

AGENDA SUMMARY
GRAND COUNTY COMMISSION MEETING
10/18/2022

TITLE:	Approving a Cooperative Agreement Between Utah State University and Grand County Utah for the Moab Small Business Development Center
FISCAL IMPACT:	\$300,000
PRESENTER(S):	August Granath, Economic Development Director Ben Alter, Economic Development Specialist

Prepared By:
Ben Alter, Economic Development Specialist

FOR OFFICE USE ONLY:
Attorney Review:

RECOMMENDED MOTION:

I move to approve the cooperative agreement between Utah State University and Grand County for the purpose of establishing the Moab Small Business Development Center.

BACKGROUND:

Though our area has previously benefited from a Small Business Development Center (SBDC) Director, the position was only part-time, whereas our community's need for this individual and their resources exceeded that part-time commitment. With Grand County's increased economic development programming and its goal to pursue economic diversification over the next three years, the Grand County Economic Development Department and local organizations will continue to rely on the Moab SBDC Director.

Because of this immense scope of work, Grand County and Utah State University (USU) earlier this year worked out the basis for this cooperative agreement. The cooperative agreement will see Grand County support the SBDC Director's salary and benefits (up to \$100,000) for three years. USU commits to providing the following resources for the SBDC Director role:

- Business Consulting Services including education, training, workshops, and one-on-one business consulting to help small businesses on emerging, retaining, and expansion resources
- Office space and furniture/equipment for general operations
- Training for and supervision of the Moab SBDC Director

ATTACHMENT(S):

1 Resolution Approving a Cooperative Agreement Between Utah State University and Grand County Utah for the Moab Small Business Development Center

**GRAND COUNTY, UTAH
RESOLUTION NO. ____ (2022)**

**APPROVING A COOPERATIVE AGREEMENT
BETWEEN
UTAH STATE UNIVERSITY AND GRAND COUNTY
FOR
THE MOAB SMALL BUSINESS DEVELOPMENT CENTER**

WHEREAS, the Utah Interlocal Cooperation Act, as found in Utah Code §§ 11-13-101 *et seq.*, sets forth the mechanism for creating cooperative agreements between public agencies;

WHEREAS, Utah Code § 11-13-212 permits public agencies to contract with each other to perform any service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform;

WHEREAS, USU-Blanding Campus (“USU”) provides Business Consulting Services;

WHEREAS, USU has agreed to expand their Business Consulting Services programming into Grand County by recruiting and retaining a full-time Small Business Development Center (“*SBDC*”) Director located in Moab;

WHEREAS, the County has agreed to pay USU up to \$100,000 per year, for three years, in support of the Moab Small Business Development Center; and

WHEREAS, the Grand County Commission has considered and approved the Cooperative Agreement between USU and the County, as required by Utah Code § 11-13-202.5(1)(b), in a regular public meeting on October 18, 2022.

NOW THEREFORE BE IT RESOLVED, that the Grand County Commission hereby approves the following Cooperative Agreement, attached hereto as *Exhibit A*.

APPROVED by the Grand County Commission in open session this 18th day of October 2022 by the following vote:

Those voting aye: _____

Those voting nay: _____

Absent: _____

Grand County Commission

ATTEST:

Jacques Hadler, Chair

Gabriel Woytek, Clerk/Auditor

**EXHIBIT A
COOPERATIVE AGREEMENT**

This COOPERATIVE AGREEMENT (“Agreement”), effective as of July 1, 2022, is made by and between Grand County, located at 125 East Center, Moab, Utah (“County”), and Utah State University – Blanding campus, located at 576 West 200 South, Blanding, Utah (“USU”). County and USU may each be referred to as “Party” or collectively as the “Parties.”

1. **Term; Renewal; Termination.** The Term of this Agreement shall be three (3) years, beginning **July 1, 2022** and ending **June 30, 2025** (“*Term*”). USU and the County may periodically amend or replace this Agreement to reflect updates and changes that arise relating to Business Consulting Services, and any such amendments must be made in writing. Either Party may terminate this Agreement by providing sixty (60) days advance written notice to the other Party. Either Party may terminate this Agreement immediately by providing written notice if the other Party materially breaches any term of this Agreement or in the event of non-appropriation, as defined in Section 10.

