COTTONWOOD HEIGHTS

RESOLUTION NO. 2015-74

A RESOLUTION APPROVING ENTRY INTO AN AMENDED INTERLOCAL AGREEMENT FOR THE JORDAN RIVER COMMISSION

WHEREAS, 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, in or about November 2010, the city of Cottonwood Heights (the"*City*") and various other public agencies located in Salt Lake County entered into an interlocal agreement (the "*Original Agreement*") to create an interlocal entity known as the Jordan River Commission (the "*Commission*"), which is responsible for, *inter alia*, (a) developing broad-based support for the "Blueprint Jordan River" developed by Envision Utah (the "*Blueprint*") setting forth guiding principles and goals for protecting the Jordan River and developing it as a community resource, and (b) fostering involvement by federal, state and local government officials, representatives of private organizations, and the public in implementing the Blueprint; and

WHEREAS, the parties to the Original Agreement subsequently formulated certain amendments to the Original Agreement which they believe will facilitate the Commission's operation, reflect changes in state law, and improve governance of the Commission, and incorporated those amendments into a proposed amended interlocal agreement for the Commission (the "*Amended Agreement*"); and

WHEREAS, the City's governing body (the "*Council*") met in regular session on 24 November 2015 to consider, among other things, approving the City's entry into the Amended Agreement; and

WHEREAS, the Council has reviewed the form of the Amended Agreement, a photocopy of which is annexed hereto; and

WHEREAS, the city attorney of the City has approved the form of the Amended 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 City's residents to approve the City's entry into the Amended Agreement as proposed;

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

This Resolution, assigned no. 2015-74, shall take effect immediately upon passage.

PASSED AND APPROVED this 24th day of November 2015.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
J. Scott Bracken, Mayor Pro Tempore

ATTEST:

Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Absent
Michael L. Shelton	Yea X Nay ___
J. Scott Bracken	Yea X Nay ___
Michael J. Peterson	Yea X Nay ___
Tee W. Tyler	Yea X Nay ___

DEPOSITED in the office of the City Recorder this 24th day of November 2015.

RECORDED this 25 day of November 2015.

INTERLOCAL COOPERATION AGREEMENT

MODIFYING THE 2010 INTERLOCAL COOPERATION AGREEMENT THAT ESTABLISHED THE

JORDAN RIVER COMMISSION

THIS INTERLOCAL COOPERATION AGREEMENT (hereinafter "Agreement") is made and entered into as of the _____ day of _____, 2015, by and between the signatories to this Agreement. The signatories to this Agreement are "public agencies" as defined in the Utah Interlocal Cooperation Act, and are hereinafter referred to collectively as "Members" or "Parties" and individually as "Member" or "Party."

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of the Utah Interlocal Cooperation Act (the "Interlocal Cooperation Act"), Title 11, Chapter 13, Utah Code Annotated (the "Utah Code"), public agencies are authorized to enter into mutually advantageous agreements for joint or cooperative action; and

WHEREAS, the Parties to this Agreement believe the Jordan River is one of Utah's great natural treasures and that cooperative action through the creation of a Jordan River Commission (the "Commission") would promote protection of the river in keeping with the Public Trust Doctrine, facilitate orderly planning and development in lands and waters adjacent to the river or impacting the quality of waters flowing into the river while protecting an individual jurisdiction's ability to govern its own area, and assist in the formulation and implementation of comprehensive plans for the management, protection and preservation of the river; and

WHEREAS, the Parties to this Agreement have respectively received appropriate authority to participate, as described herein, in a new Utah interlocal entity to be known as the Jordan River Commission; and

WHEREAS, Envision Utah, after extensive public hearings and public involvement, has developed a document titled "*Blueprint Jordan River*" which sets forth guiding principles and goals developed through a public process for protecting the Jordan River and developing it as a community resource for the citizens of the counties and cities through which it passes; and

WHEREAS, the Commission is responsible for developing broad-based support for

Blueprint Jordan River and fostering the involvement of federal, state and local officials, representatives of private and non-governmental organizations, and the public in the implementation of the Blueprint; and

WHEREAS, the Commission can identify "best practices" with respect to management of the river ecosystem and can use that work to assist the Parties and private entities with professional and technical expertise and coordinate the exchange of information and expertise between the parties; and

