

POLICIES AND PROCEDURES FOR PARC TAX FUNDING

Background.

In November, 2014, a majority of American Fork City voters approved a 1/10th of 1% increase in local sales and use tax as a means of enhancing funding for recreational and cultural facilities and cultural organizations within the City of American Fork. The American Fork City Council enacted the tax by ordinance on December 9, 2014 and the tax goes into effect April 1, 2015.

In November, 2021, a majority of American Fork City residents voted to renew the increased local sales and use tax for a ten (10) year period to enhance funding for recreational and cultural facilities and cultural organizations within the City of American Fork. The American Fork City Council enacted Ordinance 2021-11-56 on November 23, 2021, extending the locals sale and use tax increase through 2033.

Purpose.

The funds from the tax known as the Parks, Arts, Recreation, Culture Tax (“PARC Tax”) are to be used for eligible cultural facilities and organizations and recreational facilities in the City of American Fork consistent with UTAH CODE ANN. § 59-12-1401 and as defined in UTAH CODE ANN. § 59-12-702.

Distribution and Use of Revenue.

The revenue from the PARC Tax shall be distributed in accordance with UTAH CODE ANN. §59-12-1403 and for the purpose of funding eligible cultural facilities and organizations and recreational facilities in the City of American Fork, pursuant to UTAH CODE ANN. §59-12-1401 et. seq.

1.0 Policy.

The American Fork City Council shall distribute the entire amount of revenues and interest collected as a result of the PARC Tax in a manner consistent with UTAH CODE ANN. § 59-12-1403, which allows for:

- 1.1 Inter-local agreement provided for under § 59-12-1704;
- 1.2 Granting to one or more organizations or facilities defined in § 59-12-702.
- 1.3 Retaining an amount not to exceed 1.5% of the tax collected under this part for the cost of administering the PARC Tax.
- 1.4 The calculation of funds to be distributed shall be the tax actually collected during the current fiscal year and an estimate of tax to be collected through June 30 of each year. Said funds shall be distributed in the forthcoming fiscal year.

2.0 Definitions.

- 2.1 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.

- 2.2 Application Form: The PARC Tax Fund Distribution application, including the documents provided to the entities and organizations requesting funds pursuant to this policy by the City of American Fork for PARC Tax distribution and any required attachments and supporting documents.
- 2.3 Cultural Facility: any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.
- 2.4 Cultural Organization: a private nonprofit organization or institution having its primary purpose the advancement and preservation of art, dance, history, music, natural history, or theater; 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.
- 2.5 Recreation Facility: a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.
- 2.6 Non-profit: 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. Certification by the Internal Revenue Service as an organization qualifying under 501(c)(3) of the Internal Revenue Code or registration with the State of Utah as a nonprofit corporation with an active status at the time of the application deadline is required for any private nonprofit organization to qualify for funds hereunder.
- 2.7 Publicly Owned: owned by a governmental agency.
- 2.8 Qualifying Operating Expenses: means an organization's total expenditures for ongoing operations for an identifiable fiscal year as documented by official certified audit records (as allowed by Generally Accepted Accounting Principles GAAP) less the following non-qualifying expenditures:
 1. Capital construction expenses, including capital acquisition, improvements to real property or depreciation of real property.
 2. Payments into an endowment corpus.
 3. Expenditures for programs conducted outside of American Fork City.
 4. Fundraising expenses related to capital or endowment campaign.
 5. Repayments of loans and/or interest thereon.
 6. All non-cash expenditures including in-kind services and products, all trades, exchange transactions and other similar non-cash consideration.
 7. Expenditures for direct political lobbying on all levels.
 8. Salary expenditures, for the purpose of qualified expenses, are capped at \$80,000 per individual for all functions, including bonuses and any other compensation for services rendered. This amount does not include retirement,

health, social security, or Medicare benefits. This amount may be indexed annually by the Advisory Boards.

9. Grants/Fiscal Sponsorships - the distribution of funds to outside groups, institutions, organizations, or other units.
10. Gift shop and concession expenses: Inventory and related expenses classified as "cost of goods" are capped at 10% of total qualifying operating expenses and are only a qualified operating expense when and as sold.
11. Bad debt expense.
12. Depreciation and amortization of any asset.
13. Non-deductible tax penalties. Tax penalties include, but are not limited to, federal and state employment tax penalties (i. e., payroll tax penalties). The Advisory Board may allow up to \$500 of tax penalties as a qualifying expenditure if accompanied by a satisfactory justification.
14. Expenses related to unrelated business income activities: Operating expenses that are related to unrelated business income activities or that are utilized in calculating federal unrelated business income tax. However, all property taxes paid to Utah County are qualifying expenditures.
15. Previous PARC funding - PARC funding allocated in the prior year, whether or not such funds were expended in the prior years.
16. Related Party Transactions: related party transactions are transactions with any board member, staff member, or his or her affiliates or family members. Any related party transactions exceeding \$5,000 in the aggregate may be disallowed. The Advisory Board has the discretion to consider the following factors when deciding to allow or disallow a related party transaction: (1) whether the organization certifies that it has adopted the Utah Nonprofit Association Standard of Ethics and satisfies Part III (B) of the Standards, (2) whether the organization complied with the standards in approving the transaction, and (3) the content of the minutes from the organization board meeting where the disclosure was made and the details of the transaction and accompanying analysis as set forth in the disclosure to the organization's board. If the organization has adopted the standards then it must monitor related party transactions and reject ones that are not fair to the organization. In the event of any sale, lease or other transaction with a board member, staff member, or affiliate of either, the costs and expenses incurred by the board member, staff member, or affiliate shall be fully disclosed. If a board member holds a staff position in the organization, the salary of that staff position is a qualifying expenditure. Moreover, if there are related party transactions, the organization should include a copy of its conflicts of interest policies with any explanations submitted in it application.
17. Qualifying Royalty and Commission Expenditures: If a play' s gross proceeds exceed \$150,000, qualifying royalty expenditures may not exceed 20% of the gross proceeds of the run. Qualifying commission expenditures may not