2. **Coordination.** The Parties will coordinate quarterly with one another regarding the administration of the Business Consulting Services. Coordinated efforts include:

(i) **Contact Point.** Throughout the Term, each Party will designate a contact point for coordination efforts. As of the Effective Date, the following persons will serve as the contact point:

USU	Grand County
Meghan McFall meghan.mcfall@usu.edu (435) 678-8102	August Granath agranath@grandcountyutah.net (435) 259-1340

(ii) **Reporting.** Reporting will be completed quarterly by USU. The quarterly narrative and number will be turned in to the SBDC Regional Director by the 15th of the month following the quarter-end. The final report will be distributed to all USU shareholders and Grand County by the 30th of the month.

3. **Responsibilities.**

3.1. USU will:

A. Provide and administer Business Consulting Services in Grand County, which include education, training, workshops, and one-on-one business consulting coordinated to help small businesses in Grand County on emerging, retaining, and expansion resources.

B. Recruit and retain a full-time Moab SBDC Director who shall be a USU employee under the supervision of the SBDC Regional Director (based in the USU Blanding SBDC) and work closely with USU Technical Education, USU Moab, and its administrators.

C. Provide office space and furniture/equipment for the day-to-day operations of the full-time Moab SBDC Director.

D. Annually invoice Grand County for the total cost of the Moab SBDC Director’s salary and benefits up to **\$100,000**.

- 3.2. Grand County will:
- A. Assign one member to participate in the hiring committee for the Moab SBDC Director.
 - B. Collaborate with the Moab SBDC Director and the SBDC Regional Director on needs of the business community in Grand County.
 - C. Upon receiving an invoice from USU, pay the total cost of the Moab SBDC Director's salary and benefits up to \$100,000.

4. **Facilities and Equipment.** Each Party will be responsible for and control over its own facilities and equipment. Any property, including furnishings, tools, and equipment shall be owned by the Party that purchased said property.

5. **Employees.** Neither Party assumes any responsibility for the actions or management of the other Party's employees. All USU employees shall be governed by USU policies and procedures. All Grand County employees shall be governed by the Grand County's policies and procedures. Each Party will be responsible for the activities of its own employees and for complying with its own policies and procedures.

6. **Non-Discrimination.** Neither USU nor Grand County will discriminate in any way based on race, color, religion, sex, national origin, age, genetic information, sexual orientation or gender identity/expression, disability, status as a protected veteran, or any other status protected by local, state, or federal law.

7. **Compliance with the Law.** USU and Grand County shall comply with all applicable federal and state laws associated with performance under this Agreement.

8. **FERPA.** The Parties recognize that each is required to comply with the Family Education Rights and Privacy Act ("FERPA") in each Party's respective handling of Confidential Student Information.

(i) **Definition.** "Confidential Student Information" is defined as information that is personally identifiable to a student who is or was enrolled at USU or the County by any of the following means: the student's name, the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as an identification number, or biometric record; other indirect identifiers, including but not limited to the student's date of birth, place of birth, and mother's maiden name; or any other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community to identify the student with reasonable certainty and includes information supplied to either Party by the other Party as well as any information provided by the students themselves and third parties to the either Party.

(ii) **Confidentiality.** Each Party represents and certifies that it: (1) will protect and hold in strict confidence all Confidential Student Information it receives from or on behalf of the other Party (or its students), including without limitation, academic information, professional training and/or certifications, evaluations of students, health and other insurance information, and the results of criminal background checks and/or drug testing or treatment information; (2) will not, except with the written consent of the student, use Confidential Student Information for any purpose other than to carry out the purposes of the Agreement; and (3) will not disclose Confidential Student Information except to authorized individuals within its organization who

have a legitimate need to know Confidential Student Information to carry out the purposes of the Agreement.

