

## SALT LAKE COUNTY, UTAH

RESOLUTION NO. \_\_\_\_\_, 2018

### **A RESOLUTION OF THE COUNTY COUNCIL OF SALT LAKE COUNTY APPROVING AND AUTHORIZING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN SALT LAKE COUNTY AND THE CITY OF COTTONWOOD HEIGHTS FOR A CONTRIBUTION OF TRCC FUNDS TO HELP FINANCE THE PURCHASE AND INSTALLATION OF ADDITIONAL LIGHTING EQUIPMENT USED FOR PROGRAMS AND CONCERTS AT THE BUTLER MIDDLE SCHOOL AUDITORIUM**

#### **RECITALS**

A. Salt Lake County (the “County”) and the city of Cottonwood Heights (the “City”) are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 et seq. (the “Cooperation Act”), and, as such, are authorized by the Cooperation Act to enter into this Agreement to act jointly and cooperatively on the basis of mutual advantage in order to provide facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

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. In 2017, the City requested TRCC Funds from the County—through the County’s Cultural Facilities Support Program—to help it fund the project described in its Cultural Facilities Support Program Application. More specifically, the City requested TRCC Funds to help finance the purchase and installation of additional lighting equipment used for programs and concerts at the Butler Middle School Auditorium (the “Project”). The County Council appropriated TRCC Funds for this purpose in the 2018 Salt Lake County Budget.

D. The City and the County now desire to enter into the Interlocal Cooperation Agreement attached hereto as **ATTACHMENT A** (the “Interlocal Agreement”) wherein the County agrees to grant TRCC Funds to the City to help fund the Project and wherein the City agrees to abide by the terms and conditions outlined in the Agreement.

E. The County Council believes that its contribution and assistance under the Agreement will contribute to the prosperity, moral well-being, peace and comfort of Salt Lake County residents.

## RESOLUTION

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the County Council of Salt Lake County:

1. That the Interlocal Agreement between Salt Lake County and the city of Cottonwood Heights is approved, in substantially the form attached hereto as **ATTACHMENT A**, and that the Salt Lake County Mayor is authorized to execute the same.
2. That the Interlocal Agreement will become effective as stated in the Interlocal Agreement.

**APPROVED AND ADOPTED** in Salt Lake City, Salt Lake County, Utah, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Aimee Winder-Newton, Chairperson

ATTEST:

\_\_\_\_\_  
Sherrie Swensen  
Salt Lake County Clerk

Voting:

Council Member Bradley	_____
Council Member Bradshaw	_____
Council Member Burdick	_____
Council Member DeBry	_____
Council Member Granato	_____
Council Member Jensen	_____
Council Member Newton	_____
Council Member Snelgrove	_____
Council Member Wilson	_____

APPROVED AS TO FORM:

**Melanie  
Mitchell**

Digitally signed by Melanie Mitchell  
DN: dc=org, dc=slcounty,  
ou=Departments, ou=District Attorney,  
ou=Users, ou=GC, cn=Melanie Mitchell,  
email=MMitchell@slco.org  
Date: 2018.04.11 10:03:21 -06'00'

\_\_\_\_\_  
Deputy District Attorney

## **ATTACHMENT A**

**Interlocal Cooperation Agreement between Salt Lake County and the city of Cottonwood  
Heights**

# COTTONWOOD HEIGHTS

## RESOLUTION NO. 2018-34

### A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH SALT LAKE COUNTY FOR TRCC FUNDING (BUTLER MIDDLE SCHOOL AUDITORIUM LIGHTING)

**WHEREAS**, Salt Lake County (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*"); and

**WHEREAS**, the TRCC Act provides that TRCC Funds may be used, among other things, for the development, operation, and maintenance of publicly owned or operated cultural facilities; and

