

FUNDING AGREEMENT

This Funding Agreement (“Agreement”) is made and entered into this 14th day of March 2023 (the “Effective Date”) between Salt Lake County, a Utah municipal entity (“SLCo”), and Kennecott Utah Copper LLC, a Utah limited liability company (“Kennecott”). SLCo and KUC are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. Kennecott is the owner of certain real property located in the Butterfield Canyon area within Salt Lake County, Utah (the “**Kennecott Land**”).
- B. SLCo manages, maintains, and operates recreational trails, picnic areas, trailheads, parking areas, and related facilities for public use.
- C. On March 30, 2022, Kennecott entered into a Lease Agreement (the “**Lease Agreement**”) with SLCo to lease approximately 17.1 acres of the Kennecott Land to construct, maintain, repair, and operate thereon a series of trails in accordance with the terms and conditions of the Lease Agreement for biking, hiking, equestrian, and related recreational purposes (the “**Butterfield Canyon Trail Project**”).
- D. Under Section 2(a) of the Lease Agreement, SLCo agreed to pay for all costs of construction of the Butterfield Canyon Trail Project.
- E. Kennecott desires to provide certain amount of funding in accordance with the terms and conditions of this Agreement to support SLCo’s effort to construct a spur trail (described in Section 2(b) below) off the Butterfield Canyon Trail Project with the amenities described herein.

AGREEMENT

In consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term. This Agreement shall be in effect from the Effective Date as set forth above through December 31, 2023.
2. Funding. Subject to the terms and conditions of this Agreement, Kennecott hereby commits and pledges to donate to the SLCo Parks and Recreation department a financial contribution in the amount of one hundred fifty thousand US dollars and no cents (\$150,000.00) (the “Funding”) to support the construction, transportation and installation of the following amenities (collectively referred to as the “Trail Spur”):

(a) **Interpretive Walk Observation Point:** An interpretive walk will be built on Rio Tinto property, which leads out to an observation point. The walk will tell a story of Rio Tinto's mining efforts and history and consists of an entry sign, interpretive signage areas, hitching post, and approximately 150 Ft. of new single-track trail. The observation point overlooks the whole Salt Lake valley, upper Butterfield Canyon, and Rio Tinto Mining operations and will consist of interpretive signs, protective barrier, and bench (the "**Trail Exhibit**"); and

(b) **One-way Directional Trail:** A one-way directional trail will be constructed largely on Rio Tinto property and consists of over one mile of new trail which includes earthen berms at turns and trail shoulder preparation and seeding (the "**Trail Improvements**").

3. Acceptance and Payment. The Parties will follow and complete the procedures set out in [Salt Lake Countywide Policy 1006](#) which includes acceptance of the Funding by the Salt Lake County Council. The Parties will ensure that the terms and conditions of this Agreement shall be noted in the "Other provisions or restrictions" section of the Declaration of Gift form to be completed in accordance with the Salt Lake Countywide Policy 1006. After the Salt Lake County Council has accepted the Funding, and after this Agreement is signed and effective, SLCo will issue an invoice to Kennecott for the Funding in a single lump sum payment. Kennecott will submit the Funding payment to SLCo's ordinary business bank account within 45 days of the end of the month in which the invoice is received. Within 45 days after the receipt of the Funding, SLCo will provide an expenditure schedule of the Funding for the Butterfield Canyon Trail Project.

4. Representations and Warranties. SLCo represents, warrants, and covenants that the Funding will be allocated and spent strictly for the purposes of construction, transportation and installation of the Trail Spur for the Butterfield Canyon Trail Project, more particularly described on **Appendix A** hereto.

5. Reporting. Within 30 days after the completion of the Butterfield Canyon Trail Project construction, SLCo will provide a report to Kennecott which details expenditure of the Funding, including:

- (a) Proof of purchase of items aligned with each of the categories of Funding;
- (b) Any monies remaining in each of the categories of Funding; and
- (c) A detailed report of progress and goals on funded programs including recap of SLCo's promotion of this partnership.

The obligations of this Section shall survive the termination of this Agreement.

6. Assessment. Following the receipt of the report described in Section 5, Kennecott will conduct a review of the expenditures identified in Section 3 and the use of the Funding in relation to SLCo's stated goals. This review will assist Kennecott with the management of its social investment program. SLCo agrees to facilitate this review at the request of Kennecott, including making available

documents and persons with knowledge of SLCo's efforts. The obligations of this Section shall survive the termination of this Agreement.

7. Mutual Representations and Warranties. Each Party hereto represents and warrants to the other:

(a) The warranting Party is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation; and

(b) The warranting Party has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. This Agreement constitutes the valid and legally binding obligation of such Party, enforceable in accordance with its terms and conditions.

8. Ethics and Integrity

(a) For purposes of this section 8, "**Integrity Laws**" means all applicable laws, rules, regulations or other legally binding measures of any jurisdiction, including but not limited to the United Kingdom, the United States of America, and Australia, that relate to the prevention of bribery, corruption, money laundering, dealings with the proceeds of crime, the facilitation of tax evasion or fraud, including without limitation the Bribery Act 2010, the U.S. Foreign Corrupt Practices Act of 1977, Division 70 of the Schedule to the Criminal Code Act (Cth) (Bribery of Foreign Public Officials) of Australia (as amended), national and international laws enacted to implement the OECD Convention Combating Bribery of Foreign Officials, and other similar laws and regulations.

(b) SLCo agrees to abide by the Integrity Laws applicable to SLCo, including [Salt Lake County Ordinance 2.07, County Ethics Code](#) (in effect at any given time). Kennecott agrees to abide by the Integrity Laws applicable to Kennecott as well as Kennecott's code of conduct The Way We Work, and Business Integrity Standard, each of which is available online at <https://www.riotinto.com/sustainability/policies>, as updated from time to time.

(c) It is understood and agreed that no officer or employee of SLCo has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement.

(d) The Parties represent that neither Party has: (a) provided an illegal gift to any officer or employee, or former officer or employee of the other Party, or to any relative or business entity of the other Party's officers or employees, or relative or business entity of the other Party's former officers or employees; (b) retained any person to solicit or secure this contract 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 applicable Integrity Laws or Salt Lake County Code of Ordinances § 2.07 (as in effect at any given time) or Kennecott's code of conduct, The Way We Work or Business Integrity Standards (as updated from time to time), as applicable; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any SLCo officer or employee or former SLCo officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances or applicable law of the State of Utah.

- (g) The Parties each represent, warrant, and covenant that:
- i. neither Party is subject to any contractual, legal or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which would prevent or impede it from performing under this Agreement;
 - ii. no person or entity other than SLCo (whether a Government Official, private individual, enterprise or otherwise) will be a beneficiary of, or have a right or ability to share directly or indirectly in any Funding made pursuant to this Agreement (acknowledging that the Funding will be used to create a trail to be open to the use and enjoyment of the general public);
 - iii. neither Party shall perform, or fail to perform, any act which would cause the other party to be in breach of applicable Integrity Laws;
 - iv. neither Party has offered, paid, promised to pay, authorized the payment of or transferred money or anything of value to any person (including a public official or private individual or enterprise) to secure any improper advantage or benefit in relation to the matters contemplated by this Agreement, either directly or indirectly through a third party; and
 - v. either Party shall promptly, and in any event within seven (7) business days, report to the other Party all actual, alleged or suspected non-compliance with the requirements of this Agreement and cooperate with any investigation of an alleged or suspected breach.

(h) Notification Obligations and Cooperation. Either Party shall immediately notify the other Party if any person approaches the Party for the purpose of any bribery or other corrupt activity concerning this Agreement. Either Party must, on request by the other Party, confirm in writing that it has complied with its obligations under this Section 8 and provide any information reasonably requested, and not otherwise protected or limited by applicable law, by the other Party in support of such compliance.

(i) Records and Audits. Each Party represents and warrants that its accounting books and records are accurate and have been, and will be, kept in compliance with applicable laws. The Parties shall keep separate, accurate and up-to-date accounts and records of their receipt and expenditure of the Funding. The Parties shall keep all invoices, receipts and accounts and any other relevant documents relating to this Agreement for a period of six (6) years from the date of receipt of the Funding. Either Party shall have the right to review, at that Party's reasonable request, the other Party's accounts and records, unless otherwise protected by applicable law, that relate to this Agreement and shall have the right to take copies of such accounts and records. The provisions of Section 8 shall survive the expiration or termination of this Agreement.

