

PROGRAM AND FUNDING AGREEMENT

Mountain Accord Phase II

This Interlocal Program and Funding Agreement — Mountain Accord Phase II (“Agreement”) is entered into this 11th day of February 2016 by and among Cottonwood Heights (“Cottonwood Heights”), Draper City (“Draper”), the Metropolitan Water District of Salt Lake & Sandy (“MWDSLS”), Park City Municipal Corporation (“Park City”), Sandy City (“Sandy”), Salt Lake City (“SLC”), Salt Lake County (“Salt Lake County”), Summit County (“Summit County”), the Town of Alta (“Alta”), Utah Department of Transportation (“UDOT”), Utah Transit Authority (“UTA”), and Wasatch Front Regional Council (“WFRC”). Each is individually referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, UDOT is a Utah state agency with the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems, and implementing the transportation policies of the state;

WHEREAS, UTA is a public transit district organized pursuant to Utah law, and provides transit services in and around the Wasatch Front;

WHEREAS, SLC, Sandy, Cottonwood Heights, Draper City, Alta, and Park City are Utah municipal corporations, and have various responsibilities and legal authorities related to land use, transportation, watershed and water resources, economic, and environmental issues;

WHEREAS, Salt Lake County and Summit County are Utah counties, and have various responsibilities and legal authorities relating to land use, transportation, watershed and water resources, economic, and environmental issues;

WHEREAS, MWDSLS is a Utah metropolitan water district operating pursuant to the Metropolitan Water District Act, Utah Code Annotated, Title 17B, Chapter 2A, Part 6, and has various responsibilities for providing wholesale water supplies to its member cities and others;

WHEREAS, WFRC is the metropolitan planning organization responsible for transportation planning for the Ogden-Layton and Salt Lake-West Valley City Metropolitan Areas;

WHEREAS, the Parties wish to build upon previous and certain ongoing efforts, including the recent Wasatch Canyons Tomorrow and the Mountain Transportation Studies, and conduct a comprehensive regional, long-term review of various transportation solutions in the central Wasatch Mountains that recognizes and incorporates the interdependent transportation, land use, recreation, wilderness, watershed and economic issues and opportunities;

WHEREAS, the Parties have previously entered into a Program and Funding Agreement for Wasatch Summit Phase I ("Phase I Agreement"), dated February 3, 2014, which established a Mountain Accord Program Charter dated February 2014 ("Program Charter").

WHEREAS, the Parties signed the Mountain Accord agreement ("the Accord") on August 3, 2015, which identifies a suite of actions that are recommended to be implemented to ensure that future generations can enjoy all the activities we do today, while preserving our watershed and natural environment; and

WHEREAS, the Parties desire to enter into this Agreement to provide for a transition from Phase I into Phase II (as defined below), and to define their respective roles and responsibilities with respect to Phase II.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals, mutual covenants and agreements herein set forth, the mutual benefits to the Parties to be derived, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. PROGRAM DESCRIPTION.

- A. The Parties intend to collaborate with each other to address long-term transportation, environmental, economic, and recreation needs in the Central Wasatch Mountains (the "Program").
- B. Phase I of the Program has concluded. This Agreement supersedes and replaces the Phase I Agreement. During Phase I, the Parties to the Phase I Agreement (i) contributed to the Program and deposited funds into a segregated holding account managed by UTA, and (ii) engaged a Mountain Accord Program Facilitator ("Program Facilitator") and a consultant to provide environmental professional services ("Environmental Technical Consultant"). UTA will retain in the holding account any funds left over from Phase I, and those funds will continue to be dedicated to Program expenses, as further detailed in paragraph 8. Contracts for the Program Facilitator and the Environmental Technical Consultant established under the Phase I Agreement will expire on September 30, 2015. These contracts may be extended through December 31, 2015 if agreed to by the Parties, to complete activities included in the scope of work for those Phase I contracts. At such time as those contracts expire, they will not be renewed for Phase II activities.
- C. The Parties anticipate that this phase of the Program ("Phase II") will be up to a three year process that (i) will prioritize the recommendations identified in the Accord; and (ii) will implement various components of the Accord, as prioritized by the Executive Board (as defined below), with the available Program funding.

- D. The final work deliverables and general agreement on the major decisions in Phase II will be in accordance with the elements of the Accord, as prioritized by the Executive Board.
- E. Each of the Parties will pledge funds as more particularly set forth herein, for Phase II.

2. EXECUTIVE BOARD AND DESIGNATED REPRESENTATIVES. An Executive Board (“Executive Board”) is established to be the consensus-based governing body of the Program. The Executive Board may update the Program Charter as needed. Each Party may appoint one person (a “Designated Representative”) to be a member of the Executive Board. The Parties may invite third parties to serve on the Executive Board at their direction. The Executive Board shall meet at least quarterly, and may meet more frequently, as agreed upon by a majority of the Executive Board. The Parties hereby designate the following as their Designated Representatives on the Executive Board:

- Alta.....Mayor Tom Pollard
- Cottonwood HeightsMayor Kelvyn H. Cullimore, Jr.
- Draper City.....Mayor Troy Walker
- MWDSLSMichael L. Wilson, MWDSLS General Manager
- Park CityCouncil Member Andy Beerman
- Sandy.....Mayor Tom Dolan
- Salt Lake CityMayor Ralph Becker
- Salt Lake County.....Mayor Ben McAdams
- Summit CountyCouncil Member Christopher Robinson
- UDOTNathan Lee, Region 2 Director
- UTAMichael Allegra, Special Advisor to the UTA Board of Trustees
- WFRCAndrew Gruber, Executive Director

Any party may change its Designated Representative on the Executive Board. Such changes will be reflected by updating the Program Charter; no Amendment (defined below) to this Agreement will be necessary.

3. MANAGEMENT TEAM. A Management Team was established under the Program Charter to manage the activities of Mountain Accord. The Management Team will continue to administer the Program, approve contract scopes of work and budgets for consultants hired for the Program, make recommendations to the Executive Board for

formal decisions and conflict resolutions as necessary, and give direction on the day-to-day management of the Program. The Management Team consists of Mayor Ralph Becker, Council Member Andy Beerman, Mayor Tom Dolan, Mayor Ben McAdams, Michael Allegra with UTA, David Whittekiend with the US Forest Service, Andrew Gruber with WFRC, and Alan Matheson representing the State of Utah. Changes to the membership of the Management Team will be reflected by updating the Program Charter; no Amendment (defined below) to this Agreement will be necessary.

4. **PROGRAM DIRECTOR:** The Parties agree to engage a Program Director to coordinate and manage numerous Program elements for a diverse group of committees and stakeholders, including federal, state, and local governments, non-governmental organizations, and private interests. The Program Director shall be responsible for the day to day management of the Program, and will report to the Executive Board. The Management Team shall prepare and finalize a Scope of Work for the Program Director, which shall be approved by the Executive Board. Among other responsibilities, the Program Director will maintain the Program Charter, as directed by the Executive Board. The Program Director shall be selected in accordance with Paragraph 10. The Program Director shall work under contract with WFRC. Invoicing and payment of the Program Director will be handled as described in paragraph 11.

5. **TECHNICAL CONSULTANTS.** The Parties agree to engage technical consultants as needed to implement various components of the Accord as prioritized by the Executive Board, to be paid for through the funds deposited by the Parties in the holding account. These technical consultants shall work under contract as described in Paragraph 9. The Management team or their designees shall prepare and finalize a Scope of Work for these technical consultants, which will be approved by the Executive Board. The technical consultant shall be selected in accordance with Paragraph 10.

6. **TERM.** The term of this Agreement shall be up to three (3) years, unless otherwise agreed by the Parties in accordance with Paragraph 13. However, in no case shall this Agreement extend for a term that exceeds fifty (50) years.

7. **FUNDING.** The amounts for funding Phase II of the Program, allocated by the Parties over a three year period, is expected to be as follows:

| | |
|--------------------------------------|-----------|
| Salt Lake City | \$600,000 |
| Salt Lake County..... | \$600,000 |
| Utah Transit Authority | \$600,000 |
| City of Sandy | \$300,000 |
| MWDSLS | \$300,000 |
| Park City Municipal Corporation..... | \$300,000 |
| Draper City | \$180,000 |
| City of Cottonwood Heights | \$150,000 |
| Summit County | \$150,000 |

| | |
|--------------------|-----------|
| UDOT | \$150,000 |
| Town of Alta | \$ 45,000 |

Funding is due as follows: for each of the monetary contributions, one-third of each Party's contribution will be due and payable on or before December 31, 2015; one-third of each Party's contribution will be due and payable on or before December 31, 2016, and one-third of each Party's contribution will be due and payable on or before December 31, 2017, assuming such amount is appropriated by the Party for such purpose. The funds shall be deposited in the UTA segregated holding account described in paragraph 8 of the Agreement and shall be used solely for the purposes of the Program, as directed by the Executive Board.

In addition, the State of Utah has contributed \$3,000,000 of fiscal year 2015 state funding through the Governor's Office of Economic Development ("GOED"), which was received on May 6, 2015 through a grant agreement between GOED and UTA and was deposited in the Phase I holding account managed by UTA.

Parties anticipate that the State of Utah will continue to contribute to the Program each year. This amount will be determined annually by the Utah State Legislature. In the event that funding is not appropriated to the Program in the expected amounts, as set forth above, the Executive Board shall address the shortfall by reducing the scope of the Program, raising alternate funds, or taking other measures deemed appropriate by the Executive Board.

8. **HOLDING ACCOUNT.** All funds allocated by the Parties for Phase II of the Program will be deposited in a segregated holding account (the "Account"), which UTA created pursuant to the Phase I Agreement and will manage solely for the purposes of the Program pursuant to this Agreement and any further agreement of the Parties. The Account will be interest-bearing with all interest accruing to the Account to be used solely for payment of Program-related expenses. The Account may receive funds from the Parties and third party contributors, as approved by the Executive Board, and in accordance with UTA policies. UTA shall pay Program expenditures first from the funds appropriated by the State of Utah. Once the State of Utah funds are expended, UTA shall pay Program expenditures from the commingled funds contributed by the remaining Parties and any third party contributors. UTA shall provide financial information to the Program Director to issue a quarterly statement of contributions received, interest earned, invoices paid and current balance of the Account for Party and public review. UTA agrees to make all financial records associated with the Account available to any Party or third party contributor upon request. The Account may be audited at the request of any Party or third party contributor at the requestor's own expense.

9. **CONTRACTOR ADMINISTRATION.** WFRC shall be responsible for administration of the Program Director contract established under this Agreement. Additional contracts as authorized by the Executive Board may be administered by other Parties as agreed to by the Executive Board. Contract administration services

will be provided by the Parties at no charge to the Program. Parties will not enter into any contracts committing Program funds without the knowledge and consent of the Executive Board.

Any Party that administers a contract authorized and funded pursuant to this Agreement shall coordinate with the Management Team, as authorized by the Executive Board, in such matters as developing scopes of work, issuing Notices to Proceed, issuing change orders, accepting the work products of the Program contractors and similar items.

10. **CONTRACTOR SELECTION.** The Management Team, or their designated representative, shall prepare scopes of work for any new Program consultant contracts funded pursuant to this Agreement, which must be approved by the Executive Board. The Party administering the contract shall issue requests for proposals and administer Program contracts in accordance with their agency's policies. The Management Team, with input from the Executive Board, shall appoint members of the Executive Board or their designated staff to participate on the evaluation and selection committees for any new Program contracts.
11. **PAYMENT OF INVOICES.** Any Party administering any contracts authorized and funded pursuant to this Agreement will review the invoices to make sure they meet the Party's contracting and accounting policies and procedures, and will forward invoices received from the contractors to each Party's designated representatives for review and approval. Each Party shall have ten (10) business days in which to review and either approve or disapprove payment of the invoice (in whole or in part). Failure to notify the administering Party of disapproval within ten (10) business days will be deemed approval. Approved invoices shall be submitted to UTA for payment. UTA will not process any invoices for payment from the Account until approval from all Parties has been provided, whether through express approval or non-response within ten (10) business days. Any portion of an invoice that is not approved will not be paid until issues of concern have been resolved and a revised invoice has been distributed to all Parties and all Parties have approved the revised invoice, whether through express approval or non-response within ten (10) business days. In no event shall UTA be expected or required to pay amounts in excess of funds already appropriated to the Program and deposited into the Account described in paragraph 8.
12. **COORDINATION AND INFORMATION SHARING.** The Parties agree to keep each other timely informed of substantive independent communications and activities related to the Program. The Program Director may speak on behalf of the Program to third parties, including the media, as authorized by the Scope of Work for the Program Director. The Parties agree to make available to the Program relevant and useful information procured or maintained in the ordinary course of a Party's business.
13. **ENTIRE AGREEMENT; AMENDMENT.** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and no

statements, promises, or inducements made by any Party or agents of any Party that are not contained in this Agreement shall be binding or valid. Alterations, extensions, supplements or modifications to the terms of this Agreement shall be agreed to in writing by the Parties, incorporated as amendments (an "Amendment" or "Amendments") to this Agreement, and made a part hereof. Notwithstanding the foregoing, the Parties hereby authorize the Executive Board to amend this Agreement to include new funding partners, on the same terms contained herein, without further approval from the Parties' respective legislative bodies. To the extent of any conflict between the provisions of this Agreement and the provisions of any later Amendments, the later Amendments shall be controlling.

14. RECORDS. Each party shall maintain its records pertaining to this Agreement, specifically including but not limited to records pertaining to procurement or financial matters under this Agreement, in accordance with the Utah Government Records Access and Management Act and applicable Federal law. Records created by or through the work of the Program consultants shall be maintained by such consultants in accordance with their respective Scopes of Work.

15. WITHDRAWAL FROM AGREEMENT. Any Party may withdraw from participation in the Program by giving written notice of such termination to all other Parties and specifying the effective date thereof. No Party or Parties withdrawing from participation hereunder shall be entitled to any refund of any monies previously contributed to Phase II expenses pursuant to this Agreement; provided, however, any such Party or Parties shall not be obligated to make any further contributions contemplated in this Agreement following the date of such withdrawal.

16. TERMINATION OF THE AGREEMENT. At the expiration of this Agreement or if the Executive Board determines the Program should be discontinued, any funds remaining in the Account described in Paragraph 6, including any accrued interest, shall be refunded to each Party or contributor *pro rata*.

17. DISPUTE RESOLUTION

A. The Parties agree to make a good faith effort to resolve any dispute regarding the construction or interpretation of any provision of this Agreement, or regarding any policy matter or the determination of an issue of fact, at the lowest reasonable and appropriate possible level. In the event any such dispute is not able to be resolved in this manner, the dispute shall be referred to the Management Team for resolution of the dispute.

B. If the dispute is not resolved by the Management Team, within fourteen (14) calendar days from the date of first notification by one Party to the other of the disputed issue, the dispute may be advanced, by any Party to the Executive Board.

C. If the dispute is not resolved by majority vote of the Executive Board within thirty (30) calendar days after referral to the Executive Board, then the Parties

to the dispute shall refer the dispute for resolution to a single mediator, agreed upon by the Parties involved in the dispute. If the Parties are unable to agree upon a single mediator, the matter shall be referred for resolution to a three-member Mediation Panel to be mutually agreed upon by all Parties involved in the dispute. Panel members shall be independent of the entities involved in the dispute and shall be recognized and approved by State and/or federal courts as qualified and experienced mediators/arbitrators. Each Party to the dispute shall pay its own costs and fees, including a prorated share of the fees for the appointed mediator(s). Any of the above time periods may be modified by mutual agreement of the Parties to the dispute.

- D. If the dispute cannot be resolved by the mediator or Mediation Panel within ninety (90) calendar days from the date of referral to the mediator or Mediation Panel, or if the parties involved in the dispute cannot mutually agree upon a mediator or the members of the Mediation Panel, the dispute may be brought before a court or other tribunal appropriate under the circumstances for *de novo* review. A matter may proceed to court only after exhaustion of the above procedures.

18. NOTICES. Notices required under this Agreement shall be sent to the Designated Representative at the contact information set forth below, with a copy, if applicable, to the following:

UDOT

Nathan Lee
Utah Department of Transportation
Region Two
2010 South 2760 West
Salt Lake City, Utah 84104

Copy to:

Renee Spooner
Utah Department of Transportation
4501 South 2700 West
P.O. Box 148455
Salt Lake City, UT 84114-8455

UTA

Michael Allegra, Special Advisor to
the Board of Trustees
Utah Transit Authority
669 West 200 South
Salt Lake City, UT 84101
Email: mallegra@rideuta.com

Copy to:

UTA General Counsel
669 West 200 South
Salt Lake City, UT 84101

SALT LAKE CITY

Mayor Ralph Becker
Salt Lake City Mayor's Office
451 South State Street, Room 306
P.O. Box 145474
Salt Lake City, UT 84114
Telephone: (801) 535-7704
Email: Ralph.Becker@slcgov.com

Copies to:

Salt Lake City Attorney
451 South State Street, Room 505
P.O. Box 145478
Salt Lake City, UT 84114-5478
Telephone: (801) 535-7788

Laura Briefer
Salt Lake City Department of
Public Utilities
1530 South West Temple
Salt Lake City, UT 84115
Email: laura.briefer@slcgov.com

COTTONWOOD HEIGHTS

Mayor Kelvyn H. Cullimore, Jr.
1265 East Fort Union Blvd., Suite
250
Cottonwood Heights, UT 84047
Email: kcullimore@ch.utah.gov

Copy to:

c/o Wm. Shane Topham
Callister Nebeker & McCullough
10 East South Temple, 9th Floor
Salt Lake City, UT 84111
Telephone: (801) 530-7300
Facsimile: (801) 364-9127
Email: wstopham@cnmlaw.com

ALTA

Mayor Tom Pollard
Town of Alta
P.O. Box 8016
Alta, UT 84052
Telephone: (801) 363-5105
Email: tjp@townofalta.com

PARK CITY

Council Member Andy Beerman

Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060-1480
Email: andy@parkcity.org

Copies to:

Diane Foster, City Manager
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060-1480
Email: diane@parkcity.org

City Attorney
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060-1480
Telephone: (435) 615-5025

SANDY CITY

Mayor Tom Dolan
Sandy City
10000 Centennial Parkway
Sandy, Utah 84070

Copy to:

John Hiskey
Sandy City
10000 Centennial Parkway
Sandy, Utah 84070
Telephone: (801) 568-7104
Email: jhiskey@sandy.utah.gov

SALT LAKE COUNTY

Mayor Ben McAdams
Salt Lake County Government
Center
2001 South State Street, Ste N2100
PO Box 144575
Salt Lake City, Utah 84114-4575
Email: ben@slco.org

Copy to:

Kimberly Barnett
Salt Lake County Government
Center
2001 South State Street, Ste N2100

PO Box 144575
Salt Lake City, Utah 84114-4575
Email: kbarnett@slco.org

SUMMIT COUNTY

Christopher Robinson
Summit County Council
P.O. Box 982288
Park City, Utah 84098
Email:
cfrobinson@summitcounty.org

Copy to:

Tom Fisher
Summit County Manager
60 N. Main
P.O. Box 128
Coalville, Utah 84017
Email: tfisher@summitcounty.org

MWDSLS

Michael L. Wilson
Metropolitan Water District of Salt
Lake & Sandy
3430 East Danish Road
Cottonwood Heights, UT 84093
Telephone: (801) 942-9685
Email: wilson@mwdsls.org

DRAPER CITY

Mayor Troy Walker
Draper City
1020 East Pioneer Road
Draper, UT 84020
Email: Troy.Walker@draper.ut.us

Copy to:

Rachelle Conner
Draper City
1020 East Pioneer Road
Draper, UT 84020
Email:
Rachelle.Conner@draper.ut.us

WFRC

Andrew Gruber, Executive Director
Wasatch Front Regional Council
295 North Jimmy Doolittle Road

Salt Lake City, UT 84116
Email: agruber@wfr.org

Except as otherwise provided in this Agreement, any notice, demand, request, consent, submission, approval, designation or other communication which any Party is required or desires to give under this Agreement shall be made in writing and mailed, faxed, or emailed to the other Parties addressed to the attention of the Designated Representative. A party may change its Designated Representative, address, telephone number, facsimile number, or email address from time to time by giving notice to the other Parties in accordance with the procedures set forth in this Section.

19. INTERLOCAL COOPERATION ACT REQUIREMENTS. In satisfaction of the requirements of the Interlocal Act, the Parties agree as follows:

(a) This Agreement shall be authorized by resolution of the legislative body of each Party pursuant to Section 11-13-202.5 of the Interlocal Act, and the Executive Director of UDOT.

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Section 11-13-202.5 of the Interlocal Act;

(c) A duly executed copy of this Agreement shall be filed with the keeper of records of each Party, pursuant to Section 11-13-209 of the Interlocal Act;

(d) Except as otherwise specifically provided herein, and in addition to the funding obligation of Paragraph 5, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs; and

(e) No separate legal entity is created by the terms of this Agreement. To the extent that this Agreement requires administration other than as set forth herein, it shall be administered by the Mayor or chief executive officer of each Party. No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent that a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.

20. NO THIRD PARTY BENEFICIARIES. There are no intended third party beneficiaries to this Agreement. It is expressly understood that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any claim or right of action by any third person under this Agreement. It is the express intention of the Parties that any person other than

the Party who receives benefits under this Agreement shall be deemed an incidental beneficiary only.

21. EXECUTION IN COUNTERPARTS. This Agreement may be executed in counterpart originals, all such counterparts constituting one complete executed document.

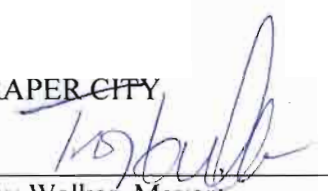
22. AUTHORIZATION. Each Party is duly authorized to enter this Agreement.

IN WITNESS WHEREOF, the above-identified Parties enter this Agreement effective the date of the last Party's signature, except for the purposes of funding under Paragraph 5, the effective date as to each Party is the date of that Party's signature

Draper agrees to provide \$180,000 (subject to required appropriations).

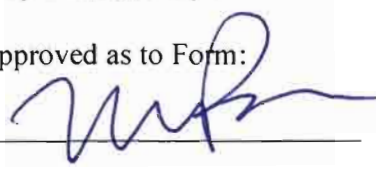
Signed this 16th day of February 2016.

DRAPER CITY



Troy Walker, Mayor

Approved as to Form:





ATTEST:



City Recorder