WHEREAS, the Commission is an effective and shared entity for on-going planning for the Jordan River that will have political, legal and financial viability; and

WHEREAS, by focusing on the river in its entirety, the Commission coordinates with the cities and the counties in arriving at a comprehensive vision and Jordan River Blueprint for the entire river; and

WHEREAS, the Commission can identify and help solve issues relating to streams and creeks feeding into the Jordan River thus increasing the water quality of the overall system; and

WHEREAS, the Commission, through the broad participation of the Parties and the community can enjoy increased capability to secure governmental, foundation and other financial support for activities improving the river; and

WHEREAS, the parties believe that amendments to the Original Interlocal Agreement creating the Commission (the "Original Agreement") will facilitate the effective operation of the Commission, reflect changes in state law and improve the governance of the Commission

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 to amend the Original Agreement as follows:

ARTICLE 1
Definitions

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

1.1 "Board" or "Governing Board" means the governing body of the Commission.

1.2 "Bonding" means the issuance of "Bonds" and "Bonds" means bonds, notes, certificates of participation or other evidences of indebtedness of the Commission, except as provided herein.

1.3 "Commission" means the Jordan River Commission, the new legal entity created by this Interlocal Cooperation Agreement.

1.4 "Effective Date" means the date the Parties to this Interlocal Cooperation Agreement intend for this Agreement to become effective, and is the date first written above.

1.5 "Governing Body" means the board, commission, council or executive body of a Member to whom a particular decision or governmental action is entrusted by law. For purposes of the financial decisions contemplated by Paragraphs 5.6 and 9.3 of this agreement, "Governing Body" in a city or county shall mean the city's or county's legislative body.

1.6 "Jordan River Blueprint" means a set of guiding principles and standards formally adopted by the Governing Board of the Commission as the principles and standards guiding improvement, use and development of the Jordan River and the lands and wetlands adjoining the river under the jurisdiction of the various local and state governmental entities and may include recommendations to Members and others on how best to set standards for improvement, use and development in the Jordan River Blueprint Study Area. It is the intent of the Parties that the Blueprint Jordan River prepared by Envision Utah and the guiding principles set out therein shall serve as the initial Jordan River Blueprint for the Commission.

1.7 "Members" or "Parties" means the participating counties, municipalities, limited purpose local government entities, and the State of Utah as represented by its participating departments.

1.8 "Ex Officio Members" means entities, associations, or organizations appointed in accordance with Section 5.4.

1.9 "Operation and Maintenance Expenses" means all expenses reasonably incurred by the Commission or paid to any 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 Commission shall be included.

1.10 "Technical Advisory Committee" or "Technical Committee" means the technical

advisory committee formed pursuant to Article 12 to advise the Governing Board on water quality, environmental, development, engineering, recreation, wildlife, and other technical and relevant issues associated with the Jordan River.

1.11 "Jordan River Blueprint Study Area" means the Jordan River and all lands and wetlands within one-half mile of the river as identified in the Blueprint Jordan River as it currently exists or as it may be amended from time to time.

ARTICLE 2
Purposes

The Original Agreement to create the Commission as a separate legal entity, as provided by the Interlocal Cooperation Act, was entered into and continues in existence by the Members in order to perform the following activities and such others as are authorized by law and approved by the members:

2.1 Encourage and Promote Multiple Uses of the River.

The Commission shall balance access, use, development, ecological value, preservation, restoration and economic benefits in accordance with applicable laws, rules and regulations, and consistent with the fact that the ownership of the river and its adjacent lands and areas are owned or governed by various public and private entities.

2.2 Foster Communication and Coordination.

The Commission shall coordinate communication among agencies and organizations regarding all aspects of land use, water use, water rights, river and river ecosystem protection, recreation, public facilities, and natural resource planning and management that affect the Jordan River and cooperate with state, federal, local governments, as well as private landowners and organizations to implement the purposes and goals of the Commission as adopted in the Jordan River Blueprint as determined by the Board and the "best management practices" developed by its Technical Advisory Committee. The Commission shall coordinate with agencies and entities having jurisdiction over the tributaries of the Jordan River so that the overall health and well being of the River is considered in the activities of those agencies and entities.

2.3 Promote Resource Utilization and Protection.

The Commission shall promote the conservation, restoration and protection of the river's natural resources, including fish and wildlife, riparian habitat, water, water quality,

environmental concerns, and open space.

2.4 Maintain and Develop Recreation Access.

The Commission shall encourage the enhancement of public access to recreational opportunities on and around the river in accordance with the purposes of the Commission and the guiding principles outlined in the Jordan River Blueprint and education and outreach efforts in furtherance thereof.

2.5 Monitor and Promote Responsible Economic Development.

The Commission shall monitor and promote responsible economic activity along the river and in areas affecting the river to promote efficient and orderly development that harmonizes with the aforementioned purposes of the Commission and is in accordance generally with the principles outlined by the Jordan River Blueprint.

2.6 Identify and Secure Funding for the Acquisition of Critical Habitat and Open Space.

The Commission will actively seek public and private funding to be used to acquire critical habitat and open space and to restore vital functioning of the riparian corridor. To that end it may partner with public entities, foundations and other private sources to secure and protect necessary river resources. The Commission shall be authorized to spend Commission and other private and public funding for projects directly benefitting the River regardless of whether those projects are in the Jordan River Study Area.

2.7 Engage in ongoing planning for the Identified Jordan River Blueprint Study Area.

The Commission will engage in a continuing planning process that involves the Members, the Ex Officio Members, other governmental entities and the community to guide development of the river and public and private facilities within the Jordan River Blueprint Study Area.

ARTICLE 3
Term of the Interlocal Cooperation Agreement

The term of this Interlocal Cooperation Agreement shall continue for fifty (50) years from the Effective Date of this Agreement unless this Agreement is sooner terminated by vote of seventy-five percent (75%) of the Members of the Commission or by operation of law.

ARTICLE 4
Creation of the Jordan River Commission

4.1 Independent Legal Entity; Scope.

The Commission became a separate and independent governmental entity on the Effective Date of the Original Agreement pursuant to the provisions of that Agreement and shall continue its operation and existence pursuant to the provisions of that Agreement. The area included for Commission study and action includes the Jordan River Blueprint Study Area as defined in Article 1.

4.2 Headquarters.

The Commission's headquarters shall be located in a Member's geographical boundaries as determined by the Governing Board. The Governing Board may change the location from time to time. The Commission will have a budget as funded by the Board which allows it to hire necessary staff, purchase services from participating governmental entities, and retain the services of necessary legal counsel and consultants in accordance with an annual budget approval by the Board.

ARTICLE 5
Parties to this Agreement

5.1 Initial Membership.

Each signatory to this Agreement hereby contracts with the other signatories of this Agreement to form, and become a Member of, the Commission to accomplish the purposes set forth in Article 2 herein.

5.2 Withdrawal.

Each party to this Agreement acknowledges and agrees that the withdrawal of any Member from this Agreement pursuant to Section 5.6 shall not adversely affect this Agreement nor such party's contractual relationship with any other Party to this Agreement. Withdrawal of a Member does not relieve the Member's obligation to pay its annual dues for current year or its share of obligations, indebtedness, and liabilities incurred prior to withdrawal in accordance with Section 9.3.

5.3 Member Representation on Governing Board.

Membership of the Governing Board shall be made up of the signatories to this Agreement and as noted in Appendix 1 of this Agreement and such Ex Officio members as are admitted pursuant to Section 5.4. These Members shall have voting rights as noted in this Agreement. Counties that have established Municipal Type Services Districts pursuant to UCA 17-34-1 et seq. shall be entitled to two seats on the Governing Board to ensure adequate representation on issues related to unincorporated area land use regulation and county-wide recreational responsibilities.