(iii) Breach. If either Party reasonably determines in good faith that the other Party has materially breached any of its confidentiality obligations under this Agreement or has violated FERPA, the non-breaching Party, in its sole discretion, will have the right to require the breaching Party to submit to a plan of monitoring and reporting; provide the breaching Party with a fifteen (15) day period to cure the breach, or terminate the Agreement immediately. Before exercising any of these options, the non-breaching Party will provide written notice to the other Party describing the violation and the action it intends to take. If the Family Policy Compliance Office of the U.S. Department of Education determines that any Party improperly disclosed personally identifiable information obtained from the other Party's education records, then the non-breaching Party may not allow the other Party access to education records for at least five years.

9. **Miscellaneous.**

9.1. Choice of Law and Venue. The Agreement will be governed by the laws of the State of Utah, without regard to conflicts of laws principles. Venue for any lawsuits, claims, or other proceedings between the Parties relating to or arising under the Agreement shall be exclusively in the Moab District Court.

9.2. Government Records and Management Act. The Parties acknowledge that Each Party is a governmental entity subject to the Utah Government Records Access and Management Act, Utah Code section 63G-2-101 et seq., as amended ("GRAMA"); that certain records within University's possession or control, including without limitation, the Agreement (but not including (i) proprietary software or (ii) materials to which access is limited by the laws of copyright or patent), may be subject to public disclosure; and that any confidentiality obligations shall be subject in all respects to compliance with GRAMA.

9.3. Governmental Immunity. The Parties further acknowledge that each Party is a governmental entity under the Governmental Immunity Act of Utah, Utah Code section 63G-7-101 et seq., as amended (the "Immunity Act"). Nothing in the Agreement shall be construed as a waiver by either Party of any protections, rights, or defenses applicable to either Party under the Immunity Act, including without limitation, the provisions of Section 63G-7-604 regarding limitation of judgments. It is not the intent of either Party to incur by contract any liability for the operations, acts, or omissions of the other Party or any third party and nothing in the Agreement shall be so interpreted or construed. Consistent with the terms of the Immunity Act, USU and County agree that each party is responsible and liable for its own wrongful or negligent acts that it commits, or which are committed by its agents, officials, or employees.

9.4. Notice. Any notice or other communication required or permitted to be given to either party hereto shall be in writing and shall be deemed to have been properly given and effective: (a) on the date of delivery if delivered in person during recipient's normal business hours; or (b) on the date of attempted delivery if delivered by courier, express mail service or first-class mail, registered or certified. Such notice shall be sent or delivered to the respective addresses listed in the opening paragraph of this Agreement.

9.5. Assignment. Neither Party may assign, transfer, or otherwise dispose of its rights, interests, or duties hereunder, in whole or in part, to any third party without prior written approval from the other Party.

9.6. Relationship of Parties. In assuming and performing the obligations of this Agreement, the Parties are each acting as independent parties, and neither shall be considered or represent itself as a joint venture, partner, agent, or employee of the other.

9.7. Amendment and Supplement. Any amendment and/or supplement of this Agreement shall come into force only after a written agreement is signed by both Parties. The amendment and supplement duly executed by both Parties shall be part of this Agreement and shall have the same legal effect as this Agreement.

9.8. Merger. This Agreement embodies the entire understanding of the Parties and supersedes all previous communications, representations, or understandings, either oral or written, between the Parties relating to the subject matter thereof.

9.9. Severability. The provisions of this Agreement are severable, and in the event that any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling body of the law, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions herein.

10. **Non-appropriation.** In the event that the County fails to budget and appropriate sufficient funds to meet its financial obligations hereunder ("Non-appropriation") by January 1 of each year of the Term, then Non-appropriation shall be deemed to have occurred and the County shall not be obligated to make the payment otherwise required in Section 3.2.D, and this Agreement shall terminate in accordance with Section 1.

IN WITNESS THEREOF the Parties hereto have caused this Agreement to be duly executed on their behalf by a duly authorized representative as of the Effective Date set forth above.

Utah State University:

By: _____
Print Name:
Title:

Grand County:

By: _____
Print Name:
Title:

Approved as to Form:

County:

By: _____
Print Name:
County Attorney

Utah State University:

By: _____
Print Name:
Title: