Part 5

Fiscal Procedures for Interlocal Entities

Section
11-13-501. Definitions.
11-13-502. Application — Conflicts with federal law — Other applicable law.
11-13-503. Fiscal year.
11-13-504. Uniform accounting system.
11-13-505. Funds and account groups maintained.
11-13-506. Budget required for certain funds — Capital projects fund.
11-13-507. Total of revenues to equal expenditures.
11-13-508. Tentative budget to be prepared — Review by governing body.
11-13-509. Hearing to consider adoption — Notice.
11-13-510. Public hearing on tentatively adopted budget.
11-13-511. Continuing authority of governing body.
11-13-512. Accumulated fund balances — Limitations — Excess balances — Unanticipated excess of revenues — Reserves for capital projects.
11-13-513. Appropriations not to exceed estimated expendable revenue — Appropriations for existing deficits.
11-13-514. Adoption of final budget — Certification and filing.
11-13-515. Budgets in effect for budget year.
11-13-516. Purchasing procedures.
11-13-517. Expenditures or encumbrances in excess of appropriations prohibited.
11-13-518. Transfer of appropriation balance between accounts in same fund.
11-13-519. Review of individual governmental fund budgets — Hearing.
11-13-520. Amendment and increase of individual fund budgets.
11-13-521. Emergency expenditures.
11-13-522. Lapse of appropriations — Exceptions.
11-13-523. Loans by one fund to another.
11-13-524. Operating and capital budgets for proprietary funds.
11-13-525. Increase in appropriations for operating and capital budget fund — Notice.
11-13-526. Deposit of interlocal entity funds — Commingling with personal funds prohibited — Suspension from office.
11-13-527. Quarterly financial reports required.
11-13-528. Annual financial reports — Audit reports.
11-13-529. Audits required.
11-13-530. Interlocal entity may expand uniform procedures — Limitation.
11-13-531. Imposing or increasing a fee for service provided by interlocal entity.
11-13-532. Residential fee credit.

Part 6

Taxed Interlocal Entities

11-13-601. Title.
11-13-602. Definitions.
11-13-603. Taxed interlocal entity.
11-13-604. Segments authorized.
11-13-605. Notice of limitation on liabilities of segments.
11-13-606. Members of a segment.
11-13-607. Limitations of liability for directors and officers.
11-13-608. Termination of associated entity or segment.

11-13-1 to 11-13-37. Renumbered as §§ 11-13-101 to 11-13-313.

PART 1

GENERAL PROVISIONS

11-13-101. Title.

This chapter is known as the "Interlocal Cooperation Act." 2002

11-13-102. Purpose of chapter.

The purpose of this chapter is:

(1) to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and under forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

(2) to provide the benefit of economy of scale, economic development, and utilization of natural resources for the overall promotion of the general welfare of the state. 2002

11-13-103. Definitions.

As used in this chapter:

(1) (a) "Additional project capacity" means electric generating capacity provided by a generating unit that first produces electricity on or after May 6, 2002, and that is constructed or installed at or adjacent to the site of a project that first produced electricity before May 6, 2002, regardless of whether:

(i) the owners of the new generating unit are the same as or different from the owner of the project; and

(ii) the purchasers of electricity from the new generating unit are the same as or different from the purchasers of electricity from the project.

(b) "Additional project capacity" does not mean or include replacement project capacity.

(2) "Board" means the Permanent Community Impact Fund Board created by Section 35A-8-304, and its successors.

(3) "Candidate" means one or more of:

(a) the state;

(b) a county, municipality, school district, local district, special service district, or other political subdivision of the state; and

(c) a prosecution district.

(4) "Commercial project entity" means a project entity, defined in Subsection (18), that:

(a) has no taxing authority; and

(b) is not supported in whole or in part by and does not expend or disburse tax revenues.

(5) "Direct impacts" means an increase in the need for public facilities or services that is attributable to the project or facilities providing additional project capacity, except impacts resulting from the construction or operation of a facility that is:

(a) owned by an owner other than the owner of the project or of the facilities providing additional project capacity; and

(b) used to furnish fuel, construction, or operation materials for use in the project.

(6) "Electric interlocal entity" means an interlocal entity described in Subsection 11-13-203(3).

(7) "Energy services interlocal entity" means an interlocal entity that is described in Subsection 11-13-203(4).

(8) (a) "Estimated electric requirements," when used with respect to a qualified energy services interlocal

entity, includes any of the following that meets the requirements of Subsection (8)(b):

(i) generation capacity;

(ii) generation output; or

(iii) an electric energy production facility.

(b) An item listed in Subsection (8)(a) is included in "estimated electric requirements" if it is needed by the qualified energy services interlocal entity to perform the qualified energy services interlocal entity's contractual or legal obligations to any of its members.

(9) (a) "Facilities providing replacement project capacity" means facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed to provide replacement project capacity.

(b) "Facilities providing replacement project capacity" includes facilities that have been, are being, or are proposed to be constructed, reconstructed, converted, repowered, acquired, leased, used, or installed:

(i) to support and facilitate the construction, reconstruction, conversion, repowering, installation, financing, operation, management, or use of replacement project capacity; or

(ii) for the distribution of power generated from existing capacity or replacement project capacity to facilities located on real property in which the project entity that owns the project has an ownership, leasehold, right-of-way, or permitted interest.

(10) "Governing authority" means a governing board or joint administrator.

(11) (a) "Governing board" means the body established in reliance on the authority provided under Subsection 11-13-206(1)(b) to govern an interlocal entity.

(b) "Governing board" includes a board of directors described in an agreement, as amended, that creates a project entity.

(c) "Governing board" does not include a board as defined in Subsection (2).

(12) "Interlocal entity" means:

(a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal entity; or

(b) a separate legal or administrative entity created under Section 11-13-205.

(13) "Joint administrator" means an administrator or joint board described in Section 11-13-207 to administer a joint or cooperative undertaking.

(14) "Joint or cooperative undertaking" means an undertaking described in Section 11-13-207 that is not conducted by an interlocal entity.

(15) "Member" means a public agency that, with another public agency, creates an interlocal entity under Section 11-13-203.

(16) "Out-of-state public agency" means a public agency as defined in Subsection (19)(c), (d), or (e).

(17) (a) "Project":

(i) means an electric generation and transmission facility owned by a Utah interlocal entity or an electric interlocal entity; and

(ii) includes fuel facilities, fuel production facilities, fuel transportation facilities, energy storage facilities, or water facilities that are:

(A) owned by that Utah interlocal entity or electric interlocal entity; and

(B) required for the generation and transmission facility.

(b) "Project" includes a project entity's ownership interest in:

(i) facilities that provide additional project capacity;

(ii) facilities providing replacement project capacity;

(iii) additional generating, transmission, fuel, fuel transportation, water, or other facilities added to a project; and

(iv) a Utah interlocal energy hub, as defined in Section 11-13-602.

(18) "Project entity" means a Utah interlocal entity or an electric interlocal entity that owns a project as defined in this section.

(19) "Public agency" means:

(a) a city, town, county, school district, local district, special service district, an interlocal entity, or other political subdivision of the state;

(b) the state or any department, division, or agency of the state;

(c) any agency of the United States;

(d) any political subdivision or agency of another state or the District of Columbia including any interlocal cooperation or joint powers agency formed under the authority of the law of the other state or the District of Columbia; or

(e) any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(20) "Qualified energy services interlocal entity" means an energy services interlocal entity that at the time that the energy services interlocal entity acquires its interest in facilities providing additional project capacity has at least five members that are Utah public agencies.

(21) "Replacement project capacity" means electric generating capacity or transmission capacity that:

(a) replaces all or a portion of the existing electric generating or transmission capacity of a project; and

(b) is provided by a facility that is on, adjacent to, in proximity to, or interconnected with the site of a project, regardless of whether:

(i) the capacity replacing existing capacity is less than or exceeds the generating or transmission capacity of the project existing before installation of the capacity replacing existing capacity;

(ii) the capacity replacing existing capacity is owned by the project entity that is the owner of the project, a segment established by the project entity, or a person with whom the project entity or a segment established by the project entity has contracted; or

(iii) the facility that provides the capacity replacing existing capacity is constructed, reconstructed, converted, repowered, acquired, leased, used, or installed before or after any actual or anticipated reduction or modification to existing capacity of the project.

(22) "Transportation reinvestment zone" means an area created by two or more public agencies by interlocal agreement to capture increased property or sales tax revenue generated by a transportation infrastructure project as described in Section 11-13-227.

(23) "Utah interlocal entity":

(a) means an interlocal entity described in Subsection 11-13-203(2); and

(b) includes a separate legal or administrative entity created under Laws of Utah 1977, Chapter 47, Section 3, as amended.

(24) "Utah public agency" means a public agency under Subsection (19)(a) or (b). 2020

PART 2

PUBLIC AGENCIES' JOINT EXERCISE OF POWERS

11-13-201. Joint exercise of power, privilege, or authority by public agencies — Relationship to the Municipal Cable Television and Public Telecommunications Services Act.

(1)(a) Any power, privilege, or authority exercised or ca-

pable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the same power, privilege, or authority, in a manner consistent with the provisions of this chapter, and jointly with any out-of-state public agency to the extent that the laws governing the out-of-state public agency permit such joint exercise or enjoyment.

(b) Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter upon a public agency.

(2) This chapter may not enlarge or expand the authority of a public agency not authorized to offer and provide cable television services and public telecommunications services under Title 10, Chapter 18, Municipal Cable Television and Public Telecommunications Services Act, to offer or provide cable television services and public telecommunications services. 2015

11-13-202. Agreements for joint or cooperative undertaking, for providing or exchanging services, or for law enforcement services — Effective date of agreement — Public agencies may restrict their authority or exempt each other regarding permits and fees.

(1) Any two or more public agencies may enter into an agreement with one another under this chapter:

(a) for joint or cooperative action;

(b) to provide services that they are each authorized by statute to provide;

(c) to exchange services that they are each authorized by statute to provide;

(d) for a public agency to provide law enforcement services to one or more other public agencies, if the public agency providing law enforcement services under the interlocal agreement is authorized by law to provide those services, or to provide joint or cooperative law enforcement services between or among public agencies that are each authorized by law to provide those services;

(e) to create a transportation reinvestment zone as defined in Section 11-13-103; or

(f) to do anything else that they are each authorized by statute to do.

(2) An agreement under Subsection (1) does not take effect until each public agency that is a party to the agreement approves the agreement, as provided in Section 11-13-202.5.

(3)(a) In an agreement under Subsection (1), a public agency that is a party to the agreement may agree:

(i) to restrict its authority to issue permits to or assess fees from another public agency that is a party to the agreement; and

(ii) to exempt another public agency that is a party to the agreement from permit or fee requirements.

(b) A provision in an agreement under Subsection (1) whereby the parties agree as provided in Subsection (3)(a) is subject to all remedies provided by law and in the agreement, including injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce the provision.

(4) In an interlocal agreement between a county and one or more municipalities for law enforcement service within an area that includes some or all of the unincorporated area of the county, each county and municipality that is a party to the agreement shall ensure that the agreement requires:

(a) in a county of the second through sixth class, the county sheriff to provide or direct the law enforcement service provided under the agreement; or

(b) in a county of the first class, the chief executive for law enforcement services to be appointed to provide or direct the law enforcement service provided under the agreement. 2019

11-13-202.5. Approval of certain agreements — Review by attorney.

(1) Each agreement under Section 11-13-202 and each agreement under Section 11-13-212 shall be approved by:

(a) except as provided in Subsections (1)(b) and (c), the commission, board, council, or other body or officer vested with the executive power of the public agency;

(b) the legislative body of the public agency if the agreement:

(i) requires the public agency to adjust its budget for a current or future fiscal year;

(ii) includes an out-of-state public agency as a party;

(iii) provides for the public agency to acquire or construct:

(A) a facility; or

(B) an improvement to real property;

(iv) provides for the public agency to acquire or transfer title to real property;

(v) provides for the public agency to issue bonds;

(vi) creates an interlocal entity; or

(vii) provides for the public agency to share taxes or other revenues; or

(c) if the public agency is a public agency under Subsection 11-13-103(19)(b), the director or other head of the applicable state department, division, or agency.

(2) If an agreement is required under Subsection (1) to be approved by the public agency's legislative body, the resolution or ordinance approving the agreement shall:

(a) specify the effective date of the agreement; and

(b) if the agreement creates an interlocal entity:

(i) declare that it is the legislative body's intent to create an interlocal entity;

(ii) describe the public purposes for which the interlocal entity is created; and

(iii) describe the powers, duties, and functions of the interlocal entity.

(3) The officer or body required under Subsection (1) to approve an agreement shall, before the agreement may take effect, submit the agreement to the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law. 2016

11-13-203. Interlocal entities — Agreement to approve the creation of an interlocal entity — Electric interlocal entity or energy services interlocal entity — Registration as a limited purpose entity.

(1) An interlocal entity is:

(a) separate from the public agencies that create it;

(b) a body politic and corporate; and

(c) a political subdivision of the state.

(2)(a) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.

(b) The creation, operation, governance, and fiscal procedures of an interlocal entity and its governing authority are governed by this chapter and are not subject to the statutes applicable to its members or other entities.

(3)(a) A Utah public agency and one or more public agencies may enter into an agreement to approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:

(i) facilities to provide additional project capacity;

(ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or

(iii) electric generation or transmission facilities.

(b) By agreement with one or more public agencies that are not parties to the agreement creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:

(i) the public agencies that are parties to the agreement creating the Utah interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and

(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).

(4)(a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.

(b) (i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing board, elect to become an energy services interlocal entity.

(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.

(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

(5)(a) Each interlocal entity shall register and maintain the interlocal entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An interlocal entity that fails to comply with Subsection (5)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1. 2018

11-13-203.5. Powers, immunities, and privileges of law enforcement officers under an agreement for law enforcement — Requirements for out-of-state officers.

(1) While performing duties under an agreement for law enforcement services under Subsection 11-13-202(1)(d), whether inside or outside the law enforcement officer's own jurisdiction, each law enforcement officer shall possess:

(a) all law enforcement powers that the officer possesses within the officer's own jurisdiction, including the power to arrest; and

(b) the same immunities and privileges as if the duties were performed within the officer's own jurisdiction.

(2) Each agreement between a Utah public agency and an out-of-state public agency under Subsection 11-13-202(1)(d) providing for reciprocal law enforcement services shall require each person from the other state assigned to law enforcement duty in this state:

(a) to be certified as a peace officer in the state of the out-of-state public agency; and

(b) to apply to the Peace Officer Standards and Training Council, created in Section 53-6-106, for recognition before undertaking duties in this state under the agreement. 2003

11-13-204. Powers and duties of interlocal entities — Additional powers of energy services interlocal entities — Length of term of agreement and interlocal entity — Notice to lieutenant governor — Recording requirements — Public Service Commission.

(1)(a) An interlocal entity:

(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity;

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and

(iii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4)(a) Upon execution of an agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7)(a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public

convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section 63A-16-601; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204(1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement. 2021

11-13-205. Agreement by public agencies to approve the creation of a new entity to own sewage and wastewater facilities — Powers and duties of new entities — Validation of previously created entities — Notice to lieutenant governor — Recording requirements.

(1) It is declared that the policy of the state is to assure the health, safety, and welfare of its citizens, that adequate sewage and wastewater treatment plants and facilities are essential to the well-being of the citizens of the state and that the acquisition of adequate sewage and wastewater treatment plants and facilities on a regional basis in accordance with federal law and state and federal water quality standards and effluent standards in order to provide services to public agencies is a matter of statewide concern and is in the public interest. It is found and declared that there is a statewide need to provide for regional sewage and wastewater treatment plants and facilities, and as a matter of express legislative determination it is declared that the compelling need of the state for construction of regional sewage and wastewater treatment plants and facilities requires the creation of entities under the Interlocal Cooperation Act to own, construct, operate, and finance sewage and wastewater treatment plants and facilities; and it is the purpose of this law to provide for the accomplishment thereof in the manner provided in this section.

(2) Any two or more public agencies of the state may also agree to approve the creation of a separate legal or administrative entity to accomplish and undertake the purpose of owning, acquiring, constructing, financing, operating, maintaining, and repairing regional sewage and wastewater treatment plants and facilities.

(3) A separate legal or administrative entity created under this section is considered to be a political subdivision and body politic and corporate of the state with power to carry out and effectuate its corporate powers, including the power:

(a) to adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to have an official seal and power to alter that seal at will, and to make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under the Interlocal Cooperation Act;

(b) to own, acquire, construct, operate, maintain, repair, or cause to be constructed, operated, maintained, and repaired one or more regional sewage and wastewater treatment plants and facilities, all as shall be set forth in the agreement providing for its creation;

(c) to borrow money, incur indebtedness and issue revenue bonds, notes or other obligations payable solely from the revenues and receipts derived from all or a portion of the regional sewage and wastewater treatment plants and facilities which it owns, operates, and maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the provisions of Title 11, Chapter 14, Local Government Bonding Act;

(d) to enter into agreements with public agencies and other parties and entities to provide sewage and wastewater treatment services on such terms and conditions as it considers to be in the best interests of its participants; and

(e) to acquire by purchase or by exercise of the power of eminent domain, any real or personal property in connec-

tion with the acquisition and construction of any sewage and wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and maintains.

(4) The provisions of Part 3, Project Entity Provisions, do not apply to a legal or administrative entity created for regional sewage and wastewater treatment purposes under this section.

(5) All proceedings previously had in connection with the creation of any legal or administrative entity pursuant to this chapter, and all proceedings previously had by any such entity for the authorization and issuance of bonds of the entity are validated, ratified, and confirmed; and these entities are declared to be validly created interlocal cooperation entities under this chapter. These bonds, whether previously or subsequently issued pursuant to these proceedings, are validated, ratified, and confirmed and declared to constitute, if previously issued, or when issued, the valid and legally binding obligations of the entity in accordance with their terms. Nothing in this section shall be construed to affect or validate any bonds, or the organization of any entity, the legality of which is being contested at the time this act takes effect.

(6)(a) The governing body of each party to the agreement to approve the creation of an entity under this section shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat; and

(II) a certified copy of the agreement approving the creation of the entity; or

(B) if the entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (6)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the entity.

(b) Upon the lieutenant governor's issuance of a certificate of entity creation under Section 67-1a-6.5, the entity is created.

(c) Until the documents listed in Subsection (6)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created entity under this section may not charge or collect a fee for service provided to property within the entity. 2009

11-13-206. Requirements for agreements for joint or cooperative action.

(1) Each agreement under Section 11-13-202, 11-13-203, 11-13-205, or 11-13-227 shall specify:

(a) its duration;

(b) if the agreement creates an interlocal entity:

(i) the precise organization, composition, and nature of the interlocal entity;

(ii) the powers delegated to the interlocal entity;

(iii) the manner in which the interlocal entity is to be governed; and

(iv) subject to Subsection (2), the manner in which the members of its governing board are to be appointed or selected;

(c) its purpose or purposes;

(d) the manner of financing the joint or cooperative action and of establishing and maintaining a budget for it;

(e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) the process, conditions, and terms for withdrawal of a participating public agency from the interlocal entity or the joint or cooperative undertaking;

(g) (i) whether voting is based upon one vote per member or weighted; and

(ii) if weighted voting is allowed, the basis upon which the vote weight will be determined; and

(h) any other necessary and proper matters.

(2) Each agreement under Section 11-13-203 or 11-13-205 that creates an interlocal entity shall require that Utah public agencies that are parties to the agreement have the right to appoint or select members of the interlocal entity's governing board with a majority of the voting power. 2018

11-13-207. Additional requirements for agreement not establishing interlocal entity.

(1) If an agreement under Section 11-13-202 or 11-13-227 does not establish an interlocal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the items specified in Section 11-13-206, provide for:

(a) the joint or cooperative undertaking to be administered by:

(i) an administrator; or

(ii) a joint board with representation from the public agencies that are parties to the agreement;

(b) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;

(c) the functions to be performed by the joint or cooperative undertaking; and

(d) the powers of the joint administrator.

(2) The creation, operation, governance, and fiscal procedures of a joint or cooperative undertaking are governed by this chapter. 2018

11-13-208. Agreement does not relieve public agency of legal obligation or responsibility — Exception.

(1) Except as provided in Subsection (2), an agreement made under this chapter does not relieve a public agency of an obligation or responsibility imposed upon it by law.

(2) If an obligation or responsibility of a public agency is actually and timely performed by a joint or cooperative undertaking or by an interlocal entity created by an agreement made under this chapter, that performance may be offered in satisfaction of the obligation or responsibility. 2015

11-13-209. Filing of agreement.

An agreement made under this chapter does not take effect until it is filed with the keeper of records of each of the public agencies that are parties to the agreement. 2002

11-13-210. Controversies involving agreements between Utah public agencies and out-of-state agencies.

(1) In any case or controversy involving the performance or interpretation of or the liability under an agreement entered

into under this chapter between or among one or more Utah public agencies and one or more out-of-state public agencies, the public agencies that are parties to the agreement shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liabilities which it may incur by reason of being joined as a party to the case or controversy.

(2) An action shall be maintainable against any public agency whose default, failure to perform, or other conduct caused or contributed to the incurring of damage or liability by the state. 2002

11-13-211. Public agencies authorized to provide resources to joint or cooperative undertaking or interlocal entity.

A public agency entering into an agreement under this chapter under which a joint or cooperative undertaking is established or an interlocal entity is created may:

(1) appropriate funds to the joint or cooperative undertaking or interlocal entity;

(2) sell, lease, give, or otherwise supply tangible and intangible property to the joint or cooperative undertaking or interlocal entity; and

(3) provide personnel or services for the joint or cooperative undertaking or interlocal entity as may be within its legal power to furnish. 2015

11-13-212. Contracts between public agencies or with interlocal entities to perform services, activities, or undertakings — Facilities and improvements.

(1)(a) Public agencies may contract with each other and one or more public agencies may contract with an interlocal entity created under this chapter to perform any service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform.

(b) Each contract under Subsection (1)(a) shall be authorized as provided in Section 11-13-202.5.

(c) Each contract under Subsection (1)(a) shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

(d) In order to perform a service, activity, or undertaking provided for in a contract under Subsection (1)(a), a public agency may create, construct, or otherwise acquire facilities or improvements in excess of those required to meet the needs and requirements of the parties to the contract.

(2) An interlocal entity created by agreement under this chapter may create, construct, or otherwise acquire facilities or improvements to render services or provide benefits in excess of those required to meet the needs or requirements of the public agencies that are parties to the agreement if it is determined by the public agencies to be necessary to accomplish the purposes and realize the benefits set forth in Section 11-13-102. 2003

11-13-213. Agreements for joint ownership, operation, or acquisition of facilities or improvements.

Any two or more public agencies may make agreements between or among themselves:

(1) for the joint ownership of any one or more facilities or improvements which they have authority by law to own individually;

(2) for the joint operation of any one or more facilities or improvements which they have authority by law to operate individually;

(3) for the joint acquisition by gift, grant, purchase, construction, condemnation or otherwise of any one or more such facilities or improvements and for the extension, repair or improvement thereof;

(4) for the exercise by an interlocal entity of its powers with respect to any one or more facilities or improvements and the extensions, repairs, or improvements of them; or

(5) any combination of the foregoing. 2002

11-13-214. Conveyance or acquisition of property by public agency.

In carrying out the provisions of this chapter, any public agency may convey property to or acquire property from any other public agency for consideration as may be agreed upon. 2002

11-13-215. Sharing tax or other revenues.

(1) A county, city, town, or other local 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.

(2) Each decision to share tax and other revenues shall be made as provided in Section 11-13-202.5. 2003

11-13-216. Term of agreements.

(1) Except as provided in Subsections (2) and 11-13-204(3), each agreement under this chapter shall extend for a term not to exceed 50 years.

(2) Subsection (1) does not apply to an agreement to which:

(a) a project entity is a party;

(b) an electric interlocal entity is a party; or

(c) an energy services interlocal entity is a party. 2014

11-13-217. Control and operation of joint facility or improvement provided by agreement.

Any facility or improvement jointly owned or jointly operated by any two or more public agencies or acquired or constructed pursuant to an agreement under this chapter may be operated by any one or more of the interested public agencies designated for the purpose or may be operated by a joint or cooperative undertaking or an interlocal entity created for the purpose or through an agreement by an interlocal entity and a public agency receiving service or other benefits from such entity or may be controlled and operated in some other manner, all as may be provided by appropriate agreement. Payment for the cost of such operation shall be made as provided in any such agreement. 2015

11-13-218. Authority of public agencies or interlocal entities to issue bonds — Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2)(a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure in accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates,

and have such other terms and security as the entity determines.

(c) The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing board the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5)(a) An interlocal entity shall issue bonds in accordance with, as applicable:

(i) Chapter 14, Local Government Bonding Act;

(ii) Chapter 27, Utah Refunding Bond Act;

(iii) this chapter; or

(iv) any other provision of state law that authorizes issuance of bonds by a public body.

(b) An interlocal entity is a public body as defined in Section 11-30-2. 2016

11-13-218.1. Pledge of revenues to pay for bonds.

(1) In addition to any assignment, pledge, or conveyance made in accordance with Subsection 11-13-204(1)(a)(ii)(G), bonds issued by an interlocal entity may be payable from and secured by the pledge of all or any specified part of:

(a) the revenues to be derived by the interlocal entity from providing the entity's services and from the operation of the entity's facilities and other properties;

(b) sales and use taxes, property taxes, and other taxes;

(c) federal, state, or local grants; or

(d) other funds legally available to the interlocal entity.

(2) An assignment, pledge, or conveyance made by an interlocal entity to secure bonds shall be created and perfected in accordance with, and have the effect provided in, Section 11-14-501. 2015

11-13-219. Publication of resolutions or agreements — Contesting legality of resolution or agreement.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.

(b) "Governing body" means:

(i) the legislative body of a public agency; or

(ii) the governing authority of an interlocal entity created under this chapter.

(c) "Notice of agreement" means the notice authorized by Subsection (3)(c).

(d) "Notice of bonds" means the notice authorized by Subsection (3)(d).

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3)(a) A governing body need not publish any enactment taken or made under the authority of this chapter.

(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:

(A) the names of the parties to the agreement;

(B) the general subject matter of the agreement;

(C) the term of the agreement;

(D) a description of the payment obligations, if any, of the parties to the agreement; and

(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds, publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4)(a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

(b) The governing body shall post the enactment, notice of bonds, or notice of agreement on the Utah Public Notice Website created in Section 63A-16-601.

(5)(a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the posting of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever. 2021

11-13-220. Qualifications of officers or employees performing services under agreements.

Other provisions of law which require an officer or employee of a public agency to be an elector or resident of the public agency or to have other qualifications not generally applicable to all of the contracting agencies in order to qualify for that office or employment are not applicable to officers or employees who hold office or perform services for more than one public agency pursuant to agreements executed under this chapter. 2002

11-13-221. Compliance with chapter sufficient to effectuate agreements.

When public agencies enter into agreements under this chapter whereby they utilize a power or facility jointly, or whereby one political agency provides a service or facility to another, compliance with the requirements of this chapter is sufficient to effectuate those agreements. 2002

11-13-222. Employees performing services under agreements.

(1) An employee performing services for two or more public agencies under an agreement under this chapter shall be considered to be:

(a) an employee of the public agency employing the employee's services even though the employee performs those functions outside of the territorial limits of any one of the contracting public agencies; and

(b) an employee of the public agencies under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(2) Unless otherwise provided in an agreement that creates an interlocal entity, each employee of a public agency that is a party to the agreement shall:

(a) remain an employee of that public agency, even though assigned to perform services for another public agency under the agreement; and

(b) continue to be governed by the rules, rights, entitlements, and status that apply to an employee of that public agency.

(3) All of the privileges, immunities from liability, exemptions from laws, ordinances, and rules, pensions and relief, disability, workers compensation, and other benefits that apply to an officer, agent, or employee of a public agency while performing functions within the territorial limits of the public agency apply to the same degree and extent when the officer, agent, or employee performs functions or duties under the agreement outside the territorial limits of that public agency. 2015

11-13-223. Open and public meetings. [Repealed] 2015

11-13-224. Utah interlocal entity for alternative fuel vehicles and facilities. [Repealed] 2019

11-13-225. Establishment of interlocal entity personnel system.

(1) An interlocal entity shall establish a system of personnel administration for the interlocal entity as provided in this section.

(2) The interlocal entity shall administer the system described in Subsection (1) in a manner that will effectively provide for:

(a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) equitable and adequate compensation;

(c) employee training as needed to assure high-quality performance;

(d) (i) retaining an employee on the basis of the adequacy of the employee's performance; and

(ii) separation of an employee whose inadequate performance cannot be corrected;

(e) fair treatment of an applicant or employee in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for the applicant's or employee's privacy and constitutional rights; and

(f) a formal procedure for processing the appeals and grievances of an employee without discrimination, coercion, restraint, or reprisal.

(3) An interlocal entity shall ensure that any employee training described in Subsection (2)(c) complies with Title 63G, Chapter 22, State Training and Certification Requirements. 2018

11-13-226. Competitive procurement.

The governing board of each interlocal entity shall adopt rules or policies for the competitive public procurement of goods and services required for the operation of the interlocal entity. 2015

11-13-227. Transportation reinvestment zones.

(1) Subject to the provisions of this part, any two or more public agencies may enter into an agreement with one another to create a transportation reinvestment zone as described in this section.

(2) To create a transportation reinvestment zone, two or more public agencies, at least one of which has land use authority over the transportation reinvestment zone area, shall:

(a) define the transportation infrastructure need and proposed improvement;

(b) define the boundaries of the zone;

(c) establish terms for sharing sales tax revenue among the members of the agreement;

(d) establish a base year to calculate the increase of property tax revenue within the zone;

(e) establish terms for sharing any increase in property tax revenue within the zone; and

(f) before an agreement is approved as required in Section 11-13-202.5, hold a public hearing regarding the details of the proposed transportation reinvestment zone.

(3) Any agreement to establish a transportation reinvestment zone is subject to the requirements of Sections 11-13-202, 11-13-202.5, 11-13-206, and 11-13-207.

(4)(a) Each public agency that is party to an agreement under this section shall annually publish a report including a statement of the increased tax revenue and the expenditures made in accordance with the agreement.

(b) Each public agency that is party to an agreement under this section shall transmit a copy of the report described in Subsection (4)(a) to the state auditor.

(5) If any surplus revenue remains in a tax revenue account created as part of a transportation reinvestment zone agreement, the parties may use the surplus for other purposes as determined by agreement of the parties.

(6)(a) An action taken under this section is not subject to:

(i) Section 10-8-2;

(ii) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(iii) Title 17, Chapter 27a, County Land Use, Development, and Management Act; or

(iv) Section 17-50-312.

(b) An ordinance, resolution, or agreement adopted under this title is not a land use regulation as defined in Sections 10-9a-103 and 17-27a-103. 2019

PART 3

PROJECT ENTITY PROVISIONS

11-13-301. Project entity and generation output requirements.

(1) Each project entity:

(a) shall:

(i) except for construction of facilities providing replacement project capacity, before undertaking the construction of a project and before undertaking the construction of facilities to provide additional project capacity, offer to sell or make available at least 50% of the generation output of or electric energy produced by the project or additional project capacity, respectively;

(ii) establish rules and procedures for an offer under Subsection (1)(a)(i) that provide at least 60 days for a prospective power purchaser to accept the offer before the offer is considered rejected; and

(iii) make each offer under Subsection (1)(a)(i):

(A) under a long-term arrangement that may be an undivided ownership interest, a participation interest, a power sales agreement, or otherwise; and

(B) to one or more power purchasers in the state that supply electric energy at wholesale or retail; and

INTERLOCAL COOPERATION AGREEMENT
FORESTABLISHING THE OPERATIONS AND MANAGEMENT OF THE
CONFLUENCE PARK MANAGEMENT AGENCY

THIS INTERLOCAL COOPERATION AGREEMENT (hereinafter "this Agreement") is made and entered into as of the _____ day of _____, 20___, by and between the signatories to this Agreement. The signatories to this Agreement are "public agencies" as defined in the Utah *Interlocal Cooperation Act* "("the ICA"), and are hereinafter referred to collectively as "the Parties" and individually as "the Party."

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of the ICA, found at Title 11, Chapter 13, *Utah Code Annotated* (1953, as amended) ("UCA"), public agencies are authorized to enter into mutually advantageous agreements for joint or cooperative action, known as Interlocal Cooperation Agreements; and

WHEREAS, the Parties to this Agreement believe that the canyon or canyons containing the waterways of Virgin River, LaVerkin Creek, and Ash Creek, at and in the vicinity of their point of confluence, and the land and vegetation adjacent to or near the same, designated (and known herein) as **Confluence Park ("Park")**, constitute and comprise some of Utah's greatest natural, recreational, historical and cultural treasures; and

WHEREAS, the Parties further believe that cooperative action through the creation of a management agency would promote beneficial utilization of the various resources of the Park, facilitate orderly planning and development of the waterways, trails, and lands located within and immediately adjacent to the Park, and assist in the implementation of the *Confluence Nature Park Final Plan* and future plans relating to the Confluence Park and its operation, management and development; and

WHEREAS, the Parties to this Agreement have respectively received appropriate authority to enter into this Interlocal Agreement ("Agreement")~~participate, as described herein, in a new Utah interlocal entity to be known as the **Confluence Park Management Agency**~~;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

Parties

1.1. Parties. The Parties to this Agreement shall be Washington County, Hurricane City, LaVerkin City, and Toquerville City.

1.2. Withdrawal. Each Party hereto acknowledges and agrees that the withdrawal of any other Party from this Agreement, pursuant to Section 1.3 hereof, shall not adversely affect the recognized and continued validity and existence of this Agreement nor such Party's contractual relationship with the other Parties to this Agreement then remaining.

1.3. Notice of Withdrawal. A Party may withdraw from this Agreement (and the Agency established hereby), provided (a) the Governing Body of said Party gives written notice of its intent to withdraw; (b) that such notice is provided to each party~~the Governing Board of the Agency~~ at least sixty (60) days~~one full year~~ prior to the effective date on which the Party intends to withdraw, and (c) such withdrawal does not materially adversely affect any project, obligations, or liabilities previously approved or incurred as a result of this Agreement. Additionally, the provisions of Article XII, Section 12.4, regarding the disposal of property upon partial or complete termination of this Agreement shall be followed. ~~by the Agency and the governing body of the withdrawing Member~~

ARTICLE II

Definitions

As used herein, the following terms and words shall have the following meanings:

~~2.1. "Agency" means Confluence Park Management Agency (also known as "CPMA" or "the Agency" herein), the new legal entity created by this Agreement for the purpose of operating and managing the Confluence Park.~~

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2.1~~2~~. "Board" or "Executive~~Governing~~ Board" means the ~~governing~~ body making recommendations to the Parties regarding the management of the ~~Confluence~~ Park ~~Management Agency~~.

2.2~~3~~. "Board Member" or "Board Members" means and includes the members of the Executive ~~Governing~~ Board ~~of the Agency~~, individually or as a group.

~~2.4. "Bonding" means the issuance of "Bonds"; and "Bonds" means bonds, notes, certificates of participation or other evidences of indebtedness of the Confluence Park Management Agency, except as provided herein.~~

2.~~3~~5. "Confluence Park" or "Confluence Nature Park" or "the Park" means the geographical area, of over 330 acres, containing the waterways of the Virgin River, LaVerkin Creek, and Ash Creek, at and in the vicinity of their point of confluence, and the lands and vegetation adjacent to or near the same, as identified and set forth in **Exhibit 1**.

2.~~4~~6. "Effective Date" means the date that the Parties to this Agreement have all approved~~intend for~~ this Agreement pursuant to Utah Code Annotated, § 11-13-205(5) (1953, as amended) ~~to become effective, which is the date first written above~~.

2.~~5~~7. "Governing Body" or "Governing Bodies" means, individually or collectively, the County Commission of Washington County, and the City Councils of the cities of Hurricane, LaVerkin, and Toquerville.

2.~~6~~8. "Parties" or "Parties hereto" or "Parties to this Agreement" means, collectively, and or "Party" or "Party hereto" or "Party to this Agreement" means, individually, the county of Washington County and the cities of Hurricane, LaVerkin, and Toquerville. Said entities are parties to this Agreement ~~and Members of the Agency established hereby~~.

2.~~7~~9. "Operation and Maintenance Expenses" or "O&M Expenses" means all expenses reasonably incurred ~~by the Agency~~ or paid to any person or~~other~~ entity pursuant to contract or otherwise, necessary to fulfill the purposes of this Agreement, including cost of audits hereinafter required, payment of insurance premiums, and, generally, all expenses exclusive of depreciation and other non-cash items which under generally accepted accounting practices are properly allocable to operation and maintenance; however, only such expenses as are ordinary and necessary to the proper and efficient operation of the Park~~Agency~~ shall be included.

2.~~8~~10. "Technical Advisory Committee" or "TAC" means the technical advisory subcommittee, formed pursuant to Article XI to advise the Executive~~Governing~~ Board ~~of the Agency~~ on water quality, fish and wildlife preservation and enhancement, and environmental, development, engineering and other technical issues associated with Confluence Park.

ARTICLE III

Purposes

This Agreement ~~to create the Confluence Park Management Agency~~ is entered into by the Parties in order to:

3.1. Promote the Purpose of the *Conservation Easement*. Facilitate and promote the stated purpose of the *Conservation Easement* from Washington County to the State of Utah and/or certain of its agencies: *i.e.,* to retain the Park property, including waterways therein, in its natural, open-space condition and prevent use or uses which would impair the conservation values for which the Park property is being protected.

3.2. Facilitate and Promote the Purposes of the *Confluence Nature Park Final Plan* (May 15, 2007, as amended). Further develop and implement, with regards to the Park, management strategies which (a) preserve and protect its significant historic and prehistoric resources; (b) protect the unique solitude and scenic vistas of the park and areas adjacent thereto; (c) preserve, protect and enhance habitat for the protection of native species therein; (d) provide educational experiences that enhance one's appreciation of and for the area's rich cultural, historical, and wildlife and natural resources; and (e) foster mutually supportive partnerships with private and public organizations and individuals to achieve visitor use and resource-protection goals.

3.3. Facilitate Cooperation and Input. Facilitate issue identification, problem solving, communication, coordination, and cooperation among themselves, as Parties to this Agreement, and to cooperate with and/or solicit the input of interested federal, state, local, and other agencies, as well as interested citizens and special-interest groups and organizations to: (a) develop, promote, and implement recommendations and plans for the Confluence Park; (b) promote coordinated land use planning for the lands and waterways surrounding and flowing through the Park; and (c) develop recommendations and promote procedures to improve the water quality of the waterways that flow through and/or feed into the Park.

3.4. Identify and Develop Funding Sources. In addition to any funding contributed by the Parties (budgeted and appropriated by the Parties for the uses set forth herein ~~by the Agency~~), identify, seek and develop funding sources, from public and private sources (including but not limited to grants, financial and in-kind donations, user fees, etc.), to provide for the resource needs of ~~the Agency and~~ the Park, including (to the extent deemed necessary or prudent by the Executive~~Governing~~ Board) paid and volunteer staff, consultants, equipment and equipment operators, supplies, and the preparation, development, and maintenance of maps, data, programs, activities, and capital improvements projects.

3.5. Gather Information. Gather information from existing studies and reports to use to educate the public, government officials, and others concerning the values of the Park and the use of the Park for historical, cultural, recreational, environmental, and other purposes.

3.6. Undertake Studies and Assessments. Authorize and/or undertake studies and assessments regarding the present status of fish and wildlife, wetlands, recreational uses, access and parking, trails, and other relevant activities within the~~Confluence~~ Park, and opportunities for their enhancement.

3.7. Develop and Implement Plans and Architectural Guidelines.

3.7.1. Authorize, provide for, and facilitate the preparation, coordination, review, and implementation of development plans of and relating to the P~~p~~ark, which plans shall be consistent with applicable federal, state, and local law and ordinances, the terms and provisions of the *Conservation Easement* held by the State of Utah and/or certain of its agencies; the *Confluence Nature Park Final Plan* adopted by the Washington County Commission on May 15, 2007, and other plans and supplements thereto adopted by the Executive~~Governing~~ Board established by this Agreement.

3.7.2. Architectural Guidelines adopted by the Executive~~Governing~~ Board for the Park shall be considered guidelines and *not* requirements. The Executive~~Governing~~ Board is and shall be authorized to deviate, or allow deviations, therefrom when—in its opinion—such deviation is necessary, prudent, or otherwise determined to be warranted; *provided that* such a deviation is consistent with applicable federal, state, and local law and ordinances, the terms and provisions of the *Conservation Easement* held by the State of Utah and/or certain of its agencies; the *Confluence Nature Park Final Plan* adopted by the Washington County Commission on May 15, 2007, and other plans and supplements thereto adopted by the Governing Board established by this Agreement.

3.8. Make Recommendations. Make recommendations and promote ordinances, standards, rules and regulations consistent with the purposes and priorities of the Agency for issues relating to reclamation and restoration projects, non-indigenous nuisance species control, indigenous species protection, environmental protection, the existing infrastructure related to the waterways and surrounding land, flood and storm water control, historical sites, and other resource and technical concerns that may arise.

3.9. Identify Capital Improvement and Maintenance Needs. Identify needed capital improvement and maintenance projects and activities that should be pursued; and develop funding, an annual work program and a long range plan to implement such projects and activities.

3.10. Identify Corrective Actions. Identify any on-site corrective actions necessary to restore and maintain the chemical, physical and biological integrity of the waters of and flowing through the Park, and the lands adjacent thereto or otherwise located

within the Park, in order to enhance their quality and to enhance and preserve fish and wildlife (particularly any that may be identified as threatened or endangered) that inhabit or frequent the Park.

3.11. Promote Trails, Picnicking and other Recreational Uses. Recommend and promote actions to assure new and continued access to and throughout the Park and to adjacent public lands, roads, and trails, in order to develop and form a functional and aesthetic trail system that can be accessed and utilized by persons of varying ages and physical condition; provide informational markers, kiosks and signage (providing notice to the public of the trails' existence and access points, and providing distance and other information at the trail heads and along the trailways); and developing facilities along trailways and in camp or picnic sites to provide for the comfort and needs of users of the Park (including but not limited to park benches, restrooms, picnic tables, etc.).

ARTICLE IV

Term of the Interlocal Cooperation Agreement

The term of this Agreement shall continue for a period of fifty (50) years from the Effective Date hereof, unless this Agreement is sooner terminated by majority vote of the Executive~~Governing~~ Board ~~Board of the Agency established hereunder~~.

~~ARTICLE V~~

~~Creation of the Confluence Park Management Agency~~

~~5.1. Independent Legal Entity; Scope. The Confluence Park Management Agency shall become and continue as a separate and independent governmental entity on and after the Effective Date, pursuant to and limited by the provisions of this Agreement and the ICA, for the purpose of effectuating the purposes identified in Article III herein.~~

~~5.2. Headquarters. The Agency's headquarters shall initially be located in the City Offices of LaVerkin City; but the Governing Board may and is hereby authorized to change the location of its headquarters from time to time.~~

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ARTICLE VI

~~Agency Membership and~~ Voting Rights

56.1. The joint and cooperative undertaking of the Parties shall be governed by an Executive Board, which shall be advised by a Technical Advisory Committee~~Agency shall be comprised of a **Governing Board** and a **Technical Advisory Committee**~~.

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56.2. Executive~~Governing~~ Board.

56.2.1. Each Party to this Agreement shall designate one representative thereof to sit on the Executive~~Governing~~ Board, as a Board Member, with the right to vote on matters coming before the Board.

56.2.2. Each Party to this Agreement may also designate an additional representative thereof as an Alternate Board Member, who may attend the meetings of the Executive~~Governing~~ Board but shall not sit as a Board Member or vote on matters coming before the Executive~~Governing~~ Board except in the absence of the Party's designated Board Member.

56.2.3. Each Board Member shall be entitled to one vote on the official business that comes before the Governing Board.

56.3. Technical Advisory Committee.

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~~6.3.1.~~5.3.1 Members of the TAC are not Board Members and have no voting rights; however, they may participate in meetings, hearings, and proceedings of the Executive~~Governing~~ Board, and provide input and recommendations thereto.

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~~6.3.2.~~ 5.3.2 The TAC shall consist of one representative each from agencies, organizations, and/or special-interest groups with a recognized and declared special interest, technical expertise, or experience in areas relevant to the subject matter of this Agreement and the purposes to be effectuated thereby.

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~~6.3.3.~~ 5.3.3 Initially, such agencies, organizations, and/or special-interest groups include the following: the U.S. Bureau of Land Management, the U.S. Fish and Wildlife Service, the Utah Department of Natural Resources (UDNR), the Utah Division of Wildlife Resources (UDWR), the Virgin River Resource Management and Recovery Program, the Washington County Red Cliffs Desert Reserve Administration, the Virgin River Land Preservation Association, and the Habitat Conservation Advisory Committee (HCAC).

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~~6.3.4.~~ 5.3.4 Upon majority vote of the Executive~~Governing~~ Board, other agencies, organizations, and/or special-interest groups may hereafter be invited to participate in and provide a representative to the TAC, for such periods and purposes as deemed appropriate by the Executive~~Governing~~ Board.

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56.4. Input from Others Encouraged. Other entities (Federal, State and/or local), organizations (public or private), water and recreational users, and citizens, though not members of the Executive Board~~Management Committee~~ or TAC, are encouraged to attend meetings of the Governing Board and to provide input as they deem necessary or proper, and in accordance with the rules and bylaws of the Executive~~Governing~~ Board.

ARTICLE VII

Powers and Responsibilities ~~of the Agency~~

67.1. Interlocal Cooperation Act Powers. The Executive Board~~Agency~~ shall be governed by the terms and conditions of this Agreement, the provisions of the ICA, and the bylaws hereafter adopted by the Executive~~Governing~~ Board.

67.2. The Executive Board's powers and responsibilities are~~Except as~~ limited by the terms of this Agreement, as it may be amended from time to time.

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~~, the Agency shall have all powers granted by the ICA, and is hereby authorized to do all acts necessary to accomplish its stated purposes, including, but not limited to, any or all of the following:~~

~~7.2.1. To make and enter into contracts consistent with Section 7.6.~~

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~~7.2.2. To acquire, hold, or dispose of property, contributions, grants, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and governmental entities.~~

~~7.2.3. To sue and be sued in its own name.~~

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~~7.2.4. Except as otherwise provided in herein, or limited by applicable law, to exercise the power of eminent domain in its own name.~~

~~7.2.5. To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement or as otherwise authorized by law.~~

~~7.2.6. To borrow money or incur indebtedness, liabilities, or obligations; and to issue Bonds for the purposes for which it was created.~~

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67.3. Federal and State Grants. The Executive Board~~Agency~~ is hereby authorized to receive and utilize federal and state grants or loans obtained by any of the Parties for the purposes set forth in this Agreement, specifically including, but not limited to,~~it obtains in furtherance of the~~ planning, and development, and implementation of programs and projects intended to accomplish the goals for~~of~~ the Park~~Agency~~, its Executive~~Governing~~ Board, this Agreement, the *Conservation Easement*, and development and management plans of and pertaining to the Park.

67.4. Article III Purposes. The Executive Board~~Agency~~ is hereby authorized and duly charged to pursue and implement the Purposes as set forth in Article III hereof.

67.5. Meet and Receive Input from the TAC and the Public. The Executive~~Governing~~ Board shall meet at least monthly, and shall provide notice and an opportunity, at such meetings and/or hearings, for the TAC or the public to provide input for its consideration.

67.6. Contracts. The Executive Board~~Agency, by and through its Governing Board,~~ may act as an agent for the Parties and may negotiate a contract generally; and may enter into contracts or agreements with private organizations, foundations, the federal government, state, county, or any municipal corporation, and/or any other governmental agency for any purpose necessary or desirable, and consistent with, its stated purposes and the effectuation thereof; and may accept, manage, and dispose of all funds resulting therefrom.

6.6.1 Any agreement, contract or other obligation or expenditure for goods and services below Five Hundred Dollars ($500.00)~~_____~~ may be entered into by the Executive Director, or, if there is no Executive Director, the Chairman of the Executive Board, without the necessity of prior Board approval. Such agreement, contract or other obligation or expenditure shall thereafter be reported to and ratified by the Executive Board.

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6.6.2 Any agreement, contract or other obligation or expenditure of at least ~~above~~ Five Hundred Dollars ($500.00),~~$_____~~ but not in excess of Two Thousand Dollars ($2,000.00),~~_____~~ may be entered into by the Executive Director, or, if there is no Executive Director, the Chairman of the Executive Board, but only after having first secured Board approval thereof. Such agreement, contract or other obligation or expenditure shall thereafter be reported to and ratified by the Governing Body of each Party hereto.

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6.6.3 Any agreement, contract or other obligation or expenditure above Two Thousand Dollars ($2,000.00)~~_____~~ may only be entered into by the Executive Director, or, if there is no Executive Director, the Chairman of the Executive Board, after the Board and the Governing Body of each and every Party hereto has first approved the same.

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6~~7~~.7. Adoption of Uniform Ordinances, Resolutions and Standards. The Governing Board of the Agency shall have the power to recommend to the Parties, by resolution, any ordinances, resolutions, rules, regulations, or policies, not inconsistent with State law, which are deemed by the Executive~~Governing~~ Board to be necessary, appropriate, or incidental to the Executive Board~~Agency~~'s efforts and mandate to effectuate the Purposes set forth in Article III herein. Such resolutions may recommend general standards, including but not limited to water quality, subdivision development, zoning, solid waste disposal, sewage disposal, tree removal, ridgeline development, house relocation, outdoor recreation, flood plain protection, soil and sedimentation control, air pollution and watershed protection, in and around the area of the Park.

6~~7~~.8. Acquisition of Personal Property. The Executive Board~~Agency~~ may acquire personal property or an undivided, fractional, or other interest therein, as may be deemed necessary or prudent by the Executive~~Governing~~ Board in effectuating the Purposes of this Agreement and the powers and authority delegated herein, which property shall be equally owned by the Parties. ~~to the Agency.~~

~~7.9.~~6.9 Exercise of Powers. All powers of the Executive ~~Agency, the Governing~~ Board, and the TAC shall be exercised pursuant to and consistent with the terms of this Agreement, its bylaws, and any governing laws.

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ARTICLE VII~~I~~

Liabilities and Obligations of the Parties

7~~8~~.1. Assist in the Advancement of Purposes~~Establishment and Maintenance of the Agency~~. Each Party agrees to cooperate and assist in the formation, funding, maintenance, and operation of the ~~Confluence~~ Park,~~k Management Agency~~, and the accomplishment of its purposes, as set forth in Article III; and shall promptly appoint one or more representatives thereto as provided herein.

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~~8.2.~~7.2 Governmental Immunity.

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By entering into this Agreement, the Parties do not (and do not intend to) waive any immunity provided to the Parties hereto or their officials, employees, or agents by UCA, Title 63, Chapter 30d, known as the *Governmental Immunity Act of Utah*, (the "Immunity Act"), or by other applicable law.

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~~8.2.2.It is understood that the Agency established herein is and constitutes a "political subdivision" for which such immunity also applies, pursuant to Section 63-30d-102(7), UCA, of the Immunity Act.~~

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78.32. Waiver of Obligations. This Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law. However, to the extent of actual and timely performance thereof by the Executive Board~~Agency~~, such performance may be offered in satisfaction of such obligation or responsibility.

78.43. Obligations Special and Limited. The obligations entered into by each Party to this Agreement are special limited obligations of each such Party, and nothing herein shall be construed or give rise to a general obligation or liability of any Party or a charge against its general credit or taxing powers. The Parties may hereafter enter into agreements to pledge revenues to secure bonds issued ~~by the Agency~~ to finance projects of and undertaken by the Executive Board~~Agency~~. Such pledges shall constitute obligations of the pledging Parties only to the extent expressly authorized by the Governing Body of such pledging Party.

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~~8.4. Bonding. Any Bonds issued or incurred by the Agency shall not constitute a debt of any individual Party hereto, but shall be secured only in the manner set forth therein. There shall be no additional liability or obligation of a Party hereto, except as provided in Section 8.3.~~

78.5. Indemnification. Each Party~~The Agency~~ shall defend, indemnify, save harmless, and exempt the other Parties hereto, and their officers, agents, and employees, from and against all claims, suits, legal proceedings, demands, damages, costs, expenses, and attorneys' fees incident to any willful or negligent acts or omissions by that Party~~the Agency~~, and/or its officers, agents, or employees. The Executive~~Governing~~ Board shall, prior to the commencement of construction of any project undertaken the Executive Board~~by the Agency~~ provide for risk and liability coverage in such amount(s) as the Executive~~Governing~~ Board deems necessary to insure against risks arising from undertaking the project.

ARTICLE VIII~~IX~~

Executive~~Governing~~ Board

89.1 Appointment. There is hereby created an Executive Board~~Governing Board of the Confluence Park Management Agency~~, which *shall* consist of four Board Members, one each from the four Parties hereto, viz., Washington County, Hurricane City, LaVerkin City, and Toquerville City.

89.1.1. The Governing Body of each Party to this Agreement shall select and appoint a representative to serve on the Governing Board. That Board Member may be an elected or appointed official of said Party, at the option of said Party.

~~9.1.2.~~ 8.1.2. The Governing Body of each Party to this Agreement may also select and appoint an alternate nonvoting board member, who shall not sit~~participate~~ or vote as a Board Member except as provided in Section 5~~6~~.2.2. The Alternate Board Member, if appointed, may be an elected or appointed official of the appointing Party, at the discretion of said appointing Party.

89.2. Terms. Board Members shall each be appointed for four-year terms of office, except that one-half of the number of Board Members will be appointed to a two-year initial term, such that the terms of the Board Members will be staggered. Each Board Member shall serve at the will of the Party appointing the Board Member.

89.2.1. Board Members appointed by the following Parties hereto shall serve for an initial four-year term: Washington County and Hurricane City.

89.2.2. Board Members appointed by the following Parties hereto shall serve for an initial two-year term: LaVerkin City and Toquerville City. Successor terms of Board Members appointed by said Parties shall be for four years.

89.2.3. Reappointments and replacements should be by appointment of the Party who appointed the member being replaced or reappoint.

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8.3 ~~9.3.~~ Compensation. Members of the Executive~~Governing~~ Board shall serve without compensation and have their expenses paid by their appointing Party.

89.4 Leadership. The Executive~~Governing~~ Board shall have a Chair and a Vice-Chair elected by and from the Board Members, whose term shall expire every two years. The Chair and Vice-chair shall not serve more than two successive terms. An Alternate Board Members, when acting as a voting Board Member, does not assume the leadership position (if any) of the absent Board Member for whom he or she is sitting.

89.5. Regular Meetings. The Executive~~Governing~~ Board shall hold regularly-scheduled public meetings ~~to accomplish the objectives of the Confluence Park Management Agency~~, and may adopt, amend and repeal bylaws, rules, policies and procedures for the conduct of its affairs. The Board shall hold at least one regular meeting per

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month, and such other special meetings as they may deem necessary or prudent. Meetings shall be conducted in accordance with the provisions of UCA, Title 52, Chapter 4, the *Open and Public Meetings* Act ("OPMA").

89.6. Notice of Meetings. Public notice of Board meetings shall comply with and be given in accordance with the provisions of OMPA. Notice to Board Members shall be sufficient if delivered in writing, by fax, or by e-mail to the Board Member's or the appointing Party's address, fax number, or e-mail address.

89.7. Minutes. The Executive~~Governing~~ Board shall cause to be kept minutes of all meetings of the Board in accordance with state law and shall, as soon as possible after each meeting, cause a draft copy of the minutes to be forwarded to each member of the Board.

89.8. Quorum and Voting. No meeting or hearing of the Executive~~Governing~~ Board shall be held without a quorum present.

~~9.8.1~~8.8.1 Quorum. The presence of three (3) or more Board Members (including any Alternate Board Members sitting as Board Members), either in-person or via telephone (so long as no more than one Board Member is "present" via the telephone) shall constitute a quorum.

~~9.8.2.~~ 8.8.2. Majority Vote. The minimum number of "yes" votes required to take any action of the Board shall be a majority of the members of the quorum present, but in no event shall be fewer than three (3) votes.

89.9. Records. The records of the Executive Board~~Agency~~, including those of the Governing Board, shall be governed by the provisions and requirements of UCA, Title 63, Chapter 2, the *Government Records Access and Management Act* ("GRAMA"), to the extent applicable, *except* that the Governing Body and/or legal counsel of each Party hereto shall have full access to inspect all records and to copy public records of the Executive Board.~~Agency.~~

89.10. Requests for Information. The Executive~~Governing~~ Board shall have an ongoing duty to see to it that all Parties hereto, as well as the members of the TAC, are adequately and timely informed regarding the activities undertaken by the Board~~Agency~~, and, accordingly, shall cause a copy of all materials (or a notice of their existence, if they are not public records) to be delivered in the manner it deems appropriate to Board Members for meetings of the Board, including minutes of past meetings, and to such other persons as the Board Member or a Party hereto may request in writing, including each Party's legal counsel. The Chairman (or Executive

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Director, if one is appointed) shall promptly respond to all requests for information made by any Board Member, TAC member, or Party to this Agreement.