9. Conditions to Performance. Neither Party will be obligated to continue to perform under this Agreement unless, at the time in question, the other Party is in substantial compliance with

its representations, warranties and covenants hereunder. If the other Party is not in substantial compliance, the complaining Party shall provide other Party with written notice of such breach in the manner set forth herein and thereafter, the complaining Party's obligations hereunder shall be suspended until such noncompliance has been cured. If the noncompliance is not cured within a reasonable time of such notice, or, in any event, continues for more than six months, the complaining Party may declare a default under this Agreement. Kennecott may seek a return of the Funding if SLCo is in default, however SLCo may retain any Funding SLCo has expended in compliance with this Agreement.

10. Termination. Breach of the Section 8 shall be deemed a material breach entitling Kennecott to terminate. In the event of such breach, Kennecott shall have the right to recover the Funding. This Agreement may be terminated by SLCo for any reason or for no reason, upon not less than 30 days' prior written notice to Kennecott delivered in accordance with this Agreement stating SLCo's intention to terminate this Agreement. Upon such termination, SLCo will return to Kennecott any unused Funding and any Funding used in a manner that was not compliant with this Agreement. Kennecott agrees that SLCo's termination for convenience will not be deemed a termination for default nor will it entitle Kennecott to any rights or remedies provided by law or this Agreement for breach of contract by SLCo or any other claim or cause of action.

11. Miscellaneous Provisions.

(a) No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.

(b) Entire Agreement. The recitals set forth above are incorporated into this Agreement by this reference. This Agreement constitutes the entire agreement among the Parties and supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, to the extent they relate in any way to the subject matter hereof.

(c) Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other; provided, however, that Kennecott may (i) assign any or all of its rights and interests hereunder to one or more of its affiliates, parents, or subsidiaries and (ii) designate one or more of its affiliates, parents, or subsidiaries to perform its obligations hereunder.

(d) Costs of Legal Proceedings. In the event that either Party institutes legal proceedings with respect to this Agreement or the transactions contemplated hereby, each Party shall be responsible for its own costs and expenses incurred in connection with such legal proceedings, including, without limitation, any and all attorneys' fees.

(e) Cooperation and Further Assurances. Each of the Parties shall reasonably cooperate with one another and shall execute and deliver such further and additional documents and take such

other actions that the other Party may reasonably request to effect further and more completely the transactions herein contemplated.

(f) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(g) Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) Construction of Agreement. This Agreement is the result of negotiations between the Parties, none of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. The Parties hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that provides in effect that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

(i) Notices. All notices, requests, demands, claims, and other communications hereunder will be in writing. Any notice, request, demand, claim, or other communication hereunder shall be given by (i) personal delivery, (ii) established overnight courier service (charges prepaid), or (iii) certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to SLCo:
Contracts Administrator
Salt Lake County
2001 South State, Suite, N4-600
Salt Lake City, Utah 84190-3100

Copy to:
Salt Lake County Parks and Recreation
2001 S. State Street, Suite S4-700
Salt Lake City, Utah 84114

If to Kennecott:
Kennecott Utah Copper LLC
4700 Daybreak Parkway
South Jordan City, Utah 84009
Attention: Manager – ESG
Email: jason.hill@riotinto.com

Copy to:
Rio Tinto Legal
4700 Daybreak Parkway
South Jordan City, Utah 84009
Attn: Nicole Carlisle Squires
Email: nicole.squires@riotinto.com

Such communications may also be given by electronic mail, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon the receipt, or upon attempted delivery thereof if the delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means of accomplishing delivery. Any Party may change the address to which

notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

(j) Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.

(k) Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Parties. No waiver by any Party of any provision of this Agreement or any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such default, misrepresentation, or breach of warranty or covenant.

(l) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

(m) Force Majeure. Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, floods, storm, epidemics, quarantine restrictions, explosions, earthquakes, acts of God, acts of terrorism, war, governmental action, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, or any other force majeure event that is beyond the reasonable control of such Party or a supplier or contractor of such Party (each, a "Force Majeure Event"). Each Party will use reasonable good faith efforts to notify the other Party of any such Force Majeure Event promptly following its becoming aware of the Force Majeure Event.

(n) Relationship of the Parties. The relationship of the Parties under this document is not one of partnership, joint venture, employment or agency and nothing in this Agreement is to be treated as constituting or shall be construed to constitute a Party as the partner, agent, joint venturer, employee or legal representative of the other Party for any purpose.

