

City of Orem
Policies and Procedures for City Option Funding
of Recreational and Cultural Facilities and Cultural Organizations,
known as the CARE Program

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Background:

In November 2023, Orem voters renewed the CARE tax which is a 1/10th of 1% local sales and use tax (\$.01 for every \$10) for the purpose of enhancing recreation and cultural arts keeping the CARE tax in effect through March 2034.

Orem voters previously approved the Cultural Arts and Recreation Enrichment (CARE) Program in November 2005 and 2013.

Known as the Cultural Arts and Recreation Enrichment tax, hereafter, CARE, funds are to be used for eligible facilities and organizations consistent with the 2013 ballot proposition, Orem City Code, and Utah Code Ann. 59-12-1401, et. seq Zoological facilities and organizations and botanical organizations are not eligible for CARE funding.

To carry out the provisions of the act, the City has enacted Article 18-5 of the City of Orem Municipal Code.

Program Purpose:

The CARE Program exists to enhance financial support for Orem’s qualifying recreational and cultural facilities and cultural organizations through the imposition, collection, and distribution of a 1/10th of 1% city sales and use tax. The CARE Program is committed to fair and equitable access to CARE funding.

1.0 Policy

The Orem City Council shall distribute the entire amount of revenues and interest collected as a result of the imposition of the sales and use tax known as the CARE tax in a manner consistent with the 2013 ballot proposition and Utah Code Ann. 59-12-1403, which allow for:

- 1.1 granting to one or more eligible organizations or facilities;
- 1.2 granting for an eligible facility located within the geographic area of entities that are party to an interlocal agreement; and,
- 1.3 retaining a portion of the tax collected, not to exceed 1.5%, for the cost of administering the CARE program.

2.0 Definitions

The following definitions shall be used when referenced hereafter:

- 2.1 Application Form – the documents specified by the CARE Program of the City of Orem for use by entities and organizations which request funds pursuant to this Policy, including any required attachments and supporting documents.

- 2.2 Compilation Report – financial statement of an organization, prepared by a Utah licensed Certified Public Accountant.
- 2.3 Nonprofit – an organization or corporation that is not organized, created, operated or maintained to generate a profit or distribute income to its members, directors, officers, or corporation.
- 2.4 Notice to an Applicant – Notice to an applicant required or provided for under this Policy will be complete when Notice is forwarded by regular mail to the name and address provided by the Applicant in the application for CARE funds.
- 2.5 Primary Purpose – the main goal, the fundamental intent, the core purpose or mission of an organization.
- 2.6 Qualifying Operating Expenses – this definition applies to cultural organizations. An organization’s total expenditures for ongoing operations for an identifiable fiscal year as documented by certified financial records (as allowed by Generally Accepted Accounting Principles, GAAP) less the following non-qualifying expenditures:
 - 2.6.1 Capital construction expenses, including capital acquisition, improvements to real property or depreciation of real property;
 - 2.6.2 Payments into an Endowment Corpus;
 - 2.6.3 Expenditures for programs conducted outside of the City of Orem;
 - 2.6.4 Activities not available to the general public;
 - 2.6.5 Fundraising expenses related to capital or endowment campaigns;
 - 2.6.6 Repayments of loans and/or interest thereon;
 - 2.6.7 Expenditures for direct political lobbying on all levels;
 - 2.6.8 Grants – the distribution of funds to outside groups, institutions, organizations or other units;
 - 2.6.9 Bad Debt Expense;
 - 2.6.10 Depreciation and amortization of any asset;
 - 2.6.11 Non-deductible Tax penalties;
 - 2.6.12 Unrelated Business Income Tax – any operating expenses that are utilized in calculating federal unrelated business income tax; and,
 - 2.6.13 Cost of Good Sold
 - 2.6.14 Other expenses not related to the organization’s primary cultural purpose.
- 2.7 Qualifying Organization – a cultural organization as defined in Utah Code Ann. 59-12-702 that:
 - 2.7.1 maintains nonprofit status and meets the purpose of the statute; and,
 - 2.7.2 has a primary purpose that corresponds with the definitions for a cultural organization as described in the statute.
- 2.8 Qualifying Facilities Expenses – capital development and ongoing operating expenses of recreational facilities and capital development of cultural facilities.
- 2.9 Review – inquiry and analytical procedures applied to the financial statements of an organization, performed by a Utah licensed Certified Public Accountant.
- 2.10 Definitions from the 2013 ballot proposition and Utah Code Ann. 59-12-702, referenced hereafter:

- 2.10.1 Administrative Unit – a division of a private nonprofit organization or institution that would, if it were a separate entity, be a cultural organization; and consistently maintains books and records separate from those of its parent organization.
- 2.10.2 Cultural Facility – any city-owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- 2.10.3 Cultural Organization – a private nonprofit organization or institution having as its primary purpose the advancement and preservation of: (1) natural history; (2) art; (3) music; (4) theater; (5) dance; or (6) cultural arts, including literature, a motion picture, or storytelling; and an administrative unit. Cultural organization does not include any agency of the state; any political subdivision of the state; any educational institution whose annual revenues are directly derived more than 50% from state funds; or any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
- 2.10.4 Institution – institutions listed in Utah Code Ann. subsections 53B-1-102(1)(b) through (l), including Utah Valley University and other public post-high school educational institutions designated by the State Legislature as a part of the State’s system of higher education.
- 2.10.5 Recreational Facility – any city-owned park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

3.0 General Guidelines

- 3.1 Funding for this program comes from sales tax revenues that are collected by the State of Utah and distributed to the City of Orem. All funding shall be based on actual sales and use tax receipts as received, recorded and reconciled by the City.
- 3.2 CARE funds *are not an entitlement* and the filing of an application for funds, no matter how complete or comprehensive, is not a guarantee that any funds will be awarded. As such, it should be clearly understood that the award of CARE funds is in the nature of a competitive grant and is awarded on the basis of merit and availability of funds of which from year to year there is no guarantee. Grants are awarded as much as possible on objective factors.
- 3.3 The City Council may choose to allocate a percentage of the funding to various classes of applications. This may be modified annually based on revenues available and the number of organizations that apply.
- 3.4 Grants shall be made available in four categories: City-owned Recreational and Cultural Facilities; Cultural Arts Major Grants of \$15,000 or more, Cultural Arts Mid-Major Grants of \$5,001 - \$15,000 and Cultural Arts Mini Grants of up to \$5,000.
- 3.5 Applicants may apply in one or more categories and they may apply in collaboration with other qualifying entities.
- 3.6 One granting round shall be made available each year.
- 3.7 Multiple year grants may be awarded provided they are within the CARE tax authorization period of ten years. Multiple year grants will still be subject to annual appropriation by the Orem City Council.

- 3.8 The fact that a project was previously qualified for funding does not guarantee that it is qualified for subsequent funding unless so authorized in the original grant.
- 3.9 The Orem City Council may use unallocated or unexpended funds from one fiscal year in another fiscal year.

4.0 Recreational and Cultural Facilities Grants

- 4.1 Grants shall be made available for City-owned recreational and cultural facilities.
- 4.2 Qualifying facilities expenses include capital development of recreational and cultural facilities and the ongoing operating expenses of recreational facilities.
- 4.3 All funded facilities must be located in the City of Orem or within the boundaries of an inter-local agreement with the City of Orem.
- 4.4 Applying entities and organizations must provide for perpetual maintenance and be responsible for operational and financial accountability for all facilities for which funding is requested.

5.0 Cultural Arts Major, Mid-Major and Mini Grants

- 5.1 Grants to qualifying organizations should be utilized to build organizational capacity, to create stability and to enhance the City of Orem's cultural arts offerings and community.
- 5.2 Private nonprofit cultural organizations requesting Major and Mid-Major Grants must be 501(c)(3) nonprofit entities at the time of the application deadline. Private nonprofit cultural organizations requesting Mini Grants must be 501(c)(3) nonprofit entities or registered with the State of Utah as nonprofit corporations with an active status at the time of the application deadline.
- 5.3 Qualifying organizations must have as their primary purpose the advancement and preservation of one or more of the following eligible disciplines:
 - (1) Natural history;
 - (2) Art;
 - (3) Music;
 - (4) Theater;
 - (5) Dance; or
 - (6) Cultural arts, including literature, a motion picture, or storytelling.
- 5.4 Qualifying organizations must have as their primary purpose the advancement and preservation of natural history, art, music, theater, dance, or cultural arts, including literature, a motion picture, or storytelling, as well as a preponderance of activities that are within their eligible disciplines, and not just have some element of cultural activities.
- 5.5 CARE funds should not be the sole or major source of funding received by applicant organizations. Priority will be given to organizations that can solicit and receive matching funds. Priority will be given to organizations that can demonstrate a strong connection to the community, have a substantial track record and show a stable history.
- 5.6 Organizations applying for Major Grants of \$15,000 or more may be awarded up to 35% of their total qualifying operating expenses as defined in these policies and procedures.

