

Interlocal Cooperation Agreement

THIS INTERLOCAL COOPERATION AGREEMENT (this “*Agreement*”) is made effective _____, 2021 (“*Effective Date*”), by and between **SALT LAKE COUNTY**, a body corporate and politic of the state of Utah (“*County*”), and **MIDVALE CITY**, a municipal corporation of the State of Utah (the “*City*”). The County and the City are individually referred to herein sometimes as a “*Party*” and collectively as the “*Parties*.”

RECITALS:

A. UTAH CODE ANN. §11-13-202 and other provisions of the Interlocal Cooperation Act (codified as UTAH CODE ANN. § 11-13-101, *et seq.*) (the “*Act*”) provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative actions.

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

C. The County and the City are public agencies for purposes of the Act.

D. The County acquired title to certain real property located at approximately 7188 South Union Park Ave., Midvale, Utah, identified as Parcel No. 22-29-202-060, more particularly described on Exhibit A attached hereto (the “*County Property*”).

E. The County Property is surrounded by commercial property in the Fort Union Shopping Center and has no direct access to public roads.

F. The County Property surrounds a separate parcel identified as Lot 17 on that certain Fort Union Commercial Subdivision recorded in the Official Records as Entry No. 13381491 in Book 2020P, Page 215 (“*Lot 17*”).

G. Lot 17 contains a replica of the historic Jehu Cox home (“*Cox Home*”), and the County Property contains sections of the Union Fort Wall, and a Fort Union historical marker (collectively, the “*Historical Elements*”).

H. The owner of Lot 17 and the property surrounding the County Property (the “*Lot 17 Owner*”) would like to redevelop its property. In order to facilitate this process and preserve the unique history of this area, the Lot 17 Owner would like to relocate the Cox Home and the Historical Elements from their current locations to a location along North Union Ave (the “*New Location*”) that is closer to the historic location of Fort Union and which will provide better public access to and awareness of the Cox Home and the Historical Elements.

I. The County and the City believe that the relocation of the Cox Home and Historical Elements to the New Location would benefit the public by improving access to and increasing

awareness of Fort Union and the Cox Family and preserving their historical significance to Midvale City and Salt Lake County.

J. The City is willing to acquire the County Property, facilitate its disposal in accordance with the City's statutory and constitutional obligations, and oversee the relocation of the Historic Elements and Cox Home to the New Location.

K. The County is prepared to convey to the City, and the City is prepared to acquire, the County Property upon the terms and conditions discussed below.

L. The parties, wishing to memorialize their arrangement, enter into this Agreement.

A G R E E M E N T:

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:

Section 1. **Conveyance.** Upon the terms and subject to the conditions and contingencies set forth herein, the County shall convey and transfer the County Property to the City by executing and delivering to the City a quitclaim deed (the "*Deed*") in substantially the form attached hereto as Exhibit B. The delivery of the Deed shall occur at Transfer (defined below) to be scheduled after the County has confirmed that the conditions identified in Section 2 below have been satisfied,

Section 2. **Consideration.** In exchange for receiving title to the County Property in the form of the Deed identified in Section 1, and as express conditions of Transfer, the City shall:

- A. Provide written approval from the County, the Cox Family, and the Utah Sons of Pioneers to relocate the Historical Elements and the Cox Home to the New Location that is closer in proximity to the actual historic location of Fort Union; and
- B. Provide evidence of a perpetual easement between the Lot 17 Owner and the City for use of the New Location. The perpetual easement will provide public access to the New Location and permit the City to relocate the Historical Elements on the New Location and relocate or reconstruct the Cox Home at the New Location; and
- C. Provide an escrow agreement between the City and Lot 17 Owner for at least 125% of the estimated costs to relocate the Historical Elements on the New Location and to relocate or reconstruct the Cox Home at the New Location. The escrow agreement will require the Lot 17 Owner to relocate the Historical Elements on the New Location and to relocate or reconstruct the Cox Home at the New Location within a specified time frame. In the event the Lot 17 Owner fails to perform within the specified time frame, the City will (i) use the escrow money to relocate the Historical Elements on the New Location and to relocate or reconstruct the Cox Home at the New Location, and (ii) if there is any remaining escrow money after completion of the City's responsibilities in Subsection 2(C)(i), the City will use such money to further improve the location, the Historical Elements, or the Cox Home; and

- D. Expressly agree with the County that if the City subsequently terminates the perpetual easement described in Section 2(B) within 20 years of the date that it is recorded, any profit realized by the City in excess of any costs associated with such termination will be split evenly with the County. Such costs may include, but are not limited to, any expenses reasonably necessary to purchase of a new location for the Historical Elements and Cox Home, expenses to relocate or reconstruct the Historical Elements, the Cox Home, and any other subsequent improvements made at the new location, closing costs, title insurance, surveys, and historical, architectural, or engineering studies. The provisions of this Subsection 2(D) shall survive the Transfer and recording of the perpetual easement for twenty years.