(o) GRAMA. Kennecott acknowledges that SLCo is a governmental entity subject to the Utah Government Records Access and Management Act ("GRAMA"), Utah Code Ann. §§ 63G-2-101 to -901. SLCo is required to disclose certain information and materials to the public, upon request. Additionally, some records maintained by SLCo are private, protected, or controlled. Nothing in this Agreement shall be interpreted as giving Kennecott access to any records classified as private, protected, or controlled, or any other records with similar protections under any other applicable local,

state, or federal law. Kennecott is on notice that any records provided to SLCo may be published or provided to the public upon request.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Kennecott and SLCo have executed this Funding Agreement to be effective as of the Effective Date.

KENNECOTT UTAH COPPER LLC
a Utah limited liability company

SALT LAKE COUNTY, a body corporate
and politic of the State of Utah

Signature: Nate Foster

Signature: _____

Print Name: Nate Foster

Print Name: _____

Title: Managing Director


Title: _____

Date: March 14, 2023

Date:

Division Review

Signature: _____



Approved as to form: 

Reviewed as to form and legality for Salt Lake

Jeff Armington, Legal Counsel

County: David A. Johnson

2023.02.28

Signature: '00'07- 16:05:57  

Appendix A



PTARMIGAN PTRAILS

CONSULT :: DESIGN :: BUILD

SCOPE OF SERVICE UPDATE

Butterfield Canyon Consulting - SLCO PAR89685

Project Update

The county has requested additional flagging and design work outside the original scope of the project. Ptarmigan Ptrails has designed additional trail segments, major rerouting of alignments and adjustment of hub locations to create a common sense and easily navigated stacked loop trail system.

Our team requests an additional \$1,400 dollars in order to cover cost for the following:

1. **\$1,400** - Design and Flagging of trail "DOWNHILL G"

Requested increase: **\$1,400***
Includes all expenses, labor and materials

Please review this request and reply as soon as possible.

Thank you,
Eddie Kessler
PTRAILS Company Officer

CHANGE ORDER REQUEST



S&L Incorporated
 935 West Center Street
 Lindon, Utah 84042
 Phone: (801) 785-8458
 Fax: (801) 785-8453

PROPOSAL NO.: 1
 SUBMITTAL DATE: 10/10/2022
 S&L JOB NO.: 519
 OWNER PROJECT NO.: _____
 OWNER CHANGE ORDER NO.: _____

TO:	Salt Lake County Parks & Rec
PROJECT:	Butterfield Canyon Trails Phase 1
DATE:	10/19/2022
ATTN:	Dustin Wiberg
EMAIL:	dwiberg@slco.org
PHONE:	801-828-7865

S&L APPROVAL:

