

COTTONWOOD HEIGHTS

RESOLUTION NO. 2014-68

A RESOLUTION APPROVING ENTRY INTO AN INTERLOCAL COOPERATIVE AGREEMENT WITH SALT LAKE COUNTY FOR THE CONVEYANCE OF REAL PROPERTY (GOLDEN HILLS PARK GAP PARCEL)

WHEREAS, the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101 *et. seq.* (the “*Interlocal Cooperation Act*”), provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

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

WHEREAS, Salt Lake County (the “*County*”) and the city of Cottonwood Heights (the “*City*”) are public agencies for purposes of the Interlocal Cooperation Act; and

WHEREAS, in November 2010, the County conveyed certain real property known as Golden Hills Park or Bair Tree Park (the “*Park*”) to the City; and

WHEREAS, recent surveys have determined that there is an approximately 24-foot-wide gap of real property (the “*Gap Parcel*”) between the Park and two privately-owned parcels of real property located directly to the East, despite the fact that the Gap Parcel is within the presumed boundaries of the Park and was considered to be part of the Park by the County; and

WHEREAS, the City would like to clear title to the Gap Parcel so that it clearly is included within the Park, and has agreed to purchase the County’s interest, if any, in the Gap Parcel for \$150 pursuant to an interlocal agreement between the County and the City (the “*Agreement*”); and

WHEREAS, the City’s municipal council (the “*Council*”) met in regular session on 28 October 2014 to consider, among other things, approving the City’s entry into the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement; and

WHEREAS, the city attorney of the City has approved the form of the Agreement as required by *Utah Code Ann.* §11-13-202.5(3); and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City’s entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Cottonwood Heights that the attached Agreement be, and hereby is, approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2014-68, shall take effect immediately upon passage.

PASSED AND APPROVED this 28th day of October 2014.

COTTONWOOD HEIGHTS CITY COUNCIL



By


J. Scott Bracken, Mayor Pro Tempore

ATTEST:


Kory Solorio, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea	<input type="checkbox"/>	Nay	<input type="checkbox"/>
Michael L. Shelton	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
J. Scott Bracken	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Michael J. Peterson	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>
Tee W. Tyler	Yea	<input checked="" type="checkbox"/>	Nay	<input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 28th day of October 2014.

RECORDED this 29th day of October 2014.

Interlocal Cooperation Agreement

THIS INTERLOCAL COOPERATION AGREEMENT (this "*Agreement*") is made effective _____, 2014, by and between **SALT LAKE COUNTY**, a body corporate and politic of the state of Utah ("*County*"), and **CITY OF COTTONWOOD HEIGHTS**, a Utah municipal corporation (the "*City*").

RECITALS:

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

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

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

D. The County conveyed certain real property located at approximately 8295 South Wasatch Boulevard, Cottonwood Heights, Utah, identified as Parcel No. 22-36-301-007 (the "*Park Property*"), to the city of Cottonwood Heights (the "*City*") in November 2010. The Park Property is known as the Bair Tree Park.

E. Recent surveys have determined that there is an approximately 24-foot wide gap of property ("*Gap Property*") between the Park Property and two parcels of property located directly to the east. The Gap Property is located within the presumed boundaries of Bair Tree Park and was considered to be part of the Park Property by both the County and the City.

F. To the extent that the original deed from the County to the City did not include the Gap Property, the City would like to clear title so that the Gap Property may be included in the Park Property.

G. In order to clear up title to the Gap Property, the City has agreed to purchase whatever interest the County may have in the Gap Property from the County for the amount of \$150.00 which is the County's minimum real estate sale.

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

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Section 1. **Conveyance.** Contemporaneously herewith, County shall convey and transfer whatever interest it has in the Gap Property to the City by executing and delivering to City a quitclaim

deed (the "Deed") in substantially the form attached hereto as Exhibit A. In conjunction with this conveyance, the City acknowledges that the County has not made any warranty or representation related to the condition of title to the Gap Property.

Section 2. **Consideration.** The Gap Property has been treated and used as part of the Park Property by both the County and the City. Because the original deed was intended to convey all of the property constituting the Bair Tree Park but did not include the Gap Property, the County has determined to accept the County's minimum real estate sale fee of \$150.00 as consideration for its agreement to convey whatever interest the County may have in the Gap Property to the City.

Section 3. **Use Restriction.** The Gap Property shall be used by the City only for public purposes as part of the Bair Tree Park.

Section 4. **Duration and Termination.** This Agreement shall take effect upon execution and terminate upon the performance by the parties of all the obligations described herein. The parties intend that the conveyance of the subject real property described in Exhibit A shall be accomplished promptly. Any provision of this Agreement which contemplates performance subsequent to the expiration or earlier termination of this Agreement shall so survive such expiration or termination and shall continue in full force and effect until fully satisfied, but in no event shall this Agreement have a term longer than 50 years.

Section 5. **Additional Interlocal Act Provisions.** In compliance with the requirements of the Act and other applicable law:

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

(b) **Joint Board.** As required by UTAH CODE ANN. § 11-13-207, the parties agree that the cooperative undertaking under this Agreement shall be administered by a joint board consisting of the County's Mayor or designee and the City's Manager or designee. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed in accordance with this Agreement.

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

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

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

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

Section 6. **General Provisions.** The following provisions are also integral parts of this Agreement:

(a) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(b) **Captions.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable, or invalid provision shall not affect the other provisions of this Agreement.

(e) **Waiver of Breach.** Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

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

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

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

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

(j) **Notice.** Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) days after such notice is deposited in the United States mail, certified mail postage prepaid and addressed to the parties at their respective addresses.

(k) **Exhibits and Recitals.** The Recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

(l) **Governmental Immunity.** Both parties are governmental entities under the Governmental Immunity Act, UTAH CODE ANN. § 63G-7-101, *et seq.* (the "Immunity Act"). Consistent with the terms of the Immunity Act, the parties agree that each party is responsible and

liable for any wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses or limits of liability otherwise available under the Immunity Act and all other applicable law, and both parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(m) Ethical Standards. The parties hereto represent that they have not: (a) provided an illegal gift or payoff to any officer or employee, or former officer or employee, or to any relative or business entity of an officer or employee, or relative or business entity of a former officer or employee of the other party hereto; (b) retained any person to solicit or secure this Agreement upon any contract, agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or County's Ethics, Gifts and Honoraria ordinance (Chapter 2.07, SALT LAKE COUNTY CODE OF ORDINANCES [2001]); or (d) knowingly influenced, and hereby promise that they will not knowingly influence, any officer or employee or former officer or employee to breach any of the ethical standards set forth in State statute or County ordinances.

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

SALT LAKE COUNTY

By: _____
Mayor or Designee

Approved As To Form and Legality:

R. Christopher Preston R. Christopher Preston
Deputy District Attorney
Date: 10/22/2014

CITY OF COTTONWOOD HEIGHTS, a Utah municipality

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Kory Solorio, City Recorder

Approved As To Form and Legality:

Wm. Shane Topham, City Attorney
Date: _____, 2014

Exhibit A
To Interlocal Cooperation Agreement
(Quitclaim Deed)

AFTER RECORDING RETURN TO:

Wm. Shane Topham
CALLISTER NEBEKER & MCCULLOUGH
10 East South Temple, 9th Floor
Salt Lake City, UT 84133

Quitclaim Deed

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and legal sufficiency of which is hereby acknowledged, **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah, ("*Grantor*"), hereby **quitclaims** to the city of **COTTONWOOD HEIGHTS** ("*Grantee*"), a Utah municipality whose address is 1265 East Ft. Union Blvd., Suite 250, Cottonwood Heights, UT 84047, any and all interest of Grantor in and to a parcel of real property that is located in the Southwest Quarter of Section 36, Township 2 South, Range 1 East, Salt Lake Base and Meridian, that is further described as follows:

Beginning on the West line of "The Oaks at Wasatch P.U.D. Plat B" as recorded in the Salt Lake County Recorder's Office in Book 87 page 104 Said point being located North 89°45'56" East 353.95 feet more or less from the West Quarter of Section 36, said Township and Range: (Basis of bearing South 0°10'39" West between the West Quarter and the Southwest Corner of said section 36); And Running thence South 14°09'16" West 829.75 feet along the Westerly line of the Oaks at Wasatch PUD plat B and Wasatch Oaks Condominiums to the North line of Esquire Estates No.1 Subdivision; Thence North 75°49'53" West 2.47 feet along said North line; Thence North 89°58'53" West 20.83 feet along Said North line of Esquire Subdivision to the Easterly line of Bair Tree Park Subdivision; Thence North 14°06'05" East 828.75 feet along said Easterly line more or less to the South line of Oaks at Wasatch PUD Plat A; Thence North 89°36'15" East along said line 24.22 feet to the point of beginning.

DATED effective the ___ day of _____ 2014.

SALT LAKE COUNTY

By: _____
Mayor or Designee

By: _____
County Clerk or Designee

APPROVED AS TO FORM
District Attorney's Office
By: *R. Christopher Prigton*
Deputy District Attorney
R. Christopher Prigton
Print Name
Date: *10/21/2014*

STATE OF UTAH)
 :SS
County of Salt Lake)

On this ___ day of _____, 20___, personally appeared before me _____, who being duly sworn, did say that (s)he is the _____ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

STATE OF UTAH)
 :SS
County of Salt Lake)

On this _____ day of _____, 20___, personally appeared before me _____, who being by me duly sworn, did say and acknowledge that s(he) is the _____ of Salt Lake County, and that the foregoing instrument was signed by her (him) on behalf of Salt Lake County, by authority of a Resolution of the Salt Lake County Council.

NOTARY PUBLIC
Residing in Salt Lake County, Utah