

Request Name: Excellence in the Community

Description: Excellence in the Community seeks to provide Utah's communities with free high level entertainment from professional musicians and dancers. They plan to help communities put on 140 concerts for approximately 100,000 people. They will provide this.

Agency: Heritage and Arts

Purpose: Excellence in the Community's purpose is to enhance our communities through a high level musical experience offered for free. They plan to provide music to Brigham City, Ogden, Price, Fillmore, Grantsville, Duchesne, and other rural areas in Utah.

Funding for: \$100,000 2019 (One time)

Private Not-for-Profit

Budget for Excellence Expansion Concerts July 1, 2019 to June 30, 2020

Communities	Number of Concerts	Average Artist Fee	Artist Fee Sub-total	Average Production Cost	Production Sub-Total	Travel / Administration	Total
Communities served in 2018	Salt Lake City	67					
	West Jordan	12					
	Provo	12					
	Holladay	8					
	Ogden	8					
	Price	2					
	Grantsville	3					
	Helper	1					
	Duchesne	2					
	Gunnison	1					
	Fillmore	1					
	West Valley City	2					
	Brigham City	2					
		122					
	Additional communities asking for our programs	Ephraim					
Logan							
West Valley City							
Sandy							
Proposed Budget for \$100,000 in Coming Fiscal Year	Brigham City	8	\$2000.00	\$16,000.00	\$1800.00	Venue has its own sound and lights	\$1158.62
	Grantsville	8	\$2000.00	\$16,000.00	\$1800.00	\$14,400.00	\$1158.62
	Price	8	\$2000.00	\$16,000.00	\$1800.00	\$14,400.00	\$1158.62
	Duchesne	1	\$2000.00	\$2000.00	\$1800.00	\$1800.00	\$144.82
	Ephraim	1	\$2000.00	\$2000.00	\$1800.00	\$1800.00	\$144.82
	Logan	1	\$2000.00	\$2000.00	\$1800.00	\$1800.00	\$144.82
	Fillmore	1	\$2000.00	\$2000.00	\$2000.00	\$1800.00	\$144.82
	Gunnison	1	\$2000.00	\$2000.00	\$1800.00	\$1800.00	\$144.82
Totals			\$58,000.00		\$37,800.00	\$4,199.96	\$99,999.96

- Excellence has been a 501 c3 since 2006. We have produced over 657 concerts throughout the state. We have raised over \$2,000,000 in cash. If we add in kind contributions of manpower, equipment, below market rates on all aspects of our project, the total is somewhere between 4 and 5 million dollars.
- Last year we raised \$534,132.28. \$50,000 of that came from the Grant we are seeking to renew. (Another \$50,000 to complete that grant will come in the next 6 months.)
- That \$543,132.28 went to pay for 122 concerts throughout the state, as outlined in the budget. The communities funded by the state grant, thus far, are: Fillmore, Duchesne, Grantsville, Price, Brigham City, Helper, and Gunnison
- Our funding comes from city governments, county governments, ZAP, state legislature, charitable foundations, corporate sponsorships, and individual contributions.
- Though the budget document lists all of the communities we work in, those pertaining to the proposed grant are a subset of the total. Meaning many of the towns mentioned are already covered financially through the funding sources listed above.
- In the towns where we have been established for some time we present multiple concerts. A regular series of high quality, family friendly events is our aim.
- it is our hope to establish a series of multiple concerts in each of the communities we work with.
- Total audience attendance for 2018 is estimated at roughly 30,000. We feel this is a low estimate since many of our shows draw 600 - 800.
- When we start in a new community attendance figures are low at first and then increase. We find that many people initially under-estimate the quality of what is being offered. it takes awhile to get the numbers we want.

- Since 2012 all of our concerts have been offered free to the public. (One exception, an experiment forced by a venue manager). In other words, everyone is welcome, all ages, all demographics. We are working to enhance the quality of life in Utah, one concert at a time, one community at a time. We believe that the accomplishments of Utah's best musicians represent a powerful resource for bringing people together to experience the "Life Elevated" concept at work. The costs are modest, the potential for long lasting and sustained good throughout the state is very high. Music to Match the Mountains.
- Our intention is to work towards community involvement in the concerts. In other words we intend for the concerts to inspire civic and corporate leaders, and citizens of the various towns to get involved in helping create a sustainable series of events. We look for corporate sponsorship, we work with local arts leaders, and we ask civic leaders to evaluate the effectiveness and the long term potential of these concerts. We ask all to get involved both as donors, and as volunteers to make the concerts a success. We view this funding as seed money to invest in improving community arts programs, town by town, concert by concert.

Does this organization receive other state financing?

Excellence in the community received an appropriation last year for this fiscal year from the state. This was given to them as a grant from The Department of Heritage and Arts.

2018 Report

- As part of the Legislature's current fiscal year's budget process the Utah State Senate awarded Excellence in the Community a grant for \$100,000 with the stated intention that Excellence expand its programs to areas of the state beyond the Salt Lake Valley.
- The state's fiscal year runs from July 1 to June 30th. We receive quarterly payments, and we submit quarterly reports as to our activities and expenditures. (\$50,000 received thus far).
- We have since produced concerts or been involved with concerts in Fillmore, Price, Grantsville, Helper, Gunnison, Provo, Ogden and Brigham City.
- Concerts produced thus far under this Grant from Utah State Legislature

8/25/18: Strawberry Fields Band: Duchesne

9/15/18: Timpanogos Big Band: Grantsville

9/29/18: Mariachi de mi Tierra: Fillmore

10/18/18: Kate McLeod Band: Gunnison

10/19/18: Hayley Kirkland & Company B: Price

10/25/18: Hot House West: Brigham City

10/29/18: Mariachi de mi Tierra With Ballet Folklorico de las Americas: Provo 11/9/18L Hot House West: Grantsville

11/16/18: Joshy Soul & The Cool: Brigham City

11/16/18: Strawberry Fields Band: Price

12/7/18: Salt Lake City 7: Helper

12/22/18: Lark & Spur: Grantsville

12/31/18: Red Rock Hot Club: Duchesne

1/7/19: Island Time II: Ogden

1/18/19: Strawberry Fields Band: Brigham City

1/25/19: Charley Jenkins: Price



CONTRACT # _____

STATE OF UTAH - CONTRACT AGREEMENT

1. PARTIES: This grant is between the following agency of the State of Utah:

Department Name: Utah Dept of Heritage & Arts Agency Code: 710 referred to as (STATE), and the following GRANTEE:

Excellence in the Community

Name
10073 Stonewall Ct

Address
Sandy UT 84092

City State Zip

LEGAL STATUS OF GRANTEE

- Sole Proprietor
 Non-Profit Corporation
 For-Profit Corporation
 Partnership
 Government Agency

Contact Person Jeff Whiteley
 Phone #(801) 718-3862
 Email jwhit77899@aol.com
 Federal Tax ID# XXXXXX9120
 Vendor # VC0000139271 Commodity Code #99999

2. GENERAL PURPOSE OF GRANT: The general purpose of this contract is to provide: Legislative Pass Through Funding
3. GRANT PERIOD: Effective Date: 07/01/18 Termination Date: 06/30/19 unless terminated early or extended in accordance with the terms and conditions of this grant. Renewal options (if any) N/A. All payments under this grant will be completed within 90 days after the Termination Date.
4. GRANT COSTS: GRANTEE will be paid a maximum of **\$100000** for costs authorized by this grant. Additional information regarding costs: N/A
5. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions
 ATTACHMENT B: Scope of Work
 ATTACHMENT C: Payment Schedule
 ATTACHMENT D: Certification
 ATTACHMENT E: Reporting Requirements
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.
6. 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

STATE

Grantee's signature Date

Agency's signature Date

Type or Print Name and Title

N/A Grant

Director, Division of Purchasing Date

Director, Division of Finance

Cathy Wann	801-245-7224	801-521-4727	cowann@utah.gov
Agency Contact Person	Telephone Number	Fax Number	Email

Attachment A: Standard Terms and Conditions for Grants (Nonprofit Organizations)

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, at least annually and no later than 60 days after all of the Grant Money is spent:
 - a. a written description and an itemized report detailing the expenditure of the Grant Money or the intended expenditure of any Grant Money that has not been spent; and
 - b. a final written itemized report when all the Grant Money is spent.
 - c. **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:** Grantee represents that none of its officers or employees are officers or employees of the State, unless disclosure has been made to the State.
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:** Grantee shall be fully liable for the actions of its agents, employees, officers, partners, and SubGrantees, and shall fully indemnify, defend, and save harmless the State from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Grantee's performance of this Contract caused by any intentional act or negligence of Grantee, its agents, employees, officers, partners, or SubGrantees, without limitation; provided, however, that the Grantee shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the State. The parties agree that if there are any limitations of the Grantee's liability, including a limitation of liability clause for anyone for whom the Grantee is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
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. **INSURANCE:** Grantee shall at all times during the term of this Contract, without interruption, carry and maintain commercial general liability insurance from an insurance company authorized to do business in the State. The limits of this insurance will be no less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. Grantee shall provide proof of the general liability insurance policy and other required insurance policies to the State within thirty (30) days of contract award. Grantee must add the State as an additional insured with notice of cancellation. Failure to provide proof of insurance, as required, will be deemed a material breach of this Contract. Grantee's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.
13. **WORKERS COMPENSATION INSURANCE:** Grantee shall maintain during the term of this Contract, workers' compensation insurance for all its employees as well as any SubGrantees. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction. Grantee acknowledges that within thirty (30) days of contract award, Grantee must submit proof of certificate of insurance that meets the above requirements.
14. **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.
15. **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.
16. **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.
17. **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.
18. **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.
 - a. 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.
 - b. 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.

19. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** If intellectual property is exchanged in return for the funding set forth in this contract, Grantee will indemnify and hold the State harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the State for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Grantee's liability such limitations of liability will not apply to this section.
20. **PUBLICITY:** Grantee shall submit to the State for written approval all advertising and publicity matters relating to this Contract. It is within the State's sole discretion whether to provide approval, which must be done in writing.
21. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State and Grantee 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.
22. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
23. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees, incurred in connection with such action.
24. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The State, after consultation with the Grantee, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the State appoints such an expert or panel, State and Grantee agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
25. **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.
26. **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.
27. **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.
28. **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 3, 2017)

STATE OF UTAH
Legislative Pass Through Funding
Contract Attachments B and C

Organization: Excellence in the Community

Attachment B: Scope of Work

Music to Match the Mountains

Excellence in the Community is a 501 C3, established in 2005, with the purpose of harnessing the accomplishments of Utah's best musicians for the good of Utah communities. Specifically we create more and better performance opportunities for Utah musicians and dancers and invite the public at no charge.

We presently work with community partners in SLC, West Jordan, Provo, Ogden and Holladay. We intend to take our program to underserved areas in our state.

Attachment C: Payment Schedule (July 1-June 30)

Pending availability of state funds, Excellence in the Community will receive \$100000 as follows:

First Quarter Payment (July 2018 – September 2018) – Payment of **\$ 25000** will be paid upon receipt of finalized contract from the Utah State Division of Finance.

Second Quarter Payment (October 2018 – December 2018) – Payment of **\$25000** will be paid upon receipt of quarterly progress report.}}will be paid upon receipt of quarterly progress report.

Third Quarter Payment (January 2019 – March 2019) – Payment of **\$25000** will be paid upon receipt of quarterly progress report.

Fourth Quarter Payment (April 2019 – June 2019) – Payment of **\$25000** will be paid upon receipt of quarterly progress report.

A Final Report must be submitted no later than July 26, 2019. Reports will be submitted through the Community Grants Portal.

There will only be one payment in full for Legislative Pass Through Funding amounts under \$25,000. Only one final report will be required for these grants.

ATTACHMENT D: Certification

The Grantee hereby assures and certifies that it will comply with state and federal statutes, regulations, polices, guidelines, and requirements for a non-profit entity. Specifically, UCA 51-2a-102(6)(f) and 51-2a-201.5 require a nonprofit organization (NGO) to disclose annually, whether the NGO received a minimum of \$25,000 in combined federal pass-through, state, and local money in both the previous year and the current fiscal year, to the State Agency which provided state or federal pass-through money. Additional reporting is required by law to the State Auditor and will vary, depending on the amount of total federal, state and local funding received from all sources during an NGO's fiscal year.

The type of report required to the State Auditor is based on the following thresholds: more than \$25,000 but less than \$100,000 requires a fiscal report to the Auditor, more than \$100,000 but less than \$350,000 requires a compilation of its accounts by an independent CPA, more than \$350,000 but less than \$1,000,000 requires a review of its accounts by an independent CPA, more than \$1,000,000 requires an audit by an independent CPA. Definitions of each of these reports are found in UCA 51-2a-102.

I certify that _____ met or exceeded or anticipates meeting or exceeding the following dollar threshold in combined revenues of federal pass-through, state or local money for fiscal year 20 _____.

- ____ more than \$25,000 but less than \$100,000
- ____ more than \$100,000 but less than \$350,000
- ____ more than \$350,000 but less than \$1,000,000
- ____ more than \$1,000,000

OR

_____ I certify that Excellence in the Community will not or does not expect to meet or exceed the \$25,000 threshold in combined revenues of federal pass-through, state or local money for fiscal year 20 _____.

OR

_____ I certify that Excellence in the Community is either a governmental entity or a for-profit entity and is therefore exempt from this Certification.

Signature

Date

ATTACHMENT E: Reporting Requirements

The Grantee hereby assures and certifies that it will comply with state statute on reporting and expenditure of public funds. Specifically, UCA 63-1-220(2)(b) requires the recipient entity to provide the state agency:

- i. A written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and
- ii. A final written itemized report when all the state money is spent.

I certify that Excellence in the Community will provide an itemized report at least annually and a final written report detailing the expenditure of the state money as described in UCA 63-1-220.

Director