5.4 Ex Officio Members of the Board.

By a majority vote of the Governing Board, Ex-Officio Members may be appointed or removed from the Board as Ex Officio members. Ex Officio Members shall be selected from other interested parties including recreation organizations; water user organizations; and other public or non governmental organizations. Interested parties may petition the Governing Board to become Ex Officio Members. Ex Officio Members shall be voting members who serve terms of two years and shall pay dues in accordance with Sections 13.1 and 13.3. Ex Officio Membership shall continue for subsequent terms unless terminated by a majority vote of the Governing Board. After the Commission is established and the Governing Board has voted, those appointed to serve as Ex Officio Members of the Board shall be listed in Appendix 1 to this agreement, which Appendix shall be modified as the Governing Board adds to or deletes those who will serve. For every two governmental Members of the Commission, one Ex Officio Member position will be added to the Governing Board. The actual number of Ex Officio Members shall vary from time to time as regular Members join or withdraw from participation in the Commission. An Ex Officio Member may be removed prior to the expiration of the Ex Officio Member's term if a reduction in the total number of Ex Officio Members is required by the withdrawal of a Member. Selection of the Ex Officio Member to be removed shall be by a majority vote of the Governing Board.

5.5 Subsequent Membership.

Public agencies who do not initially approve and become signatories to this Agreement, have withdrawn and wish to reapply, or are newly created municipalities or Limited Purpose Local Government Entities may join and become signatories to this Agreement upon approval of, and pursuant to the conditions established by, the Governing Board.

5.6 Notice of Withdrawal.

A Member, including an Ex Officio Member, may withdraw if the governing body of the Member gives written notice of its intent to withdraw from the Governing Board of the Commission not less than thirty days after the annual budget and dues structure is established for the following fiscal year. Such withdrawal shall take effect on the last day of the current fiscal year. Any such notice shall not affect the obligation of the Member to pay its financial obligations to the Commission for the current fiscal year, including payment of its annual budget commitment. A withdrawal may not materially adversely affect any project or bonds previously approved by the Commission and the governing body of the withdrawing Member. A Member who withdraws its membership shall have no further obligations to the Commission and the Commission shall have no further obligations to the withdrawn Member, except as otherwise expressly provided for herein. The fact that a public agency has previously withdrawn its membership or its membership has been cancelled shall not prohibit said public agency from rejoining the Commission as provided in Section 5.5.

ARTICLE 6
Voting Rights of Members

6.1 Voting by Members and Technical Committee Members.

Each Member of the Governing Board shall be entitled to one vote on the official business that comes before the Board. Technical Committee Members who are not also members of the Governing Board shall not be entitled to vote.

ARTICLE 7
Powers and Authority of the Commission

7.1 Independent Legal Entity; Scope and Location.

The Commission became a separate and independent governmental entity on the effective date of the Original Agreement pursuant to the provisions of that Agreement and the Interlocal Cooperation Act. The Commission shall continue its operation and existence pursuant to the provisions of the Original Agreement. The area for Commission study and action shall include the Jordan River Blueprint Study Area as defined in Article 1.

7.2 Interlocal Cooperation Act Powers.

The Commission shall have all powers granted by the Interlocal Cooperation Act 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 7.5.

7.2.2 To acquire, hold, or dispose of its property, contributions, grants, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and governmental entities for projects benefitting the Jordan River and the public interest.

7.2.3 To sue and be sued in its own name.

7.2.4 Except as otherwise provided herein, to lawfully cooperate and/or contract with other entities, Members or Parties to accomplish the purposes of this Agreement.

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

7.2.6 To borrow money or incur indebtedness, liabilities, or obligations; to issue bonds for the purposes for which it was created; to assign, pledge, or otherwise convey as security for the payment of any such bonds the revenues and receipts from or for the Commission, which assignment, pledge, or other conveyance may rank prior in right to any other obligation except taxes or payments in lieu thereof payable to the State of Utah or its political subdivisions.

7.3 Receive Federal and State Grants and Private Funds.

The Commission is hereby authorized to act as an agency to receive federal and state grants; other grants; or loans on behalf of the members, or funds from private organizations for all planning and development programs and projects which are specifically intended to accomplish the purposes under the Interlocal Cooperation Act and the goals of the Commission.

7.4 The Commission has no Superseding Authority.

The Commission has no authority to nor does it supplant any powers of individual Members as set forth in the Utah Constitution, state law, county or municipal ordinance, or other powers specifically given to them; nor does the Commission have superseding authority over

other government entities and jurisdictions. The Commission shall not have the authority to require alterations of duly adopted plans or decisions of any agency or jurisdiction.

