

RESOLUTION NO. \_\_\_\_\_, 2018

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL APPROVING THE RECOMMENDATION OF THE SALT LAKE COUNTY COUNCIL OF GOVERNMENTS AND AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT PROVIDING FOR THE TRANSFER OF \$149,394 OF COUNTY CORRIDOR PRESERVATION FUNDS TO COTTONWOOD HEIGHTS CITY TO BE USED BY THE CITY TO ACQUIRE CERTAIN PROPERTY FOR TRANSPORTATION PURPOSES.

W I T N E S S E T H

WHEREAS, Salt Lake County (the “County”) and Cottonwood Heights City (the City) are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the “Cooperation Act”), and, as such, are authorized by the Cooperation Act to enter into an interlocal cooperation agreement to act jointly and cooperatively on the basis of mutual advantage;

WHEREAS, during the 2015 General Session, the State Legislature amended Section 72-2-117.5 of the Utah Transportation Code (Utah Code Ann. §§ 72-1-101 *et seq.*) to provide corridor preservation funds to local counties for disbursement to various cities and governmental entities, as recommended and endorsed by a council of governments (hereinafter “Corridor Preservation Funds”); and

WHEREAS, by letter dated October 10, 2017 and attached hereto as **ATTACHMENT A** (the “Recommendation Letter”), the Salt Lake County Council of Governments (COG), an association of local governments in Salt Lake County, requested that the County Council approve its recommended distribution to the City from the County Corridor Preservation Fund to enable the City to purchase a right of way for the Fort Union Blvd and Highland Drive intersection project in Cottonwood Heights; and

WHEREAS, the County and the City now desire to enter into the interlocal cooperation agreement attached hereto as **ATTACHMENT B** (the “Interlocal Agreement”) providing for the transfer of One Hundred and Forty-Nine Thousand Three Hundred and Ninety-Four Dollars and No Cents (\$149,394) of Corridor Preservation Funds to the City to be used by the City as described in the Interlocal Agreement and in accordance with Section 72-2-117.5 of the Utah Transportation Code;

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 recommendation of the Salt Lake County Council of Governments to transfer

County Corridor Preservation Funds to City for the project described in its Recommendation Letter is approved.

2. That the Interlocal Agreement between County and City is approved, in substantially the form attached hereto as **ATTACHMENT B**, and that the County Mayor is authorized to execute the same.
3. That the Interlocal Agreement will become effective as stated in the Interlocal Agreement.

APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

SALT LAKE COUNTY COUNCIL

By: \_\_\_\_\_  
Aimee Winder Newton, Chair

ATTEST:

\_\_\_\_\_  
Sherrie Swensen  
Salt Lake County Clerk

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

APPROVED AS TO FORM:

**Craig J.  
Wangsgard**

Digitally signed by Craig J. Wangsgard  
DN: dc=org, dc=slcounty,  
ou=Departments, ou=District  
Attorney, ou=Users, ou=GC, cn=Craig  
J. Wangsgard,  
email=CWangsgard@slco.org  
Date: 2018.06.06 09:54:29 -06'00'

Deputy District Attorney

**ATTACHMENT A**  
COG Recommendation Letter

# Salt Lake County Council of Governments

*AN ASSOCIATION OF LOCAL GOVERNMENTS IN SALT LAKE COUNTY, UTAH*

October 10, 2017

Steve DeBry  
Chairman, Salt Lake County Council  
2001 South State Street,  
Suite N2-200  
Salt Lake City, Utah 84114

***Re: Salt Lake County Corridor Preservation Fund***

Dear Chairman DeBry:

At the August 24, 2017 meeting of the Salt Lake County Council of Governments (COG), the following corridor preservation projects were considered and approved:

West Valley City \$69,300 (6020 W.; 6250 W.; 6210 W. Parkway Blvd)

Cottonwood Heights \$251,241.00 (Highland Drive and Fort Union Intersection)

Riverton \$716,126.00 (12600 South 4063 West; 12600 South 4185 West; 12600 South 4245 West; 12650 South to 12700 South 4150 West)

West Jordan \$122,838.56 (2210 West 7000 South)

Herriman \$1,200,000 (7280 West Herriman Highway)

**Total Funding Approved: \$2,359,505.56**

Once each municipality has completed the real estate transaction and a Settlement Statement is sent to the County indicating the amount of the requested reimbursement along with other documentation, an Interlocal Agreement will be presented to the County Council seeking approval for the distribution of funds from the Corridor Preservation Fund for specific cities. From there, notice of such approval will be forwarded to the Salt Lake County Mayor Ben McAdams for disbursement of the funds noted.