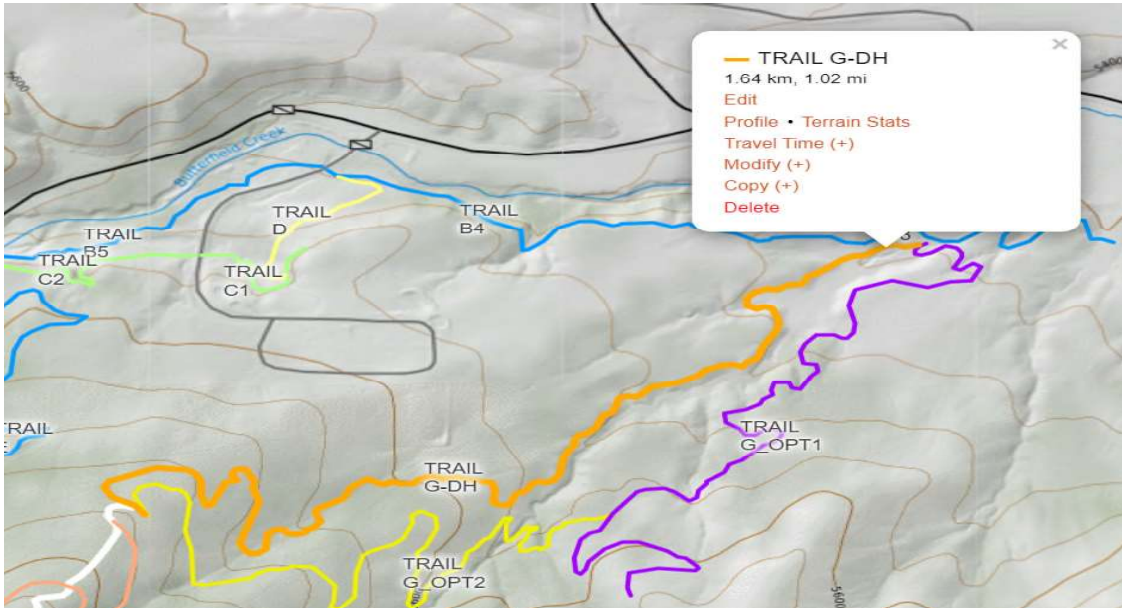
INITIAL	DATE
sm	5/19/2022

Phase/Task	Category	Amount

Section G - Downhill bike trail. Beginner/Intermedite Flow Trail w/ all native earthen build
 Flagging, Grub/Clear/Brush Back, Labor & Equipment, Shoulder Dressing and Reseeding

PAY ITEM	DESCRIPTION	UNITS	QTY	MATERIAL	LABOR	SUB	UNIT PRICE	AMOUNT
1	SECTION G - Downhill Flow Trail (Earthen built)	LF	5385		\$ 18.25		\$18.25	\$98,276.25
2							\$0.00	\$0.00
3							\$0.00	\$0.00
4								

SUB-TOTAL:	\$98,276.25
P&O @ 10%:	\$9,827.63
TOTAL:	\$108,103.88



CHANGE ORDER REQUEST



S&L Incorporated
 935 West Center Street
 Lindon, Utah 84042
 Phone: (801) 785-8458
 Fax: (801) 785-8453

PROPOSAL NO.: 2
 SUBMITTAL DATE: 12/16/2022
 S&L JOB NO.: 519
 OWNER PROJECT NO.:
 OWNER CHANGE ORDER NO.:

TO:	Salt Lake County Parks & Rec
PROJECT:	Butterfield Canyon Trails Phase 1
DATE:	12/16/2022
ATTN:	Dustin Wiberg
EMAIL:	dwiberg@slco.org
PHONE:	801-828-7865

S&L APPROVAL:

INITIAL	DATE
sm	12/16/2022

Phase/Task	Category	Amount

Cost proposal for the remote construction of look-out view trail with proposed amenities transported and installed onsite.

PAY ITEM	DESCRIPTION	UNITS	QTY	MATERIAL	LABOR	SUB	UNIT PRICE	AMOUNT
1	24" Trail, Multiuse Earthen Trail	LF	150	\$ 12.00	\$ -		\$12.00	\$1,800.00
2	Grade View Areas	SF	1000	\$ 2.25	\$ -		\$2.25	\$2,250.00
3	Site Grading, Hillside, Slope	Hrs	16	\$ 225.00	\$ -		\$225.00	\$3,600.00
4	Gather and Place Boulders	Ea	25	\$ 100.00	\$ -		\$100.00	\$2,500.00
5	Wood Hitching Post Bike Rack	Ea	1	\$ 1,000.00	\$ 400.00		\$1,400.00	\$1,400.00
6	Entry Sign Allowance (Single Post, 12"x20")	Ea	1	\$ 300.00	\$ 400.00	\$ 980.00	\$1,680.00	\$1,680.00
7	Interpretive Boards Allowance (Dbi Ped Post, 24"x36")	Ea	3	\$ 250.00	\$ 600.00	\$ 1,175.00	\$2,025.00	\$6,075.00
8	Observation Boards Allowance (Dbi Ped Post, 24"x36")	Ea	1	\$ 250.00	\$ 600.00	\$ 1,175.00	\$2,025.00	\$2,025.00
9	Bench	Ea	1	\$ 300.00	\$ 500.00	\$ 2,000.00	\$2,800.00	\$2,800.00
10	Cedar Fencing 3 Rail	LF	45	\$ 35.00	\$ 20.00		\$55.00	\$2,475.00
11	Survey and Layout	LS	1	\$ 750.00			\$750.00	\$750.00
							SUB-TOTAL:	\$27,355.00
							P&O @ 10%:	\$2,735.50
							TOTAL:	\$30,090.50