- 5.6.1 Organizations will not qualify to receive Major Grants of \$15,000 or more unless they have a significant presence, and manage and present, in the City of Orem.
- 5.7 Organizations applying for Mid-Major Grants may be awarded no greater than \$15,000 as defined in these policies and procedures.
 - 5.6.1 Organizations will not qualify to receive Mid-Major Grants unless they have a significant presence in the City of Orem. Preference will be given to applicants that also manage and present in the City of Orem.
 - 5.6.2 Organizations applying for a Mid-Major grant may be awarded a mini-grant of \$5,000 or less.
 - 5.6.3 Any applicant receiving \$15,000 or more in CARE grants, even if the \$15,000 threshold is reached through multiple Mini Grants and/or Mid-Major Grants, shall be treated as a Major Grant recipient and must comply with all rules and regulations related to Major Grants.
- 5.8 Organizations applying for Mini Grants may be awarded up to \$5,000 for qualifying operating expenses as defined in these policies and procedures.
 - 5.8.1 Preference will be given to Mini Grant applicants that have a significant presence, and manage and present, in the City of Orem.
 - 5.8.2 Organizations headquartered outside of Orem may qualify for Mini Grants to present in the City of Orem, based on their intent to establish a more significant ongoing presence in the City of Orem.
 - 5.8.3 Any applicant receiving \$15,000 or more in CARE grants, even if the \$15,000 threshold is reached through multiple Mini Grants and/or Mid-Major Grants, shall be treated as a Major Grant recipient and must comply with all rules and regulations related to Major Grants.
- 5.9 New cultural organizations may only receive a minimal amount, established by the City Council, until the organization can provide financial and evaluation reports to justify more substantial funding.
- 5.10 Qualifying organizations must have a stable financial history. Weak or negligent financial management could be grounds for exclusion.
- 5.11 Qualifying organizations requesting amounts of \$15,000 or more shall be required to provide financial reports for their organizations prepared by a Utah licensed certified public accountant/firm according to the following schedule (subject to annual adjustment/indexing by the Orem City Council):
 - 5.11.1 \$15,000 to \$99,999 – a compilation report for the most recently completed fiscal year;
 - 5.11.2 \$100,000 to \$499,999 – a review of the most recently completed fiscal year plus a compilation report for the previous two fiscal years;
 - 5.11.3 \$500,000 or more – a review for the most recently completed fiscal year and the two previous fiscal years.

6.0 Application Process

- 6.1 Applications for funding under Utah Code Ann. 59-12-1403, Article 18-5 of the Municipal Code of the City of Orem and these policies and procedures shall be provided by the CARE Program.

- 6.2 The CARE Program shall issue public notice detailing the date, time, and place of availability of application forms, deadline for filing completed applications for CARE funding and all City Council meeting dates for CARE grant consideration.
- 6.3 All requests for funds must be submitted on an official application provided by the City of Orem CARE Program.
- 6.4 An application must be accurate, complete and all supplemental information included. It is not the responsibility of CARE Program staff to contact the applicants regarding information missing from their application. In the interest of the program, staff may notify applicants of deficiencies. If this occurs all applicants shall be treated equitably and notified of similar deficiencies.
- 6.5 Applications, including all required attachments, must be submitted prior to the deadline identified within the body of the application. Applications received after the deadline will not be accepted.
- 6.6 Fiscal information both within the application and required as attachments shall be reviewed for accuracy, consistency and compliance with fiscal requirements of the CARE Program by the City's accounting staff prior to the City Council's consideration of qualifying organizations.
- 6.7 The City Council will review the application and accompanying material and shall identify and approve qualifying applicants per Utah Code Ann. 59-12-701, Article 18-5 of the Municipal Code of the City of Orem, and these policies and procedures.
- 6.8 All qualifying applicants may be required to make a brief presentation and discuss the merits of their proposals with the Orem City Council at a public meeting. No additional materials will be accepted at these presentations unless requested by the City Council.
- 6.9 The City Council shall make final determination as to the amount of program funds to be distributed to each organization based upon Article 18-5 of the Municipal Code of the City of Orem, these policies and procedures and the application and accompanying information. The names of organizations and the amount of funds each is to receive shall be presented by the Orem City Council at a public meeting.
- 6.10 The CARE Program shall provide notice to applicants regarding the Orem City Council's decisions as soon as reasonably possible, including the amount each qualifying group shall receive based on verified expenditures; and which, if any, groups were disqualified or denied funding.

7.0 Distribution of Funds

- 7.1 Qualifying organizations will be required to enter into a contractual agreement with the City of Orem prior to receiving funds. Said contracts shall include:
 - 7.1.1 the organization's detailed planned use schedule of expenditures;
 - 7.1.2 a beginning and ending date for the project;
 - 7.1.3 dates for required reporting, including interim reports as needed;
 - 7.1.4 a clause that allows the City of Orem to verify application, evaluation report and use of funds information if requested; and
 - 7.1.5 consequences of the failure to use CARE funds as required.
- 7.2 Said contracts must be executed by the qualifying organization and returned to the City of Orem CARE Program within a reasonable period of time as set by the program. If any organization fails to return the contract, executed as required

hereunder, within said time, it will not receive payments and may lose its qualification for funding in that cycle.

- 7.2 No checks will be distributed until contracts are fully executed. Disbursements shall be made in the following manner:
- 7.2.1 The City shall pay Major grant recipients the full amount of the grant within 14 days of contract execution;
 - 7.2.2 The City shall pay Mini & Mid-Major grant recipients the full amount of the grant within 14 days of contract execution if the recipient provides the City with a satisfactory official audit or review, completed by a CPA, from the most recent fiscal or calendar year which demonstrates that the recipient maintains appropriate fiscal controls and has appropriately used past CARE grants.
 - 7.2.3 If Mini & Mid-Major recipients do not provide the City with a satisfactory official audit or review, as described in 7.2.2, the City shall reimburse the recipient for qualifying expenditures, up to the total grant award, as expenses are incurred. The following guidelines apply:
 - a. grantees must provide the City with detailed receipts prior to receiving the reimbursement;
 - b. reimbursement requests can be made no more than once per month; and
 - c. check advances (as opposed to a reimbursement) can be made to the organization if the organization has successfully completed the CARE Grant process in the most previous award cycle.
- 7.3 Funds disbursed to qualifying organizations shall be accounted for in a special revenue fund and disbursed through accounts within the City of Orem's CARE Program.
- 7.4 Funds under this program shall be disbursed based upon the City's fiscal year which runs July 1 through June 30 of the following calendar year.

8.0 Credit to the CARE Program

- 8.1 Each recipient organization shall use their best efforts to ensure that all brochures, news releases, programs, publications and other printed material bear the CARE logo, identifying an organization's use of CARE funding where projects, performances or other activities are funded in full or in part by the City of Orem CARE Program.
- 8.2 The CARE logo should not be reproduced smaller than 1 inch by 1.25 inches in size.
- 8.2 Recipients of CARE funding that provide waived or discounted admission must publicly announce (in some manner) that the event or activity has been sponsored by the City of Orem CARE Program.

9.0 Reporting Requirements

- 9.1 Each recipient organization shall be required to submit an evaluation report detailing how it expended the funds it received pursuant to these policies and procedures.
- 9.2 Organizations that have drawn down little to no portion of their grant by January 31st will be required to submit a brief progress report showing how they will spend the grant, or explaining the difficulties preventing them from spending the grant by June 30th.
- 9.3 Interim reports may also be required for projects spanning a year or more.
- 9.4 Deadlines for submission of all reports shall be specified in the contract with the City of Orem, with evaluation reports generally required within 60 days after the completion of the project or the period in which funds were expended.
- 9.5 Future CARE funding may be withheld due to inadequate, incomplete, or non-submitted reports.