Sincerely,



Robert M. Dahle

Mayor, City of Holladay  
Chair, Salt Lake County Council of Governments

**ATTACHMENT B**

Interlocal Cooperation Agreement between Salt Lake County and Cottonwood Heights City

**INTERLOCAL COOPERATION AGREEMENT**

*between*

**SALT LAKE COUNTY**

*and*

**COTTONWOOD HEIGHTS**

This Interlocal Cooperation Agreement (this “Agreement”) is entered into by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the “County”) and **COTTONWOOD HEIGHTS**, a municipal corporation of the State of Utah (the “City”). The County and the City may each be referred to herein as a “Party” and collectively as the “Parties.”

**RECITALS:**

A. The County and the City 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. Additionally, 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.

B. During the 2015 General Session, the State Legislature amended Section 72-2-117.5 of the Utah Transportation Code (Utah Code Ann. §§ 72-1-101 *et seq.*) to provide corridor preservation funds to local counties for disbursement to various cities and governmental entities, as recommended and endorsed by a council of governments (hereinafter “Corridor Preservation Funds”).

By letter dated October 10, 2017, the Salt Lake County Council of Governments (COG), an association of local governments in Salt Lake County, requested that the County Council approve its recommended distribution to the City from the Salt Lake County Corridor Preservation Fund to enable the City to fund projects listed in Exhibit 1 in Cottonwood Heights.

A. The County and the City now desire to enter into this Agreement providing for the transfer of One Hundred and Forty-Nine Thousand Three Hundred and Ninety-Four Dollars and No Cents (\$149,394) of Corridor Preservation Funds to the City to be used by the City as provided in this Agreement and in accordance with Section 72-2-117.5 of the Utah Transportation Code.

## **AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties represent and agree as follows:

### **ARTICLE 1 - DISBURSEMENT OF COUNTY TRANSPORTATION FUNDS**

1.1. County Transportation Funds. The County shall allocate and disburse One Hundred and Forty-Nine Thousand Three Hundred and Ninety-Four Dollars and No Cents (\$149,394) of Corridor Preservation Funds to the City from the Salt Lake County Corridor Preservation Fund, all on the terms and subject to the conditions of this Agreement.

1.2. City. The City shall use the Corridor Preservation Funds allocated and disbursed to it under this Agreement (a) for the projects listed in Exhibit 1 in Cottonwood Heights, and (b) in accordance with Section 72-2-117.5 of the Utah Transportation Code and all other applicable federal, state and local laws, rules and regulations.

### **ARTICLE 2 -- COVENANTS AND AGREEMENTS**

#### **2.1. Indemnification and Liability.**

(a) 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.

(b) Indemnification. The City agrees to indemnify, hold harmless, and defend the County, 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 City’s breach of this Agreement; (ii) any acts or omissions of or by the City, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement; or (iii) any improper use of the Corridor Preservation Funds. The City agrees that its duty to defend and indemnify the County under this Agreement includes all attorney’s fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the County. The City further agrees that the City’s indemnification obligations in this Section 5.1 will survive the expiration or termination of this Agreement.

2.2. Recordkeeping. The City agrees to maintain its books and records in such a way that any Corridor Preservation Funds received from the County will be shown separately on the City’s books. The City shall maintain records adequate to identify the use of the Corridor Preservation Funds for the purposes specified in this Agreement. The City shall make its books

and records available to the County at reasonable times.

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

### **ARTICLE 3 --DEFAULTS AND REMEDIES**

3.1. City 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 the City to comply with any of the material terms, conditions, covenants, or provisions of this Agreement that is not fully cured by the City on or before the expiration of a sixty (60) day period (or, if the County 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 County’s written notice to the City of the occurrence thereof.

3.2. County’s Remedies in the Event of Default. Upon the occurrence of any Event of Default, the County may, in its sole discretion, and in addition to all other remedies conferred upon the County by law or equity or other provisions of this Agreement, pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

- (a) Withhold disbursement of Corridor Preservation Funds to the City; and/or
- (b) Reduce the amount of any future disbursement of Corridor Preservation Funds to the City by the amount incurred by the County to cure such default; and/or
- (c) Terminate this Agreement.

### **ARTICLE 4 -- MISCELLANEOUS**

4.1. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal Act 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 in behalf of each Party pursuant to and in accordance with Section 11-13-202.5 of the Interlocal Act.



(c) A duly executed original counterpart of this Agreement shall be filed immediately with the 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 done pursuant to this Agreement, and for any financing of such costs.

(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 this Agreement requires administration other than as set forth herein, the County Mayor and the City Mayor are hereby designated as the joint administrative board for all purposes of the Interlocal Act.