**WHEREAS**, the city of Cottonwood Heights (the "*City*") has applied for and requested TRCC Funds from the County to improve and enhance the lighting in the auditorium of Butler Middle School (the "*Auditorium*"), which is co-sponsored by the City to provide a forum for plays and other events staged by the City's arts council; and

**WHEREAS**, the County appropriated TRCC Funds for such purpose as part of its 2018 budget; and

**WHEREAS**, the City and the County are "public agencies" for purposes of the Utah Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 *et seq.* (the "*Cooperation Act*"), and are authorized by the Cooperation Act to act jointly and cooperatively on the basis of mutual advantage in order to provide facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

**WHEREAS**, the Cooperation Act also authorizes a public agency to share its tax and other revenues with other public agencies; and

**WHEREAS**, for that purpose, the County and the City desire to enter into the agreement that is attached as an exhibit hereto (the "*Agreement*") for the purpose of effecting the grant of \$33,060 in TRCC Funds to the City for use in upgrading the Auditorium's lighting on the terms and conditions specified in the Agreement; and

**WHEREAS**, the City's city council (the "*Council*") met in regular session on 19 June 2018 to consider, among other things, approving the City's entry into the Agreement; and

**WHEREAS**, the Council has reviewed the form of the Agreement and, after careful consideration, has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

**NOW, THEREFORE, BE IT RESOLVED** by the city council of Cottonwood Heights that the Agreement is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City; and be it

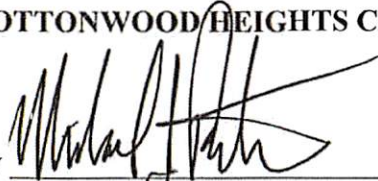
**FURTHER RESOLVED** that any tangible lighting equipment acquired with the proceeds of such grant of TRCC Funds may not be removed from the Auditorium without the prior consent of both the City and the County except to the extent that such equipment is worn out, broken and cannot reasonably be repaired, or otherwise has served its purpose for its anticipated useful life.

This Resolution, assigned no. 2018-34, shall take effect immediately upon passage.

**PASSED AND APPROVED** this 19<sup>th</sup> day of June 2018.

**COTTONWOOD HEIGHTS CITY COUNCIL**

By

  
Michael J. Peterson, Mayor

**ATTEST:**

  
Paula Melgar, Recorder



**VOTING:**

Michael J. Peterson	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>

**DEPOSITED** in the office of the City Recorder this 19<sup>th</sup> day of June 2018.

**RECORDED** this 19 day of June 2018.

**INTERLOCAL COOPERATION AGREEMENT**

*between*

**SALT LAKE COUNTY**  
**for its Department of Community Services**

*and*

**THE CITY OF COTTONWOOD HEIGHTS**

**THIS INTERLOCAL 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 its Department of Community Services ("County") and **CITY OF COTTONWOOD HEIGHTS**, a municipal corporation of the State of Utah ("City"). County and City 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. The City is a municipality and a political subdivision of the State of Utah as provided for in Utah Code Ann. §§ 10-1-201 & 202, 1953 as amended.

D. The City has requested TRCC Funds from the County —through the County's Cultural Facilities Support Program—to help it fund the project described in its Cultural Facilities Support Program Application attached hereto as **EXHIBIT A**. More specifically, the City requested TRCC Funds to help finance the purchase and installation of additional lighting equipment used for programs and concerts at the Butler Middle School Auditorium. The County Council appropriated TRCC Funds for this purpose in the 2018 Salt Lake County Budget.

E. The Parties are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the "Interlocal Cooperation Act"), and, as such, are authorized by the Interlocal Cooperation Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers. Additionally, Section 11-13-215 of the Interlocal Cooperation Act authorizes a

county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state.

F. 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 and the provisions of the Interlocal Cooperation Act, the Parties hereby agree as follows:

#### **1 . COUNTY'S OBLIGATIONS.**

A. Contribution of TRCC Funds. Within ninety (90) days of the Effective Date of this Agreement, the County agrees to contribute Thirty-Three Thousand Sixty Dollars and No Cents (\$33,060.00) to the City from its TRCC Funds, all on the terms and subject to the conditions of this Agreement.

B. Conditions to County's Contribution. The County will have no obligation to contribute TRCC Funds to the City under this Agreement unless and until the following conditions have been satisfied:

(i) The City has provided evidence and assurances that it has consulted with a lighting engineer to confirm validity of specific equipment list (the "Engineer Confirmation").

(ii) The City has prepared and submitted to County a policy requiring that the equipment cannot leave Butler Auditorium (the "Equipment Policy").

C. Past Due Balances. Any past due balances owed to the County may first be deducted before any distribution of funds to the City.

#### **2 . CITY'S OBLIGATIONS AND REPRESENTATIONS.**

A. Acknowledgement. The City acknowledges that the TRCC Funds provided to the City 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) The City shall use the TRCC Funds provided under this Agreement to purchase and install additional lighting equipment that will be used for programs and

concerts at the Butler Middle School Auditorium, all as more particularly described in the City's Cultural Facilities Support Program Application attached hereto as EXHIBIT A.

(ii) The City 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. Match Requirement. If the City's Cultural Facilities Support Program Application attached hereto as EXHIBIT A indicates that the City will make a matching contribution toward the purpose for which TRCC Funds will be used by the City under this Agreement, the City shall make the matching contribution so indicated in the amount specified in the City's Cultural Facilities Support Program Application. If the City fails to make and expend such a matching contribution prior to December 31, 2018, the County may require repayment of TRCC Funds from the City for noncompliance with this provision.

D. Deadline to Expend TRCC Funds; Requirement to Return Funds. The City shall expend all TRCC Funds received under this Agreement in accordance with Paragraph 2B above prior to **December 31, 2018**. If the City does not fully expend or is unable to fully expend the TRCC Funds prior to December 31, 2018, the City shall immediately return any remaining TRCC Funds to the County. Additionally, if the City uses any portion of the TRCC Funds for anything other than for the purposes identified in Paragraph 2B above, the City shall immediately pay to the County an amount equal to the amount of TRCC Funds contributed to the City under this Agreement (in this case, \$33,060).

E. Reporting Requirements. Within six months following receipt of the TRCC Funds provided under this Agreement, the City shall submit to the County a completed copy of the Disbursement of Funds Report, attached hereto as **EXHIBIT B**, detailing how the TRCC Funds were expended. Additionally, if the City has not fully expended the TRCC Funds at the time the initial Disbursement of Funds Report is submitted to the County, the City shall, every six months thereafter, submit completed copies of the Disbursement of Funds Report to the County until the TRCC Funds have been fully expended.

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

G. Public Funds and Public Monies:

(i) The City 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 the City's possession.

(ii) The City, as the 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. The City 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. The City expressly agrees that the County may monitor the expenditure of TRCC Funds by the City.

(iii) The City 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).

H. 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 City under this Agreement, and the accounting of such use. If the County requests an audit, the City agrees to cooperate fully with the County and its representatives in the performance of the audit.

I. Noncompliance. The City agrees that the County may withhold TRCC Funds or other funds or require repayment of TRCC Funds from the City 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.

J. Representations.

(i) No Officer or Employee Interest. The City represents and agrees that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer or employee of the City or any member of their families shall serve on any County board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the City's use of TRCC Funds under this Agreement.

(ii) Ethical Standards. The City 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 immediately upon the completion of the following: (i) the approval of the Agreement by the governing bodies of the County and the City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of this Agreement by the appropriate person or persons for the County and the City, respectively, (ii) the execution of this Agreement by a duly authorized official of each of the Parties, (iii) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Cooperation Act, and the approval of each respective attorney, and (iv) the filing of a copy of this Agreement with the keeper of records of each Party (the "Effective Date"). This Agreement shall terminate upon the City's full expenditure of the TRCC Funds received under this Agreement and upon the City's completion of the associated reporting requirements described in Paragraph 2E above, unless terminated earlier as provided in Paragraphs 3H, 3I, and 3J below. However, the City's obligations in Paragraphs 2F, 2G, 2H and 2I above and Paragraph 3F below shall survive the expiration or termination of this Agreement.

C. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal Cooperation Act in connection with this Agreement, the Parties agree as follows:

(i) This Agreement shall be authorized as provided in Section 11-13-202.5 of the Interlocal Cooperation Act.

(ii) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney in behalf of each Party pursuant to and in accordance with Section 11-13-202.5 of the Interlocal Cooperation Act.

(iii) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Interlocal Cooperation Act.

(iv) The term of this Agreement shall not exceed fifty (50) years pursuant to Section 11-13-216 of the Interlocal Cooperation Act.

(v) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

(vi) No separate legal entity is created by the terms of this Agreement and no facility or improvement will be jointly acquired, jointly owned, or jointly operated by the Parties under this Agreement.

(vii) Pursuant to Section 11-13-207 of the Interlocal Cooperation Act, the County Mayor and the City Mayor are hereby designated as the joint administrative board for all purposes of the Interlocal Cooperation Act.

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

E. Agency. No officer, employee, or agent of the City 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. The City 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.

F. Governmental Immunity, Liability, and Indemnification.

(i) Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 *et seq.* (the "Immunity Act"). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(ii) Liability and Indemnification. The County and the City agree to be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither the County nor the City will have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents. However, the City 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) the City's breach of this Agreement; (ii) any acts or omissions of or by the City, its agents, representatives, officers, employees, or

subcontractors in connection with the performance of this Agreement; or (iii) the City's use of the TRCC Funds. The City 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.

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 the City 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 the City under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to contribute TRCC Funds to the City in succeeding fiscal years. The County's obligation to contribute TRCC Funds to the City 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 the City, 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 the City of such non-funding and the termination of this Agreement. However, in no event, shall the County notify the City 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 the City 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 the City to comply with any of the terms, conditions, covenants, or provisions of this Agreement that is not fully cured by the City on or before the expiration of a thirty (30)-day period commencing upon the

County's written notice to the City of the occurrence thereof.

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

(c) The County's determination to contribute TRCC Funds to the City under this Agreement was based upon the submission of erroneous information, or the County reasonably determines that any representations made by the City 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 the City; and/or

(b) Seek repayment of any TRCC Funds previously paid to the City 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 the City and have been expended by the City 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 the City 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 the City.

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. The City shall not assign or transfer its obligations under this Agreement nor its rights to the contribution under this Agreement without prior written consent from the County. The City 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. If the amendment or modification is material, the instrument shall be: (i) approved by the governing bodies of the County and the City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of any amendment, change, modification or alteration of this Agreement by the appropriate person or persons for the County and the City, respectively, (ii) executed by a duly authorized official of each of the Parties, (iii) submitted to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Cooperation Act, and executed by each respective attorney, and (iv) filed with the keeper of the records of each Party.

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 the City warrants his or her authority to do so and to bind the City. The County may require the City to return all TRCC Funds paid to the City 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 Interlocal Cooperation 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]*

**INTERLOCAL AGREEMENT – SIGNATURE PAGE FOR THE COUNTY**

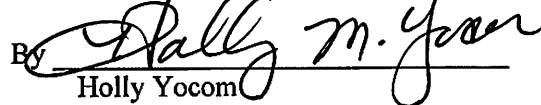
**SALT LAKE COUNTY:**

By \_\_\_\_\_  
Mayor Ben McAdams or Designee

Dated: \_\_\_\_\_, 20\_\_

***Approved by:***

**DEPARTMENT OF COMMUNITY SERVICES**

By   
Holly Yocom

Department Director

Dated: July 12, 2018

***Approved as to Form and Legality:***

**SALT LAKE COUNTY DISTRICT ATTORNEY**

**Melanie**  
By **Mitchell**  
Deputy District Attorney

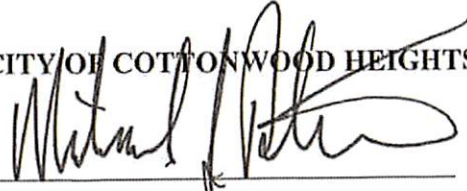
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ou=Departments, ou=District Attorney,  
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email=MMitchell@sico.org  
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INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR THE CITY

THE CITY OF COTTONWOOD HEIGHTS

By 

Name: Michael J. Peterson

Title: Mayor

Dated: 6/12, 2018

Attest:



Paula Melton, City Recorder

Date signed: 6/12/18



*Approved as to Form and Legality:*

CITY ATTORNEY

By 

Name: Wm. Shane Toppan

Dated: 6/12, 2018

**EXHIBIT A**  
**City's Cultural Facilities Support Program Application**

Salt Lake County  
Center for the Arts  
**Cultural Facilities Support Program 2017**  
9/7/2017 deadline

## Cottonwood Heights Butler Auditorium Lighting Project (copy)

**\$ 35,060.00** Requested

Submitted: 4/28/2017 11:29:13 AM (Pacific)

**Project Contact**

Kimberly Pedersen  
[kpetersen@ch.utah.gov](mailto:kpetersen@ch.utah.gov)  
Tel: 801-647-6156

**Additional Contacts**

**Cottonwood Heights**

2277 E. Bengal Blvd.  
Cottonwood Heights, UT 84121

Telephone United States  
Fax 801-944-7005  
Web [arts.ch.utah.gov](http://arts.ch.utah.gov)

**Arts Production Manager**

Kimberly Pedersen  
[kpetersen@ch.utah.gov](mailto:kpetersen@ch.utah.gov)

### Application Questions

#### All Applicants

**1. Organization Overview: History, programs & services offered, audiences served.**

The Cottonwood Heights Arts Council (CHAC) was officially created by the Cottonwood Heights City Council in mid-2009. It is a city-sponsored advisory committee whose mission is "to organize engaging cultural events and promote community interest, involvement, and education in the arts." CHAC has expanded its programming from one summer musical to a series of annual events such as the "Write for the Heights" writing contest and education series, a photography contest and education series, and an art show at Whitmore Library. The arts council also sponsors a community choir and orchestra, and has organized concerts featuring popular local artists as well as dance performances. These programs are open to residents of Cottonwood Heights and neighboring communities, and are accessible to people of all ages and abilities.

CHAC has expanded its programming in recent years through an agreement between the city of Cottonwood Heights and Canyons School District. When Butler Middle School was rebuilt in 2012, the city pledged funding toward a larger auditorium that would accommodate more community arts programming. In exchange for the financial contribution, the school district agreed to allow the city's arts council to use the auditorium for a certain number of days per month, with more access during the summer when students are out of school. This partnership has been a great benefit to everyone in the community, and has allowed CHAC to add programs and services it had not been able to consider before the agreement.

**2. Project Description.**

When the old Butler Middle School was torn down and a new, modern building was built in its place, Cottonwood Heights and Canyons School District saw an opportunity for a mutually beneficial collaboration. The city would contribute funds toward the expansion of the building's auditorium in exchange for the use of the building for community arts programs. This collaboration has been a great asset to the residents of Cottonwood Heights and surrounding areas.