ARTICLE IX

Powers and Duties of the Executive~~Governing~~ Board

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The Executive~~Governing~~ Board shall have the following powers and duties:

9~~10~~.1. ~~Executive~~ Committees. The Executive~~Governing~~ Board shall have the authority to appoint such standing and/or ad hoc committees (in addition to the TAC established herein) as the Board may deem necessary or prudent to assist it in fulfilling the purposes of this Agreement, as set forth in Article III hereof.

9~~10~~.2. Executive Reports. The Executive~~Governing~~ Board may commission, receive and act upon reports of the Executive Director (if one is appointed), committees and consultants.

9~~10~~.3. Executive Director. The Executive~~Governing~~ Board may hire a limited staff, including a full-time Executive Director, and may employ such other person(s) as the Board deems necessary or prudent for the proper administration the Agency. The Governing Board shall have general supervisory and policy control over the day-to-day decisions and administrative activities of the Executive Director.

9~~10~~.4. Bylaws. The Executive~~Governing~~ Board shall have the authority to adopt and amend bylaws—as it deems necessary or prudent, and pursuant to majority vote of the Board. Each Board Member and each Party hereto shall receive a copy of the bylaws.

9~~10~~.5. Rules. The Executive~~Governing~~ Board shall have the authority to establish rules governing its own conduct and procedures, not inconsistent with the bylaws.

9~~10~~.6. Debts, Obligations, and Expenses. The Executive Board~~Governing Body~~ shall ensure that all lawful debts, obligations, and expenses of or incurred by the Board~~Agency~~, including O&M Expenses, are timely and appropriately paid or satisfied.

ARTICLE X~~I~~

Technical Advisory Committee

10~~1~~.1. Appointment. There is hereby created a Technical Advisory Committee (TAC) ~~of the Agency~~, which shall consist of an appointed representative from the U.S. Bureau of Land Management, the U.S. Fish and Wildlife Service, the Utah Department of Natural Resources (UDNR), the Utah Division of Wildlife Resources (UDWR), the Virgin River Resource Management and Recovery Program, the Washington County Red Cliffs Desert Reserve Administration, the Virgin River Land Preservation Association, the Habitat Conservation Advisory Committee (HCAC), and such other agencies, organizations, and/or special-interest groups as may hereafter be invited to participate in and provide a representative to the TAC pursuant to the provisions of Section 6.3.4 of this Agreement.

10~~1~~.2. Terms. Members of the TAC serve at the pleasure of, and for such terms or periods of time as determined by, the agency, organization, or special-interest group they represent.

10~~1~~.3. Compensation. Members of the TAC shall serve without compensation and shall have their expenses paid by their appointing agency, organization or special-interest group.

10~~1~~.4. Leadership. The TAC shall have a Chair and a Vice-Chair elected by and from their Members, whose term shall expire every two years. The chair and vice-chair shall not serve more than two successive terms.

10~~1~~.5. Advice. The TAC shall advise the Executive~~Governing~~ Board with respect to the technical aspects of the Executive~~Governing~~ Board's work, including the development of goals, plans, renderings, standards, specifications, best management practices ("BMPs"), and recommendations for uniform rules, regulations and ordinances.

10~~1~~.6. Meetings. Unless otherwise provided by bylaws or resolution of the Board, the TAC shall meet when the Board meets and otherwise as often as it deems necessary to conduct its business.

10~~1~~.7. Information Gathering. The TAC, on its own initiative or when requested by the Board (or Executive Director), shall gather information, investigate issues, and make recommendations to the Board.

10~~1~~.8 Subcommittees. The TAC may create such subcommittees as it deems necessary to fulfill its purposes.

ARTICLE XI~~I~~

Funding, Budget, Accounts and Financial Records

11~~2~~.1. Funding; Investment and Disbursement of Funds.

~~12.1.1.~~11.1.1 The Executive~~Governing~~ Board shall provide for the investment and disbursement of Executive Board~~Agency~~ funds and their periodic review.

~~12.1.2.~~11.1.2 It is anticipated that the primary source of funding for the management of the~~Confluence~~ Park ~~Management Agency~~ shall come from grants. Many of those grants are or may be matching grants, for which a "local match" is or may be required. The Parties hereto understand that they may be requested, from time to time, to provide a limited and equitable amount of funding to help generate the "local match" necessary for the Agency to generate and/or be eligible to apply for and receive such "matching grants." All matching funds shall be paid/provided as apportioned by the Executive Board.

~~12.1.3.~~ 11.1.3 Other sources of funding may include user fees, donations, and contributions from federal agencies, state agencies, local governments, private sources, developers, and businesses.

11~~2~~.2. Annual Budget. The Executive~~Governing~~ Board shall annually adopt an operating budget pursuant to the provisions of this Agreement, bylaws adopted by the Governing Board, and applicable law, which shall be paid/provided as apportioned by the Executive Board.~~.~~

11~~2~~.3. Funds, Accounts, and Audits.

~~12.3.1.~~11.3.1 The Chairman (or the Executive Director, if and when one is appointed) shall:

a. Establish and maintain such funds and accounts as may be required by governmental accounting practices and the State's fiscal procedures act.

b. Have custody of and shall disburse the Executive Board~~Commission~~'s funds, and shall have the authority to delegate the signatory function to such person(s) as are authorized by the Executive~~Governing~~ Board.

c. Keep and maintain, or cause to be kept and maintained, adequate and correct financial records, including accounts of its assets, liabilities, receipts, and disbursements; and shall have such other finance-related duties as are provided for in the bylaws.

11~~2~~.3.~~2~~3. The Executive~~Governing~~ Board shall provide for a certified annual audit of the accounts and records of the Executive Board~~Agency~~, which audit

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shall conform to generally-accepted auditing standards.

112.3.34. Financial records and audits of the Executive Board~~Agency~~ shall be open to inspection at all reasonable times by the Parties' representatives, and shall be open to the public to the extent that they are classified as public records under GRAMA or other applicable state law.

112.46. Fidelity Bonds. Unless otherwise provided for by the Executive~~Governing~~ Board, a fidelity and/or treasurer's bond may be required of all officers, agents, and personnel authorized to handle and/or disburse funds of the Agency. The cost of such bond shall be paid by the Executive Board~~Agency~~.

ARTICLE XII~~I~~

TERMINATION OF THE AGREEMENT AND DISSOLUTION OF THE EXECUTIVE BOARD AND THE TECHNICAL ADVISORY COMMITTEE~~Dissolution of the Commission~~

~~13.1. Outstanding Indebtedness. So long as there are any outstanding Bonds or other indebtedness of the Agency, the Agency shall remain a separate legal entity with all of the powers and duties set forth in this Agreement, and all of the responsibilities, covenants, and obligations required in the Bond documents.~~

123.12. Termination of the Interlocal Agreement~~Dissolution of the Agency~~ by Vote. ~~If there are no outstanding Bonds, t~~This Agreement~~e Agency~~ may be dissolved upon majority vote of the Board Members.

123.23. Powers of Executive~~Governing~~ Board upon Termination of the Interlocal Agreement~~Dissolution~~. The Interlocal Agreement~~Governing Board~~ may ~~is~~ be vested with all powers necessary for the purpose of winding up and dissolving the business affairs related to this Agreement that are~~of the Agency~~ consistent with and subject to the limits of this Agreement.

~~13.4.~~12.3 Division of Assets.

~~13.4.1.~~12.3.1 Upon termination of this Agreement ~~dissolution~~ and after payment in full of all outstanding expenses ~~Bonds~~ and other ~~Agency~~ obligations, the Executive~~Governing~~ Board shall equitably disburse the assets acquired by the Executive Board to the Parties of this Agreement between the then Parties of this Agreement~~of the Agency to the Parties hereto that are still Members of the Agency at the time of dissolution~~.

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~~13.4.2.~~12.3.2 Before such disbursement:

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a. All costs and expenses incurred or involved in effecting said termination~~dissolution~~ shall be paid or satisfied in full.

~~b. All outstanding bonds and obligations shall be paid or otherwise satisfied in full.~~

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~~c.~~b. All cash or other assets that belong (for whatever reason) to a specific person or entity (including but not limited to a Party to this Agreement), as opposed to being jointly-held by the Parties or owned by the Agency, shall be returned or redistributed to said person or entity.

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~~13.4.3.~~12.3.3. The remaining cash and other assets ~~of the Agency~~ shall then be disbursed, or interests deeded, on *pro rata* basis.

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ARTICLE XIII~~V~~

Filing of this Interlocal Cooperation Agreement

A copy of this Agreement shall be placed on file in the office of the Official Record Keeper of each public agency that is a Party hereto and shall remain on file for public inspection during the term of this Agreement.

ARTICLE XIV

Miscellaneous Provisions

~~15.1~~14.1 Confidentiality. The Executive~~Governing~~ Board and Technical Advisory Committee, collectively and as individuals serving thereon (both during and following their terms of service), shall take such steps as they deem necessary or prudent to protect and keep confidential those records which, under GRAMA or other applicable law, constitute protected, controlled or private records, or records which are otherwise required to be protected from public disclosure.

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1~~5~~.2. Status of Members' Employees. When members of the Executive~~Governing~~ Board and the Technical Advisory Committee are acting on behalf of the Executive Board~~Agency~~, they shall be considered to be acting on behalf of their respective

public agency employer within the meaning of the Immunity Act and Chapters 30a and 30b of Title 63, UCA, and shall thus be entitled to legal representation and indemnification so long as they meet the then-current requirements of UCA, Section 63-30(d)-902 (or its successor).

145.3. Prohibition against Assignment. No Party to this Agreement may assign any right, claim, or interest it may have under this Agreement~~; and no creditor, assignee, or third party beneficiary of any Party to this Agreement shall have any right, claim, or title to any asset of the Agency~~.

