

RESOLUTION NO. _____, 2018

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL APPROVING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT WITH THE REDEVELOPMENT AGENCY OF SALT LAKE CITY FOR THE TRANSFER OF \$15,000,000 OF COUNTY TRANSPORTATION FUNDS TO THE RDA TO BE USED FOR CERTAIN TRANSPORTATION PURPOSES.

W I T N E S S E T H

WHEREAS, Salt Lake County (the “County”) and the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a Utah community development and renewal agency (the “RDA”), are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the “Interlocal Act”), and, as such, are authorized by the Interlocal Act to enter into an interlocal cooperation agreement to act jointly and cooperatively on the basis of mutual advantage;

WHEREAS, Section 11-13-215 of the Interlocal Act authorizes a county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state; and

WHEREAS, during the 2018 General Session, the State Legislature amended Section 72-2-121 of the Utah Transportation Code, Utah Code Ann. §§ 72-1-101 *et seq.*, to add to the distribution of revenue requirements in the County of the First Class Highway Projects Fund a distribution for parking facilities in a county of the first class; and

WHEREAS, the County desires to use this revenue to facilitate significant economic development and recreation and tourism development within Salt Lake County by financing all or a portion of the costs of an underground parking facility project in accordance with Section 72-2-121 of the Utah Transportation Code and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the County and the RDA desire to enter into this Agreement providing for the transfer of Fifteen Million Dollars (\$15,000,000) (“Transportation Funds”) to the RDA, if the RDA meets certain conditions precedent, to be used to facilitate construction of an underground parking structure (the “Parking Structure”) located in Salt Lake City, between 200 West and 300 West and 100 South and 200 South, on the downtown block referred to as Block 67.

R E S O L U T I O N

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the County Council of Salt Lake County:

1. That the Interlocal Agreement between Salt Lake County and the Redevelopment Agency

of Salt Lake City is approved, in substantially the form attached hereto as **ATTACHMENT A**, and that the Salt Lake County Mayor is authorized to execute the same.

2. That the Interlocal Agreement will become effective as stated in the Interlocal Agreement.

APPROVED AND ADOPTED in Salt Lake City, Salt Lake County, Utah, this _____ day of _____, 2018.

Aimee Winder Newton, Chairperson

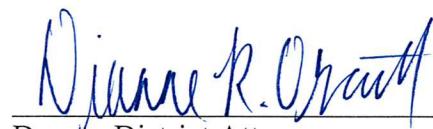
ATTEST:

Sherrie Swensen
Salt Lake County Clerk

VOTING

Council Member Bradley	_____
Council Member Bradshaw	_____
Council Member Burdick	_____
Council Member DeBry	_____
Council Member Granato	_____
Council Member Jensen	_____
Council Member Newton	_____
Council Member Snelgrove	_____
Council Member Wilson	_____

APPROVED AS TO FORM:



Diane R. Orant
Deputy District Attorney

ATTACHMENT A
Interlocal Cooperation Agreement between Salt Lake County and
the Redevelopment Agency of Salt Lake City

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY

and

REDEVELOPMENT AGENCY OF SALT LAKE CITY

THIS INTERLOCAL COOPERATION AGREEMENT (this “Agreement”) is dated as of the date it is recorded by the Salt Lake City Recorder’s Office (“Effective Date”), by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the “County”), and the **REDEVELOPMENT AGENCY OF SALT LAKE CITY**, a Utah community development and renewal agency (the “RDA”). The County and the RDA are sometimes referred to collectively as the “Parties” and either may be referred to individually as a “Party,” all as governed by the context in which such words are used.

WITNESSETH:

WHEREAS, the County and the RDA are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the “Interlocal Act”), and, as such, are authorized by the Interlocal Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers; and

WHEREAS, Section 11-13-215 of the Interlocal Act authorizes a county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state; and

WHEREAS, during the 2018 General Session, the State Legislature amended Section 72-2-121 of the Utah Transportation Code, Utah Code Ann. §§ 72-1-101 *et seq.*, to add to the distribution of revenue requirements in the County of the First Class Highway Projects Fund a distribution for parking facilities in a county of the first class; and

WHEREAS, the County desires to use this revenue to facilitate significant economic development and recreation and tourism development within Salt Lake County by financing all or a portion of the costs of an underground parking facility project in accordance with Section 72-2-121 of the Utah Transportation Code and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the County and the RDA desire to enter into this Agreement providing for the transfer of Fifteen Million Dollars (\$15,000,000) (“Transportation Funds”) to the RDA, if the RDA meets certain conditions precedent, to be used to facilitate construction of an underground parking structure (the “Parking Structure”) located in Salt Lake City, between 200 West and 300 West and 100 South and 200 South, on the downtown block referred to as Block 67.

A G R E E M E N T :

NOW, THEREFORE, in reliance on the stated recitals, which are incorporated herein by reference, and for good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

1. Transportation Funds – Use. In the event County transfers the Transportation Funds to RDA pursuant to this Agreement, RDA shall use the Transportation Funds solely to facilitate the construction of the Parking Structure.