However, though the auditorium was enlarged to accommodate greater numbers of people, the equipment installed in the auditorium was what you would find in a typical middle school auditorium. Besides the fact that middle school auditoriums are not typically known as world-renowned performance spaces, Butler Middle School does not currently host a theater program. Therefore, the district installed enough lighting equipment to fulfill basic needs such as school band concerts and assemblies, but did not go beyond that. It was an understandable, fiscally sensible choice. But as CHAC has sponsored musicals and concerts in the auditorium, it has become obvious that the lighting systems need to be upgraded in order for the arts council to continue to produce successful programs. CHAC has also included a communication system. This will allow lighting technicians who are isolated up in the light booth to talk to the sound technicians below the booth, along with stage

managers, and directors who are backstage. CHAC does not currently have this capability, and uses "runners" to communicate between all members of the production team. This is costly, frustrating, and frankly just plain hard for members of the technical staff.

The auditorium's stage is 45 feet wide and 50 feet deep, which is much larger than a typical school proscenium. The current lighting system can illuminate most of the stage but not all of it, leaving the sides and corners of the stage dark. This poses a serious problem for theatrical productions, concerts featuring large orchestras, or dance recitals. Theatrical productions are of particular concern, especially considering that the annual summer musical is CHAC's largest and most lucrative event. In 2015, during the production of "Shrek, The Musical" several members of the audience—mostly older patrons—sought out the production staff to say that they had trouble actually seeing the action on stage.

Besides better lighting for the stage as a whole, additional lighting equipment would allow for more nuanced storytelling. Arts advocate Margie Griffin Hillebrecht once said, "Unlike a book, a play cannot rely on the audience's imagination to put forth a story. It requires it to unfold on the stage utilizing actors, stage scenery, costumes and much more to bring it to life. Lighting is just another element, but no less important. The addition or subtraction of lighting can change the feel of the production." An enhanced lighting system will allow directors and choreographers much more freedom when it comes to lighting schemes, colors, and stage blocking for theatrical productions and dance recitals. They will be able to use the whole stage with confidence instead of adjusting their creative vision to fit the auditorium's current abilities.

The bottom line is this: we want to put on great productions which transport audience members to a different world and evoke an emotional response. We want them to feel a connection with what they see onstage. And we feel we can better achieve that goal with the appropriate tools of the trade.

Currently the auditorium has approximately 45 lights of various types and capabilities, whereas a typical professional stage of that size will usually have 200 lights or more. CHAC is not looking for an update to professional-grade lighting, but through this grant request the arts council would like to add another 65 lights, as well as corresponding installation hardware, light racks, and control consoles. (A complete list of the equipment and an explanation of the purpose of each piece of equipment can be found in the documents section of the grant application.)

This additional equipment would enhance current lighting at the auditorium but is not permanent and can be set up as needed for CHAC programs only. The lights will clip into existing light bars and function as a unit with the current lighting system. When not in use, the equipment would be taken down and stored in CHAC's storage room at the school.

### **3. How does the project fit within the Cultural Facilities Visions & Principles? (see Guidelines & Policies)**

CHAC is a local arts agency that promotes the arts and cultural events for the betterment of the city and its residents and to enhance the quality of life in Cottonwood Heights. CHAC is confident it can offer the community a full range of programs and cultural events. Approval of this application would "support projects which enhance the ability of the arts and cultural organizations to improve, expand and/or sustain programming." Events at this facility would be enhanced by purchasing this much-needed lighting equipment.

CHAC's proposal to upgrade the lighting system in the auditorium aligns with several of the core principals outlined by the program. In particular, support for this project will address the necessity of maintaining and improving current facilities and will boost the facility's ability to improve our programming, and attract additional community and professional organizations to perform at this venue.

### **4. Evidence of local support and community need justifying the project.**

*Upload supporting documents (documents tab) including: press coverage of your proposed project; feasibility study results if applicable; letters of support from community, donors, or other arts & cultural organizations in your area; etc.*

CHAC has the support of Cottonwood Heights, Canyons School District, and community arts advocates. Letters of support can be found in the documents section of this application.