7.5 Contracts.

The Commission may contract generally and, as approved by its Governing Board, enter into contracts or agreements with private organizations, foundations, the federal government, states, counties, municipal corporations, and/or any other governmental agency for any purpose necessary or desirable for dealing with affairs of mutual concern, and/or contract for the provision of services with states, counties, and cities, and to accept all funds resulting therefrom.

7.6 Acquisition of Personal Property.

The Commission may acquire personal property or an undivided, fractional, or other interest in personal property, necessary or convenient for the purposes of the staff of the Commission.

7.7 Acquisition of Real Property.

The Commission may acquire or receive real property or an undivided fractional, or other interest in real property, as approved by the Governing Board, necessary or convenient for the purposes or programs of the Commission.

7.8 Exercise of Powers.

All powers of the Commission shall be exercised pursuant to the terms of this Agreement, its By Laws, and any governing laws.

ARTICLE 8
Responsibilities of the Commission

8.1 Maintain a Jordan River Blueprint.

The Commission shall maintain a Master Jordan River Blueprint (the "Blueprint") that incorporates guiding principles, goals, and standards for the acquisition and protection of open space, the protection of the River, and the development or rehabilitative redevelopment of lands affecting the River. The Blueprint Jordan River and the Salt Lake Water Quality Stewardship Plan shall be guidelines for the Commission's activities. The Blueprint shall be reviewed on a regular basis by the Commission and amended or updated as required. The Commission shall

consider related studies performed by public or private entities in its review of the Blueprint. In no case shall such reviews be performed less frequently than once each five years.

8.1.1 The Blueprint review and adoption process shall achieve the aforementioned purposes of the Commission by:

8.1.1.1 Identifying and securing funding for staff, operations, programs and projects.

8.1.1.2 Creating advisory committees as needed.

8.1.1.3 Gathering information, including hydrology studies, scientific studies and current land use, recreation, transportation, public facilities, water quality, and natural resource management plans.

8.1.1.4 Undertaking studies and assessments to fill in information gaps.

8.1.1.5 Identifying corrective actions needed to restore and/or maintain the ecological integrity of the river, including the chemical, physical, environmental, wildlife, and biological integrity of the Jordan River Blueprint study area.

8.1.1.6 Soliciting public input and participation throughout the process.

8.1.2 The Jordan River Blueprint shall include the following correlated elements:

8.1.2.1 A land use plan which considers Public Trust responsibilities for the management of the river as a basis for making decisions regarding the river and the lands adjacent to it. The Jordan River Blueprint process shall balance economic benefits, public access, use and enjoyment, and protection. It shall develop recommendations for use by public agencies in developing plans for the river and adjacent lands including land use planning coordination.

8.1.2.2 A transportation plan which includes consideration for roads, trails, mass transit, access areas, buffer zones, restrictions and limitations.

8.1.2.3 A natural resources conservation and management plan which includes, but is not limited to, improving the quality of the river and its water in order to

improve all aspects of conservation, recreation, wildlife, riparian interests, wetlands, and open space.

8.1.2.4 A recreation plan which includes consideration for trails, entry points, public access areas and other areas of public interest.

8.1.2.5 A public services and capital facilities plan.

8.1.2.6 A protection plan for the river and critical lands.

8.1.2.7 Prioritization of land and resource acquisition necessary for the protection of the river, development of it as a recreational resource, and protection of the river's ecosystem.

8.1.3 General Plans. The Jordan River Blueprint shall take into consideration the General Plans of public agencies having jurisdiction over the river or its adjacent lands. The Commission shall utilize its Technical Advisory Committee as needed to assist in the preparation of the Jordan River Blueprint.

8.1.4 The Commission shall coordinate the implementation of the Jordan River Blueprint as follows:

8.1.4.1 Have regular publicized meetings to receive input from the public, governmental agencies, private landowners and other organizations and manage the many aspects of implementing, reviewing, and monitoring the Jordan River Blueprint.

8.1.4.2 Establish policies and procedures that assure problem solving, communication, and coordination with governmental agencies that are not Members of the Commission.

