

**2023 DEMOLITION DERBY
WHIPLASH RACING LLC**

AGREEMENT dated this 2nd day of May, 2023, by and between Tooele County ("County"), and Whiplash Racing LLC, a Utah limited liability company ("Contractor").

WHEREAS, County desires to provide a demolition derby as part of the Tooele County Fair in August 2023; and

WHEREAS, Contractor has the necessary expertise and experience to plan and produce such a demolition derby;

NOW THEREFORE, the parties mutually agree as follows:

1. Retention as Contractor. County hereby retains Contractor to perform the services described in paragraph 2. Contractor warrants that it has the qualifications, experience, and ability to properly perform the described services.
2. Services Provided by Contractor. Contractor shall plan and produce a demolition derby to be held at the Deseret Peak Complex on August 5, 2023, ("the event"), and shall provide the following services:
 - Distribute purse
 - Supply and distribute trophies
 - Obtain and maintain insurance as required by this Agreement
 - Provide qualified derby officials
 - Provide event staff
 - Conduct marketing for drivers
 - Provide event staff shirts and driver shirts
 - Provide supplies and equipment to inspect all contestant cars
 - Provide all labor, supplies and equipment needed to produce the event safely and efficiently
 - Provide announcer and DJ
 - Provide security, fire protection and EMS
3. Compensation. County shall pay Contractor \$70,000 (\$38,000 for purse, \$25,500 for operations, and \$6,500 for marketing) at least 90 days prior to the event. Upon demand by County, Contractor shall provide all event-related financial records, including documentation of purse payouts, to County.

4. Tickets, Pit Passes and Parking Fees. County shall retain all ticket sales proceeds. County shall establish ticket prices, discounts, ticket packages, promotions, and the number and type of complimentary tickets. Contractor may sell pit passes and shall retain all pit pass sales proceeds. Prior to the event, County and Contractor shall jointly determine the number of pit passes that may be sold. Access to the pit area shall be controlled by County; only persons with valid pit passes will be admitted to the pit area. Contractor shall retain \$1 from each parking fee collected and shall submit the balance of parking fees collected to County.

5. Sponsors. County has the first right to procure sponsors. Contractor may procure and contract with other sponsors with pre-approval from County. Contractor shall designate County as a "Title Sponsor" on all advertising and promotional campaigns and materials for each derby.

6. Services Provided by County. County shall perform the following services at County's expense:

- Prepare facility to Contractor's specifications, including set up, clean up, lighting and permanent restrooms
- Set up barriers and arena for derby area
- Conduct necessary repairs to barriers and arena during the event
- Remove barriers after the event
- Provide tractor with groomer, front end loader, and water truck, for arena set-up and arena maintenance before, during and after the event
- Provide operators for the above equipment
- Provide sound system
- Waive the facility fee(s)
- Ticket takers

7. Assignment. This Agreement may only be assigned upon mutual consent of the parties.

8. Indemnification. Contractor shall defend, indemnify and hold County and its officers, employees and volunteers harmless from all claims, lawsuits, demands, judgments and liabilities directly or indirectly arising out of Contractor's negligent acts, intentional acts, errors or omissions in performing the described services.

9. Insurance. Contractor shall obtain and maintain the following types and amounts:

Coverage	Minimum Limit
Commercial General Liability	Per Occurrence - \$2,000,000 Aggregate - \$3,000,000
Spectator Liability	Combined Single Limit = \$1,000,000

All insurance policies shall be issued by a company or companies authorized to do business in the State of Utah which carry a Moody's rating of not less than A.

10. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties. The contractual relationship between County and Contractor is one of independent contractor and not agency. Contractor is not a County employee and has no authority to enter obligations on behalf of County.
11. Expiration, Extension and Termination. This initial term of this Agreement shall expire on October 1, 2023. The parties may annually extend this Agreement for calendar years 2024 and 2025 upon mutual written agreement. This Agreement may be terminated for cause by either party upon 10 days' written notice to the other party. This Agreement may be terminated by County without cause upon 30 days' written notice to Contractor. If County terminates for convenience, Contractor shall cease performing services, and County shall pay to Contractor compensation for services performed and costs incurred prior to termination.
12. Acceptance of Final Payment Constitutes Release. The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release of County from all claims and liabilities for compensation to, or claimed by, Contractor.
13. Waiver of Remedies. Failure by either party to insist upon the strict performance of any provision of this Agreement shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. All remedies permitted or available to a party under this Agreement, or at law or equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available remedy.
14. Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.
15. Integration. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing signed by the parties.
16. Future Appropriations. This Agreement shall not be construed in any manner to bind County's future budget appropriations.
17. Construction of Language. The provisions of this Agreement shall be construed according to their common meaning and purpose of providing a public benefit and not strictly for or against any party. This Agreement shall be construed consistent with the provisions hereof to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural, and the masculine gender shall include the feminine or neutral genders.

18. Captions. Captions used in this Agreement are for convenience only and do not define, limit or describe the scope or intent of any provision of the Agreement.

19. Authorization. Each party has expressly authorized the execution of this Agreement on its behalf.

20. Ethical Standards and Conduct. Contractor represents that it has not: (a) provided an illegal gift or payoff to a county officer or employee or former county officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; or (c) knowingly influenced (and hereby promises that it will not knowingly influence) a county officer or employee or former county officer or employee to breach any of the ethical standards set forth in the County's Conflict of Interest ordinance.

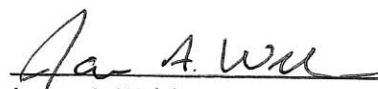
21. Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in this United States mail, postage prepaid, or by email with proof of transmission, and addressed as follows:


TOOELE COUNTY
Brittany Lopez, Assistant County Manager
47 S. Main Street
Tooele, UT 84074
brittany.lopez@tooeleco.org

WHIPLASH RACING LLC
c/o Del D. McQuiddy
656 Walden Drive
Tooele, UT 84074

TOOELE COUNTY:

WHIPLASH RACING LLC:


James A. Welch
Tooele County Manager


Del D. McQuiddy
Agent

APPROVED AS TO FORM:

 04/20/2023
Colin Winchester
Deputy County Attorney