2. Conditions Precedent to Transfer of Transportation Funds. County shall transfer the Transportation Funds to RDA within ten (10) business days after RDA completes the following (the “Conditions Precedent”). County agrees and acknowledges that any reference in the foregoing Conditions Precedent to RDA Board or Salt Lake City Council (“City Council”) approval shall mean “approval in its sole and exclusive discretion”.

(a) Block 67 Survey Area Resolution. RDA administrative staff will use commercially reasonable efforts to transmit a survey area resolution (“Survey Area Resolution”), as described in Utah Code 17C-5-103, to the RDA Board of Directors (“RDA Board”) to initiate the creation of the Block 67 Community Reinvestment Project Area (“Block 67 Project Area”). RDA administrative staff’s transmittal of the survey area resolution to the RDA Board will occur no later than December 31, 2018.

(b) Removal from CBD Project Area. RDA administrative staff will use commercially reasonable efforts to transmit the requisite information to the RDA Board to request the removal of Block 67 from the RDA’s existing Central Business District project area (“Block 67 Removal Documents”). RDA administrative staff’s transmittal to the RDA Board of the Block 67 Removal Documents will occur no later than December 31, 2018.

(c) Project Area Plan. If the RDA Board approves the Survey Area Resolution and the Block 67 Removal Documents, RDA administrative staff will use commercially reasonable efforts to draft a project area plan (“Block 67 Project Area Plan”). The Block 67 Project Area Plan shall be transmitted to the RDA Board and City Council by December 31, 2018.

(d) Interlocal Agreements with County and School District for Tax Increment. After notice and public hearings as required under Utah Code 17C-5-104, if the RDA Board and City Council approve the Block 67 Project Area Plan, RDA administrative staff will use commercially reasonable efforts to draft and negotiate interlocal agreements for the RDA’s receipt of a portion of the City’s, County’s and Salt Lake City School District’s (“School District”) tax increment from Block 67 (“TI Interlocals”) for the governing bodies of the County, City, RDA, and School District’s and City Council’s review.

(e) Tax Increment Reimbursement Agreement. In the event that the County, City, School District, and RDA execute the TI Interlocals, respectively, RDA staff shall use commercially reasonable efforts to negotiate the terms of a tax increment reimbursement agreement (“Reimbursement Agreement”), which must be reviewed and approved by the RDA Board under Utah Code 17C-1-102, with the developer of the Parking Structure (“Developer”) for the receipt of a portion of the RDA’s collected tax increment in the Block 67 Project Area. The Reimbursement Agreement shall contain the following terms:

(i) Upon execution of the Reimbursement Agreement and pursuant to the terms of the Reimbursement Agreement, the RDA shall transfer the Transportation Funds to the Developer for the sole purpose of building the Parking Structure pursuant to the following terms: the Parking Structure shall be located on Block 67 in downtown Salt Lake City; shall serve as a podium for a hotel, office building, residential, and various retail and restaurant buildings; be placed underground; and shall have at least thirteen hundred (1300) parking stalls, or such other number of stalls as determined necessary to facilitate significant economic, tourism, and recreation development, a reasonable number of which shall be available and dedicated for public use.

(ii) Tax increment collected from the Block 67 Project Area by the RDA that is attributable to Developer’s project, including the Parking Structure, shall first be used to repay the RDA for the transfer of the Transportation Funds, which RDA shall then repay to the County without additional interest.

(iii) Developer shall agree to indemnify, hold harmless, and defend the County and RDA, its officers, agents, and employees from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of: (i) the Developer’s breach of the Reimbursement Agreement, (ii) any acts or omissions of or by the Developer, its agents, representatives, officers, employees, or subcontractors in connection with the performance of the Reimbursement Agreement, or (iii) Developer’s improper use of the Transportation Funds.

3. Cost Breakdown. Upon its transfer of the Transportation Funds to the Developer, the RDA shall provide a cost breakdown report to the County accounting for such transfer.

4. Liability. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq. (the “Immunity Act”). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

5. Interlocal Cooperation Act Requirements. In satisfaction of the requirements of the Interlocal Act, and in connection with this Agreement, the Parties agree as follows:

- (a) This Agreement shall be approved by each Party pursuant to Section 11-13-202.5 of the Interlocal Act;
- (b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Section 11-13-202.5 of the Interlocal Act;
- (c) A duly executed original counterpart of this Agreement shall be filed with keeper of records of each Party, pursuant to Section 11-13-209 of the Interlocal Act;
- (d) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs; and
- (e) No separate legal entity is created by the terms of this Agreement. Pursuant to Section 11-13-207 of the Interlocal Act, to the extent that this Agreement requires administration other than as set forth herein, the Mayor of the County and the Executive Director of the RDA are hereby designated as the joint administrative board for all purposes of the Interlocal Act.

6. Term of Agreement. This Agreement shall take effect immediately upon the completion of the following: (a) the approval of the Agreement by the governing bodies of the County and the RDA, including the adoption of any necessary resolutions or ordinances by the County and the RDA authorizing the execution of this Agreement by the appropriate person or persons for the County and the RDA, respectively, (b) the execution of this Agreement by a duly authorized official of each of the Parties, (c) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the approval of each respective attorney, and (d) the filing of a copy of this Agreement with the keeper of records of each Party.