145.4 Severability Clause. The articles, sections, paragraphs, sentences, clauses, and phrases of this Agreement, and the application thereof, are expressly declared to be severable. If any such article, section, paragraph, sentence, clause, or phrase, or the application thereof, shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, or phrases, or applications, of this Agreement.

145.5. Complete Agreement. The foregoing constitutes the full and complete Agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

145.6. Amendment. This Agreement may be amended at any time by the written approval of the Governing Bodies of all Parties to this Agreement that have not withdrawn from this Agreement ~~(and the Agency)~~ pursuant to the provisions of Article I.

145.7. Governing Law. This Agreement shall be governed according to the laws of the State of Utah.

145.8 Binding Effect. This Agreement shall bind the parties, their successors and assigns.

145.9 Captions. The captions to the various Articles and Sections of this Agreement are for convenience and ease of reference only, and neither define, limit, augment, nor describe the scope, content, and/or intent of this Agreement or any part or parts hereof.

145.10 Time. Time is of the essence of each term provision and covenant of this Agreement.

145.11. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

145.12. Breach of Agreement. The failure of any party to comply with the terms and/or conditions of this Agreement shall constitute a breach of this Agreement. A party shall have thirty (30) days after receipt of written notice from the Agency, the

Governing Board, or another Party to this Agreement to correct the condition(s) specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within ten (10) days after receipt of the notice.

IN WITNESS WHEREOF, the Parties have signed and executed this *Interlocal Cooperation Agreement*, after resolution duly and lawfully passed, on the dates listed on the signatory pages, below, to become effective on the date that it has been approved by all of the Parties~~Effective Date, first written above~~.

(See Next Page)

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WASHINGTON COUNTY

Washington County, Utah, by resolution of its Governing Body on _____, approved the execution of this *Interlocal Cooperation Agreement Establishing the Confluence Park Management Agency*, dated as of _____.

WASHINGTON COUNTY, UTAH ATTEST:

_____ _____

Chair, Board of Commissioners Washington County Clerk/Auditor

Approved As To Form And Compliance With Applicable Law:

Attorney for Washington County, Utah

Filing of the Interlocal Cooperation Agreement:

Pursuant to Section 11-13-209, UCA, I certify that this Agreement is on file in the official Records of Washington County.

Utah County Clerk/Auditor

HURRICANE CITY

The City of Hurricane, Utah, by resolution of its Governing Body on _____, approved the execution of this *Interlocal Cooperation Agreement Establishing the Confluence Park Management Agency*, dated as of _____.

CITY OF HURRICANE, UTAH

ATTEST:

Mayor

City Recorder

Approved As To Form And Compliance With Applicable Law:

Attorney for Hurricane City

Filing of the Interlocal Cooperation Agreement:

Pursuant to Section 11-13-209, UCA, I certify that this Agreement is on file in the official Records of Hurricane City.

City Recorder and Official Record Keeper

LaVERKIN CITY

The City of LaVerkin, Utah, by resolution of its Governing Body on _____, approved the execution of this *Interlocal Cooperation Agreement Establishing the Confluence Park Management Agency*, dated as of _____.

CITY OF LaVERKIN, UTAH ———ATTEST:

Mayor City Recorder

Approved As To Form And Compliance With Applicable Law:

Attorney for LaVerkin City

Filing of the Interlocal Cooperation Agreement:

Pursuant to Section 11-13-209, UCA, I certify that this Agreement is on file in the official Records of LaVerkin City.

City Recorder and Official Record Keeper

TOQUERVILLE CITY

The City of Hurricane, Utah, by resolution of its Governing Body on _____, approved the execution of this *Interlocal Cooperation Agreement Establishing the Confluence Park Management Agency*, dated as of _____.

CITY OF TOQUERVILLE, UTAH ATTEST:

Mayor City Recorder

Approved As To Form And Compliance With Applicable Law:

Attorney for Toquerville City

Filing of the Interlocal Cooperation Agreement:

Pursuant to Section 11-13-209, UCA, I certify that this Agreement is on file in the official Records of Toquerville City.

_____

City Recorder and Official Record Keeper

RESOLUTION NO. 2008—_____R

A RESOLUTION AUTHORIZING LaVERKIN CITY TO ENTER INTO AN INTERLOCAL COOPERATIVE AGREEMENT FOR THE OPERATIONS AND MANAGEMENT OF THE CONFLUENCE PARK; AND CONFIRMING THE PREVIOUS APPOINTMENT OF A REPRESENTATIVE AND ALTERNATE REPRESENTATIVE OF THE CITY TO THE EXECUTIVE BOARD ESTABLISHED THEREBY (TO SERVE AS MEMBER AND ALTERNATE MEMBER); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Washington County and the communities of Hurricane, LaVerkin, and Toquerville, Utah, desire to enter into an *Interlocal Cooperation Agreement* ("the Agreement") to provide for the operations and management of the Confluence Park; and

WHEREAS, the City Council, by motion, during its regularly-scheduled meeting held December 5, 2007, approved the Agreement as prepared (a copy of which is attached hereto); and

WHEREAS, the City Council also approved, by motion, on December 19, 2007, the appointment of Mayor Karl Wilson as LaVerkin City's initial representative to the Executive Board established by said agreement (to serve as a "Member" thereof), as well as the appointment of Councilman Ray Justice as the initial alternative representative thereto ("Alternate Member"); and

WHEREAS, Section 11-13-202.5, *Utah Code Annotated* (1953, as amended), provides that the Agreement shall be approved resolution of the City Council before such approval is effective; and

WHEREAS, the City Council of LaVerkin City has determined that approval of the adoption of the Agreement is in the best interests of LaVerkin and its citizens.

NOW, THEREFORE, be it resolved by the City Council of LaVerkin City, Utah, as follows:

1. That the December 5, 2007, vote of the City Council, approving the *Interlocal Cooperation Agreement for the Operations and Management of the Confluence Park*, is hereby ratified and that said Agreement is hereby approved.

2. That the appointment of Mayor Karl Wilson as the City's initial representative to the Executive Board established under the Agreement ("Member") and is hereby ratified and approved.

3. That the appointment of Councilman Ray Justice as the City's initial alternate representative to the Executive Board established under the Agreement ("Alternate Member") is hereby ratified and approved.

RESOLUTION NO. 2008—_____R

4. That this Resolution shall take effect immediately upon passage.

PASSED, ADOPTED AND APPROVED this _____ day of_____, 2008.

_____
KARL WILSON, Mayor

ATTEST:

_____
DEBI GROVES, CMC
City Recorder

RESOLUTION NO. 2008—_____R

A RESOLUTION APPROPRIATING $2,437.00 FOR PAYMENT OF THE CITY'S FISCAL YEAR 2008-2009 FUNDING COMMITMENT IN CONNECTION WITH THE CONFLUENCE PARK AND THE INTERLOCAL COOPERATION AGREEMENT FOR THE OPERATIONS AND MANAGEMENT THEREOF.

WHEREAS, Confluence Park is one of the region's great natural and historical treasures; and

WHEREAS, the City recently approved **Resolution No. 2008-01R**, approving the *Interlocal Cooperation Agreement for the Operations and Management of the Confluence Park* ("the Agreement") and confirming the appointment of two City representatives of the Executive Board (a board member and an alternate board member) provided for therein; and

WHEREAS, the newly-formed Executive Board, at its January 2008 board meeting, (a) determined that funding ("seed money") was needed to assist the Board in carrying out its responsibilities under the Agreement, (b) observed that Washington County had committed Eight Thousand Dollars ($8,000.00) for such purposes, and (c) recommended that each of the partner cities involved (*i.e.,* Hurricane, LaVerkin, and Toquerville) contribute a sum, on a per capita basis, based upon each of their respective populations (with Toquerville's contribution being reduced—as compared with that of Hurricane and LaVerkin—due to the fact that Confluence Park lies *within* the territorial boundaries of Hurricane and LaVerkin, but merely *abuts* the community of Toquerville); and

WHEREAS, the Board therefore recommended that Hurricane and LaVerkin each contribute fifty cents ($0.50) per resident and that Toquerville contribute twenty-five cents ($0.25) per resident, using population figures as of December 31, 2007; and

WHEREAS, the residential population of LaVerkin City as of said date, according to the Five County Association of Governments, was 4,874; and

WHEREAS, 4,874 x $0.50/resident equals the sum of Two Thousand Four Hundred Thirty-seven and no/100 Dollars ($2,437.00); and

WHEREAS, the City Council has heretofore determined that participation in the management and operations of the Confluence Park under the Agreement is in the best interests of LaVerkin and its residents, and ***does hereby determine*** that the appropriation and payment of the aforesaid sum of money is a **fair and reasonable contribution** to ensure the success of the Agreement and the purposes to be realized thereunder.

RESOLUTION NO. 2008—_____R

NOW, THEREFORE, be it resolved by the City Council of LaVerkin City, Utah, that the City of LaVerkin hereby:

1. **Commits to appropriate and contribute**, during fiscal year 2008-2009 (FYE June 30, 2009), the sum of **Two Thousand Four Hundred Thirty-seven and no/100 Dollars ($2,437.00)** to the Confluence Park Executive Board for use as "seed money" and such other uses as are deemed necessary or prudent by the Board to facilitate the accomplishment of the purposes of (and identified in) the recently-adopted *Interlocal Cooperation Agreement for the Operations and Management of the Confluence Park.*

2. **Declares its intent** to continue **providing fair and reasonable support** (financial and otherwise) of and for the Confluence Park (and its management and operations) in future fiscal years.

This Resolution shall **take effect July 1, 2008.**

PASSED, ADOPTED AND APPROVED this _____ day of February, 2008.

_____
KARL WILSON, Mayor

ATTEST:

_____
DEBI GROVES, CMC
City Recorder