Section 3. **Mutual Benefit.** The County and the City agree that in consideration of the mutual benefit afforded the citizens of the City and the County and the exchange of agreed upon consideration in accordance with Section 11-13-214 of the Interlocal Cooperation Act, the County will convey the County Property to the City as outlined above. No other consideration shall pass between the parties.

Section 3. **Transfer.** A transfer pursuant to terms of this Agreement (the "*Transfer*") shall take place in the offices of _____ on or before June __, 2021. The County agrees to deliver possession of the County Property at Transfer, free of any right of possession or claim to right of possession by any third party other than those that would be disclosed on a Commitment for Title Insurance. The County agrees to provide the City with an affidavit of the same. Until Transfer occurs, the risk of loss to the County Property shall be borne solely by the County. Real property taxes and assessments relating to the County Property shall be prorated as of Transfer. The County shall be responsible for and shall promptly pay all charges with respect to the County Property attributable to the period up to and including Transfer. Each Party shall pay its own fees and expenses in connection with this Agreement including, without limitation, its own attorneys' fees, diligence costs, and recording fees.

Section 4. **"As Is" Exchange.**

The County Property shall be conveyed and transferred to the City, "AS IS, WHERE IS, AND WITH ALL FAULTS" and specifically and expressly without any warranties, representations or guarantees, either express or implied, of any kind, nature or type whatsoever from or on behalf of the County except as provided under Section 3.

Section 5. **Duration and Termination.** This Agreement shall take effect upon execution and terminate upon completion of the Transfer, except that the provisions of Subsection 2(D) shall survive the Transfer and recording of the perpetual easement for twenty years. In the event that the City or the County cannot meet its obligations as provided in this Agreement at Transfer, this Agreement will automatically and immediately terminate at the 5:00 PM on May 30, 2021, unless mutually extended in writing by an authorized representative of each Party.

Section 6. **Additional Interlocal Act Provisions.** In compliance with the requirements of the Act and other applicable law:

(a) No Interlocal Entity. The parties agree that they do not by this Agreement create an interlocal entity.

(b) Joint Board. As required by 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 Mayor or designee and the City's Mayor or designee. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed in accordance with this Agreement.

(c) Financing Joint Cooperative Undertaking and Establishing Budget. There is no financing of joint or cooperative undertaking and no budget shall be established or maintained.

(d) Attorney Review. This Agreement shall be reviewed as to proper form and compliance with applicable law by the authorized attorneys for the County and the City in accordance with UTAH CODE ANN. § 11-13-202.5.

(e) Copies. Duly executed original counterparts of this Agreement shall be filed with the keeper of records of each party, pursuant to UTAH CODE ANN. § 11-13-209.

(f) Manner of Acquiring, Holding or Disposing of Property. The County Property shall be acquired, held or disposed of as provided in this Agreement and unless agreed to herein shall not be used in a joint or cooperative undertaking.

Section 7. **General Provisions.** The following provisions are also integral parts of this Agreement:

(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 counterpart 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) Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy, or priority allowed by law.

(g) Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(h) Time of Essence. Time is the essence in this Agreement.

(i) Interpretation. This Agreement shall be interpreted, construed, and enforced according to the substantive laws of the state of Utah.

(j) 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 or (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.

(k) 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.

(l) Governmental Immunity. Both parties are governmental entities under the Governmental Immunity Act, UTAH CODE ANN. § 63G-7-101, *et seq.* (the “Immunity Act”). Consistent with the terms of the Immunity Act, the parties agree that each party is responsible and liable for any wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses or limits of liability otherwise available under the Immunity Act and all other applicable law, and both parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(m) Ethical Standards. The parties hereto represent that they have not: (a) provided an illegal gift or payoff to any officer or employee, or former officer or employee, or to any relative or business entity of an officer or employee, or relative or business entity of a former officer or employee of the other party hereto; (b) retained any person to solicit or secure this Agreement upon any contract, 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 statute or County’s Ethics, Gifts and Honoraria ordinance (Chapter 2.07, SALT LAKE COUNTY CODE OF ORDINANCES [2001]); or (d) knowingly influenced, and hereby promise that they will not knowingly influence, any officer or employee or former officer or employee to breach any of the ethical standards set forth in State statute or County ordinances.