4.2. 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 City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of this Agreement by the appropriate person or persons for the County and the City, 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. This Agreement shall terminate upon the earlier of: (a) the date the Parties have performed all of the material obligations described herein, or (b) three (3) years from the date the Agreement is executed by both Parties. The Parties intend that the distribution described herein will be made promptly following execution of this Agreement and that the City will expend such distribution for the purposes stated in this Agreement promptly following receipt.

4.3. Non-Funding Clause.

(a) The County has requested or intends to request an appropriation of Corridor Preservation Funds to be paid to the City for the purposes set forth in this Agreement. If Corridor Preservation 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 Corridor Preservation Funds to the City under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to contribute Corridor Preservation Funds to the City in succeeding fiscal years. The County's obligation to contribute Corridor Preservation Funds to the City 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 City, its successors, or its assigns as to this

Agreement, or any portion thereof, which may terminate and become null and void.

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

4.4. Force Majeure. Neither Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after this Agreement becomes effective. “Event of Force Majeure” means an event beyond the control of the County or the City that prevents a Party from complying with any of its obligations under this Agreement, including but not limited to: (i) an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); (ii) war, acts or threats of terrorism, invasion, or embargo; or (iii) riots or strikes. If an Event of Force Majeure persists for a period in excess of sixty (60) days, the County may terminate this Agreement without liability or penalty, effective upon written notice to the City.

4.5. 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, UT 84111

If to the City:                                        Cottonwood Heights  
   2277 E. Bengal Blvd.  
   Cottonwood Heights, Utah 84121

4.6. Ethical Standards. The City represents that it has not: (a) provided an illegal gift in connection with this Agreement 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 in connection with this Agreement set forth in State statute or Salt Lake County Code of Ordinances § 2.07, Salt Lake County Code of Ordinances; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, in connection with this Agreement, any

County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

4.7. Entire Agreement. 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.

4.8. Amendment. This Agreement may be amended, changed, modified or altered only by an instrument in writing.

4.9. 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.

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

4.11. Agency. No officer, employee, or agent of the City 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 City 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.

4.12. 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.

4.13. 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.

4.14. Exhibits and Recitals. The Recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

4.15. 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, each Party hereby signs this Agreement on the date written by each Party on the signature pages attached hereto.

*[Intentionally Left Blank - Signature Page Follows]*

## INTERLOCAL AGREEMENT - SIGNATURE PAGE FOR THE COUNTY

### SALT LAKE COUNTY

By \_\_\_\_\_  
Mayor Ben McAdams or Designee

Dated: \_\_\_\_\_, 20\_\_\_\_

#### *Approved by:*

DEPARTMENT OF REGIONAL TRANSPORTATION,  
HOUSING, AND ECONOMIC DEVELOPMENT

By Carlton J. Christensen  
Carlton J. Christensen  
Department Director  
Dated: July 2, 2018

#### *Approved as to Form and Legality:*

SALT LAKE COUNTY DISTRICT ATTORNEY

**Craig J. Wangsgard**  
By \_\_\_\_\_  
Deputy District Attorney

Digitally signed by Craig J. Wangsgard  
DN: dc=org, dc=slcounty,  
ou=Departments, ou=District Attorney,  
ou=Users, ou=GC, cn=Craig J.  
Wangsgard,  
email=CWangsgard@slco.org  
Date: 2018.06.06 09:54:58 -06'00'

*[Signatures continue on next page.]*

**INTERLOCAL AGREEMENT – SIGNATURE PAGE FOR CITY**

**COTTONWOOD HEIGHTS**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

Attest:

\_\_\_\_\_

\_\_\_\_\_, City Recorder

Date signed: \_\_\_\_\_

***Approved as to Form and Legality:***

**CITY ATTORNEY**

By\_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

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# Exhibit 1

<b>Cottonwood Heights Corridor Preservation</b>			
<b>Parcel Number</b>	<b>Property Owner</b>	<b>Address</b>	<b>Amount Approved</b>
102 and 103	Gail and Dorothy Saltus	1962 East Fort Union Blvd	\$ 2,410
105	Sun Development	7006 S Highland Drive	\$ 58,204
107	Anderson Investment	7024 S Highland Drive	\$ 140
108	Gaddis	7051 S Highland Drive	\$ 51,520
109	RTTA LLC	6993 S Highland Drive	\$ 14,050
110	Sundaw	2029 Fort Union Blvd	\$ 12,590
111	HPSH LLC	2028 Fort Union Blvd	\$ 10,400
112	Dinesh Dudani	2044 Fort Union Blvd	\$ 80
		<b>Total</b>	<b>\$ 149,394</b>