to a Grantee.
 - g. **"SubGrantees"** means persons or entities under the direct or indirect control or responsibility of the Grantee, including, but not limited to, Grantee's agents, consultants, employees, authorized resellers, or anyone else for whom the Grantee may be liable at any tier, including a person or entity providing or performing this Contract, including the Grantee's manufacturers, distributors, and suppliers.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Grantee and all acts performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements.
4. **REQUIRED ACCOUNTING:** Grantee agrees that it shall provide to the State accounting for all Grant Money received by the Grantee as required by the terms of the grant or, if not expressly provided, the following accounting:
 - a. a written description and an itemized report detailing the expenditure of the Grant Money
 - b. **NOTE: If the Grantee is a non-profit corporation,** Grantee shall make annual disclosures pursuant to the requirements of Utah Code § 51-2a-201.5.
5. **RECORDS ADMINISTRATION:** Grantee shall maintain or supervise the maintenance of all records, receipts and any other documentation necessary to properly account for payments made by the State to Grantee under this Contract, Grantee's performance of the Contract terms and milestones, and outcomes reported to the State by the Grantee. These records shall be retained by Grantee for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Grantee agrees to allow, at no additional cost, State and federal auditors, State Entity staff, and/or a party hired by the State access to all records necessary to account for all Grant Money received by Grantee as a result of this contract and to verify that the Grantee's use of the Grant Money is appropriate and has been properly reported.
6. **CONFLICT OF INTEREST:** All grant applications were reviewed following a conflict of interest policy that was reviewed by the Utah Arts & Museums Boards. Grant application reviews are also subject to the Department of Utah Public Officers' and Ethics Act, Utah Code, § 67-16.

7. **INDEPENDENT GRANTEE:** Grantee and SubGrantees, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
8. **INDEMNITY:** Both parties to this agreement are governmental entities as defined in the Utah Governmental Immunity Act (Utah Code Ann. 63G-7-101 et. seq.). Nothing in this Contract shall be construed as a waiver by either or both parties of any rights, limits, protections or defenses provided by the Act. Nor shall this Contract be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Contract is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuit brought against it. There are no indemnity obligations between these parties.
9. **EMPLOYMENT PRACTICES:** Grantee agrees to abide by federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the work place. Grantee further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Grantee's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract even if listed elsewhere in this Contract.
11. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Grantee, this Contract may be terminated in whole or in part at the sole discretion of the State, if the State reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State's ability to pay under this Contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.
12. **PUBLIC INFORMATION:** Grantee agrees that this Contract and invoices will be public documents, and may be available for distribution in accordance with the Utah Government Records Access and Management Act (GRAMA). Grantee gives the State express permission to make copies of this Contract, related documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Grantee and expressly approved by the Utah Division of Purchasing and General Services, all of which must be in accordance with GRAMA, Grantee also agrees that the Grantee's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State is not obligated to inform Grantee of any GRAMA requests for disclosure of this Contract, related documents, or invoices.
 - a. **Grantee** may designate certain business information as protected under GRAMA pursuant to Utah Code Section 63G-2-305 and 63G-2-309. It is Grantee's sole responsibility to comply with the requirements of GRAMA as it relates to information regarding trade secrets and information that should be protected under business confidentiality.
13. **PAYMENT:** The acceptance by Grantee of final payment, without a written protest filed with the State within ten (10) business days of receipt of final payment, shall release the State from all claims and all liability to the Grantee. The State's payment shall not be deemed an acceptance of the Services and is without prejudice to any and all claims that the State may have against Grantee.
 - a. **RECAPTURE:** State shall recapture and Grantee shall repay any Grant Money disbursed to Grantee that is not used by Grantee for the project identified or if the money is used for any illegal purpose.

14. **REVIEWS:** The State reserves the right to perform reviews, and/or comment upon the Grantee's use of the funds set forth in this Contract. Such reviews do not waive the requirement of Grantee to meet all of the terms and conditions of this Contract.
15. **ASSIGNMENT:** Grantee may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the State.
16. **NON-PUBLIC INFORMATION:** If Non-Public Information is disclosed to Grantee, Grantee shall: (i) advise its agents, officers, employees, partners, and SubGrantees of the obligations set forth in this Contract; (ii) keep all Non-public Information strictly confidential; and (iii) not disclose any Non-public Information received by it to any third parties. Grantee will promptly notify the State of any potential or actual misuse or misappropriation of Non-public Information.
- Grantee shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Grantee shall indemnify, hold harmless, and defend the State, including anyone for whom the State is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Grantee or anyone for whom the Grantee is liable.
- Upon termination or expiration of this Contract and upon request by the State, Grantee will return all copies of Non-public Information to the State or certify, in writing, that the Non-public Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
17. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor each recognizes that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing.
18. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
19. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Grantee's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Grantee or limits the rights of the State must be in writing and attached to this Contract or it is rendered null and void.
20. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default or defect in the Services that has not been cured.
21. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
22. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revision date: July 2022)

**STATE OF UTAH
(Government Version)
Attachment B**

Organization: Cottonwood Heights

Attachment B: Scope of Work

This grant is to be used for general operations as outlined in the FY22/FY23 Arts & Museums General Operating Support guidelines.

**STATE OF UTAH
(Government Version)
Attachment C**

Attachment C: Payment Schedule (July 1, 2022 to June 30, 2023)

Your total funding is \$4500.

