

REQUEST FOR COUNCIL ACTION

Subject:

Approval of a Pedestrian Bridge Easement Agreement between Salt Lake County and the City of West Jordan for the construction of the Jordan River Trail

Discussion:

The City of West Jordan desires to construct the Jordan River Trail between 8300 S and 9000 S. In order to construct this section of trail, the City is in need of acquiring a Pedestrian Bridge Easement Agreement from Salt Lake County prior to construction.

Fiscal Impact:

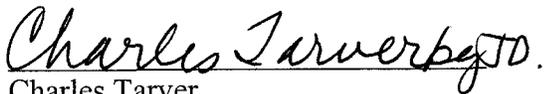
Funds for construction of the Jordan River Trail Project are provided from several agencies and the West Jordan "Open Space" fund as previously approved by the City Council. No fees are required for securing this easement.

Recommendation:

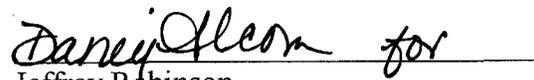
Staff recommends approval of this Easement for the construction of the Jordan River Trail.

- Motion
"I move to adopt Resolution No. 13-147, authorizing and directing the Mayor to sign the attached Pedestrian Bridge Easement Agreement from Salt Lake County for the construction of the Jordan River Trail, after finalization of the legal descriptions and approval as to legal form by the City Attorney."
- Roll Call

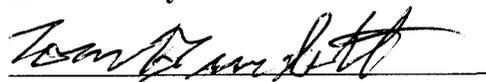
Prepared by:


Charles Tarver
CDBG/Grants Manager

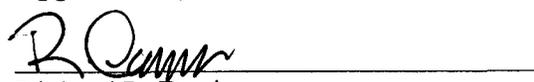
Approved as to Legal Form by:


Jeffrey Robinson
City Attorney

Reviewed by:


Tom Burdett
Director, Community Development

Approved by:


Richard L. Davis
City Manager

Narrative:

The City is proposing to construct the Jordan River Trail between 8300 S and 9000 S to provide a continuous trail between the North and South boundary of the City. Funding for this project is being provided through the West Jordan Open Space fund, Utah State Legislature, Salt Lake County, Sandy City, State Parks Non-Motorized Trail Program, LeRay McAllister Open Space Fund and the Rotary Club.

In order to complete this project, the City is in need of securing a Pedestrian Bridge Easement Agreement from Salt Lake County. This easement will allow for access by the City for future maintenance and repair of the Jordan River Trail and Bridge located on Salt Lake County property.

This agreement, as attached, has been reviewed by the West Jordan Attorney's Office. No fees are required for the acquisition of this easement.

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 13-147

**A RESOLUTION TO ENTER INTO AN EASEMENT AGREEMENT WITH
SALT LAKE COUNTY**

Whereas, the City of West Jordan has an approved budget to construct its Jordan River Trail project (the "Project"); and

Whereas, the Project requires the acquisition of an easement across property owned by Salt Lake County; and

Whereas, Salt Lake County has agreed to convey an easement to the City with no fees required and based on the terms and conditions stated in the easement agreement attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. After review and finalization of the legal descriptions and approval as to legal form by the City Attorney, the Mayor is hereby authorized and directed to sign the attached easement agreement with Salt Lake County so the City can complete the Project.

Section 2. This resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this day of 2013.

CITY OF WEST JORDAN

ATTEST:

By: _____
Melissa K. Johnson, Mayor

MELANIE S. BRIGGS, MMC
City Clerk/Recorder

Voting by the City Council

"AYE"

"NAY"

- Judy Hansen
- Clive M. Killpack
- Chris McConnehey
- Chad Nichols
- Ben Southworth
- Justin D. Stoker
- Mayor Melissa K. Johnson

WHEN RECORDED RETURN TO:

Space above for County Recorder's use

PARCEL I.D. # 21-35-327-010

PEDESTRIAN BRIDGE EASEMENT AGREEMENT

THIS PEDESTRIAN BRIDGE EASEMENT AGREEMENT (the "Agreement") is made and entered into as of this _____ day of _____, 2013 (the "Effective Date"), by and between SALT LAKE COUNTY, a body Corporate and Politic of the State of Utah, GRANTOR, and CITY OF WEST JORDAN, a municipal corporation of the State of Utah created under the laws of the State of Utah, GRANTEE. Grantor and Grantee are sometimes referred to herein singularly as a "Party" and collectively as the "Parties" with respect to the following:

