

Interlocal Cooperation Agreement

This INTERLOCAL COOPERATION AGREEMENT ("Agreement") is made and entered into this 22 day of January 2018 by SALT LAKE COUNTY ("County"), a body corporate and politic of the State of Utah for its Division of Parks and Recreation and WEST VALLEY CITY ("City"), a municipal corporation under the laws of the State of Utah.

RECITALS:

A. The County and the City are public agencies as contemplated in the referenced sections of the Utah Code (more specifically referred to as UTAH CODE ANN. § 11-13-101, *et seq.* - Interlocal Cooperation Act).

B. UTAH CODE ANN. § 11-13-214 provides that any public agency may convey property to or acquire property from any other public agencies for consideration as may be agreed upon.

C. County intends to develop Phase III of the Utah & Salt Lake Canal Trail, located within the City. The approximately 1.75 mile section of trail runs along the south bank of the Utah & Salt Lake Canal beginning at approximately 5900 West and ending at approximately 7200 West; and

D. City desires to contribute funds towards the development of the trail; and

E. Pursuant to the authority granted by the Interlocal Cooperation Act, the Parties mutually desire to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1: GRANT

City hereby agrees that upon execution of this Agreement, it shall pay One Hundred Thousand Dollars (\$100,000) to the County to help fund Phase III development of the Utah & Salt Lake Canal Trail. The County agrees to hold the funds in a segregated account and use the funds for the Phase III development of the Utah & Salt Lake Canal Trail. The County intends to complete Phase III development of the Utah & Salt Lake Canal Trail by no later than December 31, 2019.

In the event the County fails to complete Phase III development of the Utah & Salt Lake Canal Trail by December 31, 2019, the County shall retain any excess funds in the segregated account

until the Phase III development is actually complete or until expenses have been incurred for future phases of the Utah & Salt Lake Canal Trail development, in which case the funds may be used to pay such expenses.

ARTICLE 2: OWNERSHIP & MAINTENANCE

The Parties agree the Utah & Salt Lake Canal Trail shall be the sole property of the County and the County shall have sole responsibility to maintain the trail.

ARTICLE 3: TERM

This Agreement shall take effect upon execution and terminate upon the performance by the Parties of all the obligations described herein, unless earlier terminated as provided in Article 5, section f. In no event shall the duration of this Agreement exceed three (3) years.

ARTICLE 4: GENERAL PROVISIONS

a. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

b. **Captions.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

c. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterparts were upon the same instrument. All signed counterparts shall be deemed to be one original.

d. **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

e. **Waiver of Breach.** Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

f. **Amendment.** This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

g. **Time.** Time is of the essence in this Agreement.

h. **Notice.** Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof (b) within three (3) days after such notice is deposited in the United States Mail, certified mail postage prepaid and addressed to the parties at their respective addresses.

i. Both parties are governmental entities under the Governmental Immunity Act of the State 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.

ARTICLE 5: INTERLOCAL COOPERATION ACT

a. Pursuant to Utah Code Ann. § 11-13-206, the Parties agree that no new entity is created by the provisions of this Agreement.

b. Pursuant to Utah Code Ann. § 11-13-207, the Parties agree that the cooperative undertaking under this Agreement shall be administered by a joint board consisting of the County’s designee and the City’s designee. The joint board shall meet as needed to review the operation of this Agreement. To the extent necessary, voting will be based upon one vote per Party, pursuant to U.C.A. § 11-13-206(1)(g).

c. This Agreement will not take effect until: (a) it has been approved by both Parties, as required by Utah Code Ann. §§ 11-13-202(2), it has been submitted to the attorney authorized to represent each Party for review as to proper form and compliance with applicable law, as required by Utah Code Ann. § 11-13-202.5, and (c) it has been filed with the keeper of records of each Party, as required by Utah Code Ann. § 11-13-209.

d. Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action done under this Agreement, and for any budgeting or financing of such costs.

e. To the extent a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party. This includes any disposition of property upon the termination of this Agreement.

f. Either Party may withdraw from this Agreement for an “*Event of Default*” as defined below, upon written notice from the party wishing to withdraw to the other party. As used in this Agreement, the term “*Event of Default*” means (a) a party fails to make any payment herein when the same becomes due and such failure continues for a period of thirty (30) days after written notice to the party failing to make such payment; (b) a party hereto fails to perform any of its material obligations and such failure continues for a period of thirty (30) days after written notice to such defaulting party; or (c) any material representation or warranty of a party contained in this Agreement proves to be untrue or incorrect in any material respect when made.

IN WITNESS WHEREOF, the City, by resolution duly adopted by its council, a copy of which is attached hereto, caused this Agreement to be signed by its Mayor and attested by its Recorder; and the County, by resolution of its council, a copy of which is attached hereto, caused this Agreement to be signed by the Mayor, or his designee, his or her signature being duly notarized.

SALT LAKE COUNTY

By: Erin Sitwick
Mayor or Designee

Division Approval:

By: Shelley Nishimura
Director or Designee

For Martin Jensen

Department Approval:

By: Megan L. Smith
Director or Designee

APPROVED AS TO FORM:

Megan L. Smith
Megan L. Smith
Deputy District Attorney

Digitally signed by Megan Smith
On 11/15/2019, 10:00:00 AM
in Department of Justice
Attestation ID: 10000000000000000000
Name: Megan Smith
email: megan.smith@doj.state.ut.us
Date: 2018-11-16 15:04:09-0700

Megan L. Smith
Deputy District Attorney

WEST VALLEY CITY

By: Ron Biggs
Title: Mayor
Date: 1-22-19

APPROVED AS TO FORM:

BMF 115/15

Attorney for West Valley City