Signature Page to Follow

IN WITNESS WHEREOF, the City, by resolution duly adopted by its City Council, caused this Agreement to be signed by its Mayor and attested by its City Recorder; and the County, by resolution of its County Council, caused this Agreement to be signed by the Mayor, or her designee.

SALT LAKE COUNTY

By: _____
Mayor or Designee

Approved As To Form and Legality:

R. Christopher Preston, Deputy District Attorney

MIDVALE CITY

By _____
Robert M. Hale, Mayor

ATTEST:

Rori Andreason, City Recorder

Approved As To Form and Legality:

Lisa A. Garner, City Attorney

Exhibit A

To Interlocal Cooperation Agreement

(Description of County Property)

BEG S 0°04'08" W 948.78 FT & E 742.46 FT FR N 1/4 COR SEC 29, T 2S, R 1E, SLM; S 78°26' E 16.59 FT; N 82°22' 42" E 3.85 FT; N 88°03'38" E 18.64 FT; N 73°01'25" E 18.33 FT; S'LY ALG A 3.0 FT RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 60.42 FT; S'LY ALG A 3.0 FT RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 62 FT; S'LY ALG A 3.0 RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 66.53 FT; S 35°40'14" E 148 FT; S 20°10'16" E 49.2 FT; S 77°46'29" W 83.2 FT; N 18°01' E 17.24FT; N 71°59' W 293.42 FT; N 18°01' E 14.44 FT; N 36°26'45" W 15.54 FT; N 71°59' W 17.36 FT; N 18°01'03" E 37.82 FT TO LESS AND EXCEPT BEG S 1040.6 FT & W 1762.9 FT FR NE COR SD SEC 29; N 30 FT; E 22.6 FT; S 30 FT; W 22.6 FT TO BEG. 0.845AC M OR L.

For information purposes only: Parcel No. 22-29-202-060

Exhibit B
To Interlocal Cooperation Agreement
(Quitclaim Deed for County Property)

WHEN RECORDED, RETURN TO:

Midvale City

Attn: Chris Butte

7505 South Holden Street

Midvale, Utah 84047

QUIT CLAIM DEED

SALT LAKE COUNTY, a body corporate and politic of the State of Utah, GRANTOR, of Salt Lake County, Utah, hereby quit claims to MIDVALE CITY, a municipal corporation of the State of Utah, GRANTEE, of Salt Lake County, Utah, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the following described parcel of land (the "Property") in Salt Lake County, State of Utah, to-wit:

See Exhibit A

SUBJECT TO easements, restrictions, and rights-of-way of record.

IN WITNESS WHEREOF, GRANTOR has caused this Quit Claim Deed to be signed and its official seal to be affixed hereto by its duly authorized officer this ____ day of _____, 2021.

SALT LAKE COUNTY

By Exhibit Only - Do Not Sign
Mayor or Designee

By _____
Salt Lake County Clerk

[Acknowledgements on following page]

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this _____ day of _____, 2021, personally appeared before me _____, who being duly sworn, did say that s/he is the _____ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC
Residing in Salt Lake County

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On this _____ day of _____, 2021, personally appeared before me Sherrie Swensen, who being by me duly sworn, did say and acknowledge that she is the Clerk of Salt Lake County, and that the foregoing Quit Claim Deed was signed by her on behalf of Salt Lake County by authority of a Resolution of the Salt Lake County Council.

NOTARY PUBLIC
Residing in Salt Lake County

SALT LAKE COUNTY
“EXHIBIT A” QUIT-CLAIM
LEGAL DESCRIPTION

BEG S 0°04'08" W 948.78 FT & E 742.46 FT FR N 1/4 COR SEC 29, T 2S, R 1E, SLM; S 78°26' E 16.59 FT; N 82°22' 42" E 3.85 FT; N 88°03'38" E 18.64 FT; N 73°01'25" E 18.33 FT; S'LY ALG A 3.0 FT RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 60.42 FT; S'LY ALG A 3.0 FT RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 62 FT; S'LY ALG A 3.0 RADIUS CURVE TO R 4.71 FT; S 16°58'35" E 15 FT; N 73°01'25" E 66.53 FT; S 35°40'14" E 148 FT; S 20°10'16" E 49.2 FT; S 77°46'29" W 83.2 FT; N 18°01' E 17.24FT; N 71°59' W 293.42 FT; N 18°01' E 14.44 FT; N 36°26'45" W15.54 FT; N 71°59' W 17.36 FT; N 18°01'03" E 37.82 FT TO LESS AND EXCEPT BEG S 1040.6 FT & W 1762.9 FT FR NE COR SD SEC 29; N 30 FT; E 22.6 FT; S 30 FT; W 22.6 FT TO BEG. 0.845AC M OR L.

For information purposes only: Parcel No. 22-29-202-060