### **5. Evidence the project is appropriately sized to the capacity and needs of your organization and the community. Please include attendance data.**

In its first production, "Joseph and the Amazing Technicolor Dreamcoat," CHAC only averaged 250 people in attendance each night. While this was a wonderful start, attendance at CHAC events has grown significantly over the past seven years. In 2015, CHAC presented "Shrek the Musical" and averaged 500 people in attendance on each night of its six-night run. That comes to a total of 3,000 patrons. CHAC also produces a Christmas Concert each year, featuring various artists. In 2015, singer and songwriter Peter Breinholt which drew a crowd of approximately 700 people.

We realize that our community arts program serves a population that is much smaller than more professional venues, and we have tried to be conservative in our lighting system proposal while making sure the upgrades would greatly improve the lighting

capabilities at the auditorium. We believe these improvements will make it possible to produce great events and bring many wonderful cultural groups to perform in our city in the future.

**6. Detail how the project is integral to your organization's mission.**

The Cottonwood Heights Arts Council's mission is to "organize engaging cultural events and promote community interest, involvement, and education in the arts." CHAC wants its events to spark imagination and provide an hour or two of high quality entertainment for everyone in attendance. An enhanced lighting system will add an element of magic to all types of productions, and will provide opportunities for community members to engage in the arts.

**7. Describe how your current project funding has been secured.**

The city of Cottonwood Heights has pledged \$10,000 to this project, while CHAC will contribute an additional \$3,000. Those funds are in cash reserves, and have been secured. Additionally, CHAC will receive another \$10,000 yearly allowance from the city of Cottonwood Heights in July of 2017. Those funds will go directly to this project.

**8. Document your ability to raise the required project funds.**

For the remaining \$12,000, CHAC plans to hold three fundraisers over the course of the next three months to raise the rest of the required funds. CHAC will hold a concert in the park in late August of 2017. CHAC will charge admission to this concert and overhead will be very low. CHAC is expected to make at least \$3,500 from this concert. A craft fair/boutique will be held in late November. CHAC plans to charge artists for booth space, and already has 15 interested applicants. CHAC expects to make at least \$3500 from this venture also. The last fundraiser will be a Christmas concert featuring Joshua Creek. This particular concert is a great tradition in Cottonwood Heights, and is widely attended by the community. CHAC will make the remaining \$5000 from this concert by charging \$12.00 per ticket. CHAC has averaged approximately 500 people at this concert in past years, so we have no reason to expect any different for this year.

**9. Analysis of the financial impact this project will have on your organization's future finances.**

Because CHAC will use some of its cash reserves as matching funds, there may be a short-term financial impact to CHAC programming due to depleted cash reserves. However, CHAC does not expect it to be a significant problem and expects to recoup those expenses fairly quickly through higher-quality programs and increased patronage. CHAC does not foresee any long-term negative financial impact.

**10. Please specify type of funding you are requesting**

- a Consulting
- ✓ Capital

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**Consulting Applicants**

**11. Type of consulting services**

-no answer-

**12. Goals and objectives of consulting services**

-no answer-

**13. Scope of Work, expected deliverable and timeline**

-no answer-

**14. Payment schedule for the work and expenses.**

*Upload a detailed project budget document (documents tab) by a qualified professional.*

-no answer-

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**Capital Applicants**

**15. What is the site location of your project.**

Butler Middle School, 7530 S. 2700 E. Cottonwood Heights, Utah 84121

**16. Describe the current facility and specify if it is owned or leased.**

*Upload (documents tab) deed or contract to purchase property or lease agreement (can be executed or pending).*

CHAC has been granted use of the auditorium at Butler Middle School through an interlocal agreement with Canyons School District. A copy of that agreement and a letter of support from the school's principal have been uploaded in the documents section.

**17. What is the overall project timeline?**

The overall timeline for this project (having equipment ordered, shipped and installed) is five to six months.