RECITALS

- A. Grantor owns certain real property located at approximately 8300 South along the Jordan River ("County Property") West Jordan City, Utah, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference.
- B. Grantee desires to obtain a perpetual, non-exclusive easement on, over, and across a portion of the County Property (the "Easement Area") to allow Grantee to maintain, repair, alter, inspect, and replace a pedestrian bridge and associated structures. The legal description of the Easement Area is more particularly described on Exhibit B attached hereto and incorporated herein by this reference. The pedestrian bridge has already been constructed in the Easement Area in accordance with an Interlocal Cooperative Agreement entered into between Grantor and Grantee and is owned and maintained by Grantee.
- C. Grantor is willing to convey the easement to Grantee, subject to and in conformance with the terms and conditions set forth in this Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and covenants set forth therein, the Parties agree as follows:

- 1. Easement. Grantor hereby grants and conveys to Grantee a perpetual, non-excusive easement on, over, and across the Easement Area for the purpose of maintaining, repairing, altering, inspecting and replacing thereon pedestrian bridge and appurtenant parts thereof ("Bridge"). Grantee will pay for all maintenance, repair, alteration, inspection and replacement costs related to the Bridge after construction of the Bridge has been completed by Grantor and accepted by Grantee.

2. Access. Grantee and its agents, employees, consultants and contractors (the "Permitted Users") shall have the right to enter upon the Easement Area for the purposes permitted by this Agreement. Permitted Users will enter upon the Easement Area at their sole risk and hazard. Except hazards created by Grantor's own actions, and subject to the provisions of section 6 of this Agreement, Grantee and its successors and assigns, hereby release Grantor from any claims relating to the condition of the Easement Area and/or the entry upon the Easement Area by Permitted Users.
3. Reservation. Grantor reserves the right to use the Easement Area for any use not inconsistent with Grantee's use of the Easement Area, as granted herein. In addition, Grantor expressly reserves the right to grant other third parties the right to use all or any portion of the Easement Area for any use not inconsistent with Grantee's use of the Easement Area.
4. Condition of the Easement Area. Grantee accepts the Easement Area and all aspects thereof in "AS IS", "WHERE IS" condition, without warranties, either express or implied, "with all faults," including but not limited to both latent and patent defects, and the existence of hazardous materials, if any. Grantee hereby waives all warranties, express or implied, regarding the title, condition, and use of the Easement Area, including but not limited to any warranty of merchantability or fitness for a particular purpose. Grantee shall obtain any and all consents, approvals, permissions, and agreements to cross, encumber, or encroach upon any other easements or rights of others related to its use and improvement of the Easement Area.
5. Maintenance. Grantee, at its sole cost and expense shall maintain and repair the Bridge and the Easement Area in good order and condition and free of debris and trash. Grantee shall promptly repair any damages to or dangerous conditions occurring on the Bridge, and shall restore the Bridge and the improvements thereon to the same or better condition as they existed prior to any entry onto or work performed on the Easement Area by Grantee. Grantee will also provide snow removal for the Bridge in the Easement Area as necessary. Grantee shall not use or permit the Easement Area to be used or occupied in whole or in part in a manner which may violate any law, order, ordinance, rule, regulation, or requirement of any department of federal, state, or city government. Grantee shall conduct all maintenance, repair, alteration, inspection and replacement activities related to the Bridge within the Easement Area in a good and workmanlike manner in compliance with all laws, rules, and ordinances respecting the construction.
6. Indemnification. Both Parties are governmental entities under the Governmental Immunity Act of Utah, §§ 63G-7-101 to -904 (2011), as amended (the "Act"). There are no indemnity obligations between these parties. Subject to and consistent with the terms of the Act, Grantor and Grantee shall be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither Grantor nor Grantee shall have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents. Neither Party waives any defenses or limits of liability available under the Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Act and all other applicable law.
7. Insurance. Both parties to this Agreement shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

8. Integration. Except as provided in an Interlocal Cooperation Agreement dated the ___ day of _____, 2013 between Salt Lake County and West Jordan City related to the construction and maintenance of the Jordan River Trail in West Jordan, including the Bridge and Easement Area, this agreement embodies the entire understanding of the Parties, and there are no further or other agreements or understandings, written or oral, in effect between the Parties relating to this property.
9. Miscellaneous.
- a. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah.
 - b. Successors. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the Parties and their successors and assigns.
 - c. Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the governing body of the Party for which he or she signs to execute and deliver this Agreement and that as result of his/her signature, this Agreement shall be binding upon the Party for which he/she signs.
 - d. Litigation Expenses. If any action, suit, or proceeding is brought by a Party hereto with respect to a matter or matters covered by this Agreement or if a Party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing party incident to such preceding or retention, including reasonable attorney's fees, shall be paid by the non-prevailing party.

IN WITNESS WHEREOF, Grantor has caused this Pedestrian Bridge Easement to be signed and its official seal to be affixed hereto by its duly authorized officer this _____ day of _____, 2013.

GRANTOR:
SALT LAKE COUNTY

By: _____
Mayor or Designee

By: _____
Sherrie Swensen, Salt Lake County Clerk

GRANTEE
CITY OF WEST JORDAN

By: _____
Mayor or Designee

Pedestrian Bridge Easement
Parcel # 21-35-327-010

ATTEST:

By: _____
West Jordan City Recorder

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

On this ____ day of _____, 20____, 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.

[SEAL]

NOTARY PUBLIC
Residing in Salt Lake County

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

On this ____ day of _____, 20____, personally appeared before me Sherrie Swensen, who being duly sworn, did say that she is the Clerk of Salt Lake County, Office of Mayor, and that the foregoing Pedestrian Bridge Easement was signed by her on behalf of Salt Lake County, by authority of a Resolution of the salt Lake County Council.

[SEAL]

NOTARY PUBLIC
Residing in Salt Lake County

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

On the ____ day of _____, 2013 personally appeared before me _____, who duly acknowledged to me that he is the Mayor of the City of West Jordan and that he executed the foregoing instrument on behalf of the City of West Jordan.

[SEAL]

Notary Public
Residing in Salt Lake County

Exhibit A

DESCRIPTION

An entire tract of land as described by Tax Sale Record in Book 9835 at Page 9857 on file in the Office of the Salt Lake County Recorder and located within the Southwest Quarter (SW ¼) of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah Said entire tract of land is further described as follows;

Beginning at the northeasterly corner of said entire tract, which point is S00°07'34"E (record=South), 453.75 feet along the easterly line of said Southwest Quarter (SW ¼) and S89°52'26"W (record= West), 79.02 feet from the Center of said Section 35, Township 2 South, Range 1 West, SLB&M;

Thence S89°52'26"W (record=West), 119.98 feet along the northerly line of said entire tract to the northwesterly corner of said entire tract, which point is on the easterly line of the Utah Power & Light tract as described by Warranty Deed in Book 1332 at Page 75 on file in the Salt Lake County Recorder's Office;

Thence S18°42'34"E (record=S18'35"E), 252.32 feet along the easterly line of said Utah Power & Light tract to the southwesterly corner of said entire tract,

Thence N89°52'26"E (record=East). 78.47 feet along the southerly line of said entire tract to the southeasterly corner of said entire tract. Which point is the beginning of a non-tangent curve concave easterly, Thence along arc of said curve and the easterly line of said entire tract, having a radius of 4000.00 feet and a central angle of 3°28'17" (chord N09°21'52"E, 242.31 feet), 242.34 (record = 242.48)feet to the point of beginning.

The above described entire tract of land contains 23,434 S.F. in area or 0.537 acres, more or less.

BASIS OF BEARINGS

South 0°01'31 "East - The West Line of the Southwest quarter (SW ¼), Section 35, Township 2 South, Range 1 West, SLB&M, Salt Lake County, Utah as shown on the Survey Map by Schuchert & Associates on file in the office of the Salt Lake County Surveyor as file #S99-02-0217.

Exhibit B

PEDESTRIAN BRIDGE CENTERLINE DESCRIPTION

That portion of the Jordan River Trail, extending through, across and beyond the boundaries of the Utah State owned sovereign land located within the Southwest Quarter (SW 1/4) of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian. Said portion of the Jordan River Trail is along a segment of the following described centerline:

Beginning at a point in the centerline of said Jordan River Trail which point is $S00^{\circ}07'34''E$, 475.71 feet along the easterly line of said Southwest Quarter (SW 1/4) and $S89^{\circ}52'26''W$, 60.34 feet from the Center of said Section 35, Township 2 South, Range 1 West, SLB&M; thence $S73^{\circ}54'18''W$, 121.67 feet along said centerline.

Basis of Bearings

$S0^{\circ}01'31''E$ - The West Line of the Southwest Quarter (SW 1/4), Section 35, Township 2 South, Range 1 West, SLB&M, Salt Lake County, Utah as shown on the Survey Map by Schuchert & Associates on file in the Salt Lake County Surveyor's Office as file #S99-02-0217.