7. Non-Funding Clause.

(a) The County has requested or intends to request an appropriation of the Transportation Funds to be paid to the RDA for the purposes set forth in this Agreement. If the Transportation Funds are not appropriated and made available beyond December 31 of the county fiscal year in which this Agreement becomes effective, the County's obligation to contribute the Transportation Funds to the RDA under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to Contribute the Transportation Funds to the RDA in succeeding fiscal years. The County's obligation to contribute the Transportation Funds to the RDA under this Agreement will terminate and become null and void on the last day of the county fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds are budgeted and appropriated. The Parties agree that such termination of the County's obligation under this Paragraph will not be construed as a breach of this Agreement or as an event of default under this Agreement, and that such termination of the

County's obligation under this Paragraph will be without penalty and that no right of action for damages or other relief will accrue to the benefit of the RDA, its successors, or its assigns as to this Agreement, or any portion thereof, which may terminate and become null and void.

(b) If the Transportation Funds are not appropriated and made available to fund performance by the County under this Agreement, the County shall promptly notify the RDA of such non-funding and the termination of this Agreement. However, in no event, shall the County notify the RDA of such non-funding later than thirty (30) days following the expiration of the county fiscal year for which the Transportation Funds were last appropriated for contribution to the RDA under this Agreement.

8. Assignment and Transfer of Transportation Funds. The RDA shall not assign or transfer its obligations under this Agreement nor its rights to the Transportation Funds under this Agreement without prior written consent from the County. The RDA shall use the Transportation Funds provided pursuant to this Agreement exclusively and solely for the purposes set forth in the Agreement.

9. Notices. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing, and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage pre-paid, and certified and addressed as follows:

If to Salt Lake County: County Mayor
2001 South State, N2-100
Salt Lake City, Utah 84190

With a copy to: Salt Lake County District Attorney
35 East 500 South
Salt Lake City, Utah 84111

If to the RDA: Salt Lake City Redevelopment Agency
City & County Building
451 South State, Room 418
Salt Lake City, Utah 84111
Attn: Chief Administrative Officer

With a copy to: Salt Lake City Attorney's Office
P.O. Box 145478
451 South State Street, Suite 505A
Salt Lake City, UT 84114-5478

10. Ethical Standards. RDA represents that it has not: (a) provided an illegal gift or payoff to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement

or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statutes or Salt Lake County's Ethics Code, Chapter 2.07, Salt Lake County Code of Ordinances, 2001; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statutes or Salt Lake County ordinances.

11. Entire Agreement. Subject to the requirements in 6(b) above, this Agreement and the documents referenced herein, if any, constitute the entire Agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party, or agents for either Party, that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

12. Amendment. This Agreement may be amended, changed, modified or altered only by an instrument in writing signed by both parties. If the amendment, change, or modification is material, the instrument shall be: (a) approved by the governing bodies of the County and the RDA, including the adoption of any necessary resolutions or ordinances by the County and the RDA authorizing the execution of any amendment, change, modification or alteration of this Agreement by the appropriate person or persons for the County and the RDA, respectively, (b) executed by a duly authorized official of each of the Parties, (c) submitted to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the execution by each respective attorney, and (d) filed with the keeper of the records of each Party.

13. Event of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" as such term is used herein:

(a) Failure of a Party to comply with any of the material terms, conditions, covenants, or provisions of this Agreement that is not fully cured by such Party on or before the expiration of a sixty (60) day period (or, if the other Party approves in writing—which approval shall not be unreasonably withheld, conditioned or delayed—such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon the non-defaulting Party's written notice to the defaulting Party of the occurrence thereof.

(b) Remedies in the Event of Default. Upon the occurrence of any Event of Default, the non-defaulting Party may, in its sole discretion, pursue all remedies conferred by law or equity or other provisions of this Agreement.

(c) Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

14. No Obligations to Third Parties. The Parties agree that the RDA's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to the RDA. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

15. Agency. No officer, employee, or agent of the RDA or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. The RDA and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

16. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

17. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

18. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR COUNTY

SALT LAKE COUNTY:

By _____
Mayor Ben McAdams or Designee

Dated: _____, 20____

Approved by:

DEPARTMENT OF REGIONAL TRANSPORTATION,
HOUSING, & ECONOMIC DEVELOPMENT

By Carlton J Christensen

Name: Carlton J Christensen

Title: Department Director

Dated: July 3, 2018

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By Dianne R. Orcutt

Dianne R. Orcutt
Deputy District Attorney

Date 6/25/2018

[Signatures continue on next page.]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR RDA

**REDEVELOPMENT AGENCY OF SALT
LAKE CITY:**

Jacqueline M. Biskupski, Executive Director
Dated: _____, 2018

Approved as to Proper Form and Compliance with Applicable Law:

Salt Lake City Attorney's Office

Katherine N. Lewis

Dated: _____, 2018