**18. Describe in detail how you will fund future capital maintenance and operating expenses. Include a five year expense forecast and a long term maintenance budget plan.**

Each year, Cottonwood Heights contributes \$10,000 to the Cottonwood Heights Arts Council budget. CHAC then budgets all capital maintenance and operating expenses out of this fund. CHAC expects there will not be any major maintenance on this equipment for at least seven years, CHAC will set aside \$3,500 each year out of this fund to pay for all capital maintenance. This money would be used to pay for bulbs and other maintenance items associated with the project.

**19. Provide project management information including key personnel and their experience.**

Ryan Pedersen has worked with the Cottonwood Heights Arts Council for several years on a voluntary basis and is CHAC's technical director. He will be in charge of the lighting system upgrade and will manage the installation and storage of the equipment.

Ryan has a bachelor degree in Music, Music Production and Engineering from Berklee College of Music in Boston, where he graduated Magna Cum Laude. For nearly 20 years he has worked as a lighting and sound engineer for performing arts centers and studios across the United States, including as a Production Sound Mixer for LDS Motion Picture Studio in Provo.

**20. Architectural information including site plan, space program and schematic design (optional).**

*Please upload above mentioned architectural documents (document tab).*

N/A

**21. Construction information including: construction cost estimate from a qualified professional, master construction budget, LEED planning if applicable, and contingency plans for cost overruns.**

*Please upload above mentioned construction information documents (document tab).*

A detailed quote and list of all the requested lighting equipment is available in the documents section of this application.

## Budget Details

### Project Budget

Project Budget	Capital Request	Consulting Request	Detail
Total Project Budget	70,060.00		See Documents tab (Lighting cost updated) for specific details
Funding Currently in Place	23,000.00		Cottonwood Heights Arts Council will contribute \$13,000 from CHAC, and Cottonwood Heights city will contribute \$10,000. All funds have been secured.
County Funding Requested	35,030.00		

### Project Financial Information Detail

Financial Detail	Capital	Consulting	Detail
Cash On-hand	23,0000		13,000 from CHAC and \$10,000 from Cottonwood Heights city.
Pledges - Unrestricted			
Pledges - Restricted			
Pledges - Pending or Projected			
In-Kind Donations			
General Obligation Debt			
Bond Issue			
Capital Reserve			

## Documents

### Documents Requested \*

Community support documents including: feasibility

### Required? Attached Documents \*



Butler Middle Admin Staff letter

study results if applicable, support letters from community members and arts & cultural organizations in your area, etc.

[Nancy Tingey Letter](#)

[CH letter of support](#)

[CH Arts Chair letter](#)

[Director Becky Kitchen letter](#)

[Ryan Pedersen Letter](#)

For Consulting projects upload a detailed consultant project budget document by a qualified professional.

For capital projects upload deed or contract to purchase property or lease agreement either executed or pending agreement.

[Interlocal Agreement with Canyons and Butler](#)

For capital projects upload above architectural documents; site plan, space program, schematic design (optional).

For capital projects upload construction information documents, construction cost estimate by a qualified professional, master construction budget by a qualified professional.

[Lighting cost](#)

[Lighting cost updated](#)

Attach three years of your organization's budget to this application, including your current budget year. If submitting a municipal budget, please include relevant sections, not the entire budget.



[Budget](#)

*\* ZoomGrants™ is not responsible for the content of uploaded documents.*

Application ID: 79998

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**EXHIBIT B**  
**Disbursement of Funds Report**





## RECIPIENT ORGANIZATION'S DISBURSEMENT OF FUND REPORT

This report is **REQUIRED** for all contributions more than \$2,500.

This report is to be filed with the Council and Mayor's Offices within six months of receipt of the money. If further contributions are desired, the report must be filed with the Council and Mayor by September 1<sup>st</sup> of each year.

NAME OF ORGANIZATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ EMAIL: \_\_\_\_\_

CONTRIBUTION AMOUNT: \_\_\_\_\_

DATE RECEIVED: \_\_\_\_\_

Please describe how the money was spent and how this funding contributed to the success of your organization.


Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Recipient \_\_\_\_\_