exceed \$30,000 for one play (whether written by a single playwright or team of authors).

18. Other expenses not related to organization's primary purpose.

3.0 General Guidelines.

- 3.1 PARC Tax funds come from sales tax revenues that are collected by the State of Utah and distributed to American Fork City. All funding shall be based on the actual sales and use tax receipts as received, recorded, and reconciled by the City.
- 3.2 PARC Tax funds are not an entitlement. Filling out an application does not guarantee that any funds will be awarded.
- 3.3 The American Fork City Council shall make all final determinations as to the amount of PARC Tax funds to be distributed to each entity or organization.
- 3.4 The fact that a particular project, facility or organization has previously received PARC Tax funds does not guarantee that it will receive subsequent funding unless so authorized in the original grant.

4.0 Cultural Facilities Grants.

- 4.1 PARC Tax funds may be provided to a publicly owned and operated museum, theater, art center, music hall, or other cultural or arts facility.
- 4.2 All funded facilities expenses must be located in American Fork City or within the boundaries of an inter-local agreement with American Fork City.
- 4.3 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.
- 4.4 Cultural facilities grants may not be used to fund publicly owned or operated cultural programs.

5.0 Cultural Arts Organizations Grants.

- 5.1 PARC Tax funds may be provided to qualifying organizations described herein.
- 5.2 Private nonprofit cultural organizations requesting funding must be 501(c)(3) nonprofit entities or registered with the State of Utah as a nonprofit corporation with an active status at the time of the application deadline.
- 5.3 Qualifying organizations include the following:
 - 5.3.1 A private nonprofit organization or institution having its primary purpose the advancement and preservation of:
 - 5.3.1.1 Natural history, art, music, theater, dance, or cultural arts including literature, a motion picture, or storytelling.

6.0 Recreational Facilities Grants.

- 6.1 PARC Tax funds may be provided to a publicly owned and operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium,

swimming pool, trail system, cultural facility, or other facility used for recreational purposes.

- 6.2 All funded facilities expenses must be located in American Fork City or within the boundaries of an inter-local agreement with American Fork City.
- 6.3 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.
- 6.4 Recreational facilities grants may not be used to fund publicly owned or operated recreational programs.

7.0 Application Process.

- 7.1 All interested persons, organizations, or entities must attend the pre-application meeting held prior to submitting an application.
- 7.2 An interested person, organization, or entity may submit an official PARC Tax application provided by the City of American Fork.
- 7.3 All qualifying persons, organization, or entities may be required to make a brief presentation and discuss the merits of their proposals with the PARC Tax Advisory Board and/or the American Fork City Council at a public meeting. No additional materials will be accepted at the presentations.
- 7.4 American Fork City Council shall make final determinations as to the amount of PARC Tax funds to be distributed to each entity or organization.
- 7.5 The names of entities or organizations and the amount of funds each is to receive shall be presented by the American Fork City Council at a public meeting.

8.0 Distribution of Funds.

- 8.1 Qualifying organizations may be required to enter into a contractual agreement with the City of American Fork prior to receiving funds. Said contract shall include:
 - 8.1.1 A detailed planned use schedule of expenditures;
 - 8.1.2 A beginning and end date for the project, if applicable;
 - 8.1.3 A provision allowing for the City of American Fork to verify all application information and use of funds information;
 - 8.1.4 The consequences of the failure to use PARC Tax funds as approved;
 - 8.1.5 A provision explaining all unused funds shall be returned to American Fork City; and
 - 8.1.6 A provision detailing the publicity and signage requirements.
- 8.2 Said contracts must be returned to the City prior to any distribution of PARC Tax funds to the entity or organization.
- 8.3 Distribution of awarded funds shall occur on a quarterly basis for events and/or expenses anticipated to occur during the upcoming quarter.

9.0 Reporting Requirements.

- 9.1 Each recipient of PARC Tax funds shall submit written reports as required by City Council, detailing how it expended the funds received.
- 9.2 A recipient may be required to make a brief presentation to discuss how the PARC Tax funds received were expended at a public meeting.
- 9.3 Future funding may be withheld due to inadequate, incomplete, or failure to submit reports.

10.0 Publicity and Signage Requirements.

- 10.1 To help American Fork residents recognize how PARC Tax revenues are being spent, Recipients shall provide credit to the PARC Program.
- 10.2 Said credit requirements shall be Proposed by the Advisory Board for each Recipient and approved by City Council.