

# Interlocal Cooperation Agreement

**THIS INTERLOCAL COOPERATION AGREEMENT** (this “*Agreement*”) is made effective \_\_\_ \_\_\_\_\_ 2019 by and between \_\_\_\_\_, a Utah \_\_\_\_\_ whose address is \_\_\_\_\_, UT 84 \_\_\_\_\_ (“*Grantor*”), and the **CENTRAL WASATCH COMMISSION**, a Utah interlocal entity whose address is 41 North Rio Grande, Ste. 202, Salt Lake City, UT 84101 (the “*CWC*”). Grantor and the CWC are each a “*party*” and collectively are the “*parties*” to this Agreement.

## **RECITALS:**

A. The CWC is an interlocal entity created pursuant to the “Central Wasatch Commission Interlocal Agreement” dated 30 May 2017 (the “*CWC ILA*”) and resulting action of the Utah Lieutenant Governor on 29 June 2017.

B. The CWC’s principal purpose is to engage in a collaborative process to provide for the long-term protection of the Central Wasatch Mountain’s water, lands, environment, recreational opportunities, economic prosperity, and a transportation system that serves those values, all as described in the Mountain Accord document dated 13 July 2015 which identifies a suite of actions recommended to be implemented, in coordination with and subject to local jurisdictional authority, to ensure that future generations can enjoy the activities provided by the Central Wasatch Mountains while preserving the watershed and natural environments.

C. Grantor is located (or otherwise is authorized to operate) within the jurisdictional boundaries of the CWC, is one of the members of the CWC (or otherwise is represented on the CWC’s governing body), and desires to advance the CWC’s purposes for the public good.

D. UTAH CODE ANN. §11-13-202 provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative actions.

E. Grantor and the CWC are “public agencies” as contemplated in the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101, *et seq.* (the “*Interlocal Act*”).

F. Pursuant to UTAH CODE ANN. §11-13-215, “[a] county, city, town, or other political subdivision may, at the discretion of the local governing body, share its tax and other revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal government agency ... .”

G. The parties desire to enter into an “interlocal agreement” whereunder Grantor will provide funding to the CWC as specified herein so that the CWC’s work may continue as directed by the CWC’s governing body (the “*CWC Board*”) in compliance with the CWC ILA and other applicable law.

H. The Parties have determined that it is mutually advantageous to enter into this Agreement.

## **AGREEMENT:**

**NOW, THEREFORE**, in consideration of the premises and in compliance with and

pursuant to the terms hereof and the provisions of the Interlocal Act, the Parties hereby agree as follows:

Section 1. **CWC's Duties.** The CWC shall continue engaging in its authorized purposes for the benefit of Grantor, the CWC's other members, and the public good, as determined by the CWC Board in compliance with the CWC ILA and other applicable law.

Section 2. **Grantor's Duties.** During its [(2019-2020, for July 1 to June 30 entities) OR (2020, for calendar year entities)] fiscal year, Grantor shall convey and pay over to the CWC at least \$\_\_\_\_\_ in funds for unrestricted use in the CWC's general operations.

Section 3. **Term.** The term of this Agreement shall commence on its effective date specified above and shall continue until 30 June 2020. This Agreement may be renewed for subsequent one-year periods at the mutual option of the parties under the same terms and conditions unless modified by written amendment. Pursuant to the Interlocal Act, in no event shall this Agreement be in effect for more than 50 years.

Section 4. **Non-Funding.** The parties acknowledge that funds are not presently available for performance of this Agreement by Grantor beyond the end of Grantor's current fiscal year. Grantor's obligation for performance of this Agreement beyond that date is contingent upon funds being appropriated for payments due under this Agreement. If funds are not available beyond the last day of Grantor's current fiscal year, then Grantor's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on Grantor as to any succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty whatsoever, and no right of action for damages or other relief shall accrue to the benefit of the CWC as to this Agreement or any portion thereof, which may terminate and become null and void. If funds are not appropriated for a succeeding fiscal year to fund performance by Grantor under this Agreement, then Grantor shall promptly notify the CWC of said non-funding and the termination of this Agreement within 30 days after such non-funding event.

Section 5. **Immunity Act.** Both parties are governmental entities under the Governmental Immunity Act of Utah, UTAH CODE ANN. §63G-7-101, *et seq.* (the "*Immunity Act*"). Therefore, 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 or any other applicable law, and both parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

Section 6. **Additional Interlocal Act Provisions.**

(a) **No Separate Entity.** This Agreement does not create a separate legal/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 Grantor's mayor (or other chief executive officer) or designee and the CWC's executive director or designee. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed of 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) Approval. This Agreement shall be approved by each party's legislative body pursuant to UTAH CODE ANN. §11-13-202.5.

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

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

Section 7. Notice. 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 two days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the party at its address specified above or to any replacement address provided by prior written notice to the sender.

Section 8. Claims and Disputes. Claims, disputes and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the \_\_\_\_\_ Judicial District Court of \_\_\_\_\_ County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, each of the parties shall continue to perform its obligations hereunder during the pendency of such dispute.

Section 9. Titles and Captions. All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

Section 10. Pronouns and Plurals. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

Section 11. Applicable Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

Section 12. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings concerning the subject matter of this Agreement. No statements, promises, or inducements made by either party or agents for either party that are not contained in this written contract shall be binding or valid. This Agreement may not be enlarged, modified, or

altered except in writing, and signed by the parties.

Section 13. **Time**. Time is the essence of this Agreement.

Section 14. **Survival**. All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

Section 15. **Waiver**. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

Section 16. **Rights and Remedies**. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provision(s) hereof.

Section 17. **Severability**. If any term or provision of the Agreement shall to any extent be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

Section 18. **Litigation Expenses**. If any action, suit or proceeding is brought by a party concerning this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the nonprevailing party.

Section 19. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Section 20. **No Agency**. No agent, employee, or servant of either party is or shall be deemed to be an employee, agent, or servant of the other party. None of the benefits provided by a party to its employees (such as workers' compensation insurance, health insurance and unemployment insurance) are available to the employees, agents, or servants of the other party. Each party shall be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. Each party shall be solely responsible for providing workers' compensation benefits for its own personnel who provide assistance under this Agreement.

**DATED** effective the date first-above written.

**GRANTOR:**

**ATTEST:**

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:**

By: \_\_\_\_\_  
\_\_\_\_\_  
Its Attorney

**CWC:**

**ATTEST:**

**CENTRAL WASATCH COMMISSION**

By: \_\_\_\_\_  
**Christopher F. Robinson, Secretary**

\_\_\_\_\_  
**Chris McCandless, Board Chair**

**APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:**

By: \_\_\_\_\_  
**Wm. Shane Topham, CWC Attorney**  
I.