- Your award will be mailed to you shortly after the contract has been signed by contracted organization and all necessary state parties.
- Final reports must be filed for this grant. Failure to do so will result in ineligibility to receive future funding. Grantee understands that current and future funds may be withheld due to an inadequate, incomplete, or non-submitted evaluative report.
- All grant dollars from this award must be spent between July 1, 2022 to June 30, 2023. As a grantee, contracting organization must submit a report to UA&M on the use of these funds.

**STATE OF UTAH
(Government Version)
ATTACHMENT D**

**UTAH DIVISION OF ARTS & MUSEUMS
CERTIFICATION AND STATEMENT OF ASSURANCES**

The Utah Division of Arts & Museums (UA&M) is a state agency involved in public funding for arts and museums. As a public entity, it reserves the right to make final decisions on the use of public funds for projects, programs, acquisitions, commissions, or other activities deemed appropriate by the Division and/or Board. Funding from the State of Utah may not be used for anything that would be considered objectionable or obscene under Utah Code Section 32B-1-504.

UA&M reserves the right to revoke awarded public funds (current, multi-year, and/or future) as deemed necessary. The revocation of any public funds will be taken under consideration by the appropriate state board.

1. The information contained herein and in all attachments and supporting material is true and correct; the filing of the application has been duly authorized by the governing body of the applicant, and the undersigned has authority to execute this application on behalf of the applicant.
2. The applicant accepts in advance any grant awarded by Utah Arts & Museums, agreeing: a) that any funds received as a result of the application will be expended solely for the described programs, in accordance with the State of Utah Terms and Conditions; b) to such other restrictions, conditions, and changes as Utah Arts & Museums may impose, unless the applicant objects within 30 days of mailing the award letter setting forth the terms of the grant in writing.
3. The grant cannot be used to pay for anything that is specified against in the grant guidelines or transferred without prior written approval of Utah Arts & Museums.
4. The financial accounts shall be subject to reporting and/or audit by appropriate agencies of the State of Utah and/or the Federal Government. The grantee will be responsible for the safekeeping and identification of records maintained to account for funds awarded herein. Said records must be kept in the grantee's files for a period of six years after completion of the project and submission of the final expenditure report.
5. Recipient agrees to acknowledge the Utah Division of Arts & Museums in writing and orally, including acknowledging the gift as follows:
 - a. Credit must be given to Utah Arts & Museums in brochures, verbally in public settings, in news releases, programs, publications, banners, other printed materials or internet/web page recognition. Grantees must use the Utah Arts & Museums logo which credits the legislature. Narrative or audio credit may be used as follows: "This project is funded by Utah Arts & Museums and the Utah State Legislature through Utah Arts & Museums." Up to date electronic versions of the logos can be found on the website, artsandmuseums.utah.gov/logos/



- b. It is recommended, but not required to send copies of programs or other printed material acknowledging Utah Arts and Museums to the grants manager at 3760 South Highland Drive, Millcreek, Utah 84106 or uamgrants@utah.gov.
- c. It is acceptable to provide tickets to any non-fundraising event that has a monetary value of \$50 or less, without charge and within reason, as a way for staff and board to better review and evaluate the grantee's organization and programs. Grantees may request site visits by UA&M staff during the year.
6. All grantees agree to promote their events on www.nowplayingutah.com (NPU). This arts and cultural calendar was created to benefit Utah's arts and cultural community and individuals interested in attending arts and cultural events. Grantees shall post their event information to NPU in a timely manner and shall promote the NPU website among its constituents, patrons, audiences, etc. Exceptions are made for K-12 schools and organizations providing services to at-risk individuals.
7. It is mutually agreed that all parties shall comply with Title VI of the Civil Rights Act of 1964; Fair Labor Standards under Section 5(j) of the National Foundation on the Arts and Humanities Act of 1965; Section 504 of the Rehabilitation Act of 1973; and Title IX.
8. The Grant Period will be effective July 1, 2022 to June 30, 2023. These dates will be considered the formal payment schedule.
9. In agreement with federal regulations, the signed contract is an attestation that no member of the organization's leadership, board or key financial employees have been debarred or suspended prior to the award payment of federal funds. Debarred and suspended means that due to actions of a person or organization, that person or organization has been determined to be ineligible to receive federal funds for a determined amount of time. The suspension and debarment process protects the federal government from fraud, waste and abuse by using a number of tools to avoid doing business with non-responsible contractors.
10. All Grantees will agree to write and submit letters of appreciation to their State Legislators. A copy of the letters must be submitted with your final evaluation report showing evidence of what this State funding did to support arts or museums in your district or the community at large. (See Schedule B & C for final report schedule)
11. The Grantee hereby assures and certifies that it will report on the expenditure of public funds by completing a Utah Arts & Museums Final Report.

Signature:

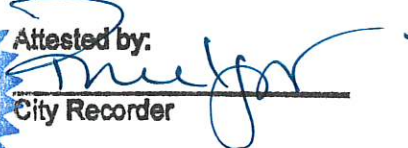


Grantee's signature

MICHAEL T. WHITCHERS, Mayor



Attested by:


City Recorder

Date of Application: 9/23/2022 3:59:35 PM (Last Modified Date)

Application #: APP-017825 (Letter of Agreement)