8.1.4.3 Ensure public participation is encouraged and solicited.

8.1.4.4 Review governmental agencies currently adopted plans for the Jordan River Blueprint Study Area and recommend additions or changes in conformance with the Jordan River Blueprint. This review will include offering assistance, technical reviews and coordination of all planning and activities that will impact the river and the landholders in the Jordan River Blueprint Study Area.

8.1.4.5 Review governmental agencies' ordinances, rules, standards, and regulations and recommend additions or changes in conformance with the Jordan River Blueprint, upon request of the member government.

8.2 Effect of Vote.

Adoption by vote of the Board shall be the consensus of the Commission and Members and Ex Officio Members should all work in unity to implement measures necessary to carry out that which has been adopted.

8.3 Review of Private Development Proposals.

Upon approval by the Board of processes for the review of private development plans, programs and proposals, including residential, commercial, and recreational developments, ("private submissions"), the Commission will review all such private submissions for lands within one-half mile from the River. The Commission shall review private development proposals as they occur, upon request of the affected Member or the private party. The Commission shall provide timely comments regarding Jordan River Blueprint consistency on the proposed development to the local jurisdiction and the proponent of the development. The Commission may work with the parties to resolve any issues of inconsistency by providing detailed research, suggestions, and advisory and technical support required to bring the private submission into consistency with the Jordan River Blueprint. The comments of the Commission are advisory only and final approval of the specifics of any plan shall be left to the sole discretion of the reviewing agency that has jurisdiction over said submission.

8.4 Review of Proposed Governmental Agency Actions.

Upon approval by the Board of processes for the review of government agency plans, programs, proposals, regulations, ordinances, rules or modifications thereof ("agency submissions"), the Commission will review all such agency submissions that affect lands within one-half mile from the River for consistency with the Jordan River Blueprint. The Commission shall review governmental agency actions as they occur, upon request of the affected Members. The Commission shall provide timely comments regarding Jordan River Blueprint consistency on the proposed proposal to the public agency. The Commission may work with the agency to resolve any issues of inconsistency by providing detailed research, suggestions, and advisory and technical support required to make the agency submission consistent with the Jordan River Blueprint. The comments of the Commission are advisory only and final approval of the specifics of any plan shall be left to the sole discretion of the reviewing agency that has jurisdiction over said submission.

8.5 Adoption of Uniform Ordinances and Standards.

The Commission shall have the power to recommend by resolution, any ordinances, rules, regulations or policies not inconsistent with state law which are necessary, appropriate, or incidental to effectuate the Jordan River Blueprint. The resolutions shall recommend general standards, including but not limited to the following: water quality, subdivision development, zoning, solid waste disposal, sewage disposal, tree removal, development in the river flood plain, outdoor recreation, flood plain protection, soil and sedimentation control, air pollution and watershed protection. Whenever possible without diminishing the effectiveness of the Jordan River Blueprint, the recommended ordinances, rules, regulations and policies shall be confined to matters which are general in nature. The comments of the Commission are advisory only and the specifics of any such matter adopted by a governmental jurisdiction shall be left to the sole discretion of the adopting agency.

8.6 Require the Permanent Conservation of Acquired or Restored Critical Habitat or Open Space.

The Commission shall require that, as soon as is practical, any lands acquired or restored with the use of funds generated by the Commission for the purpose or purposes of critical habitat be permanently preserved through placing an appropriate deed restriction, conservation easement or other like encumbrance that perpetually protects the resources of and on the property. The deed restriction, conservation easement or other like encumbrance shall be held by a third party entity approved of by a vote of the Commission.

8.7 Identify Maintenance Needs.

Continually identify maintenance projects and opportunities for improvements that should be pursued; develop funding, an annual work program, and a long-range strategy to carry out the projects.

ARTICLE 9
Liabilities and Obligations of Members

9.1 Governmental Immunity.

In entering into this Agreement, the Members do not waive, and are not waiving, any immunity provided to the Members or their officials, employees, or agents by the Governmental Immunity Act of Utah, Title 63G, Chapter 7, Utah Code (the "Immunity Act"), or by other law.

9.2 Waiver of Obligations.

This Agreement shall not relieve any Member of any obligation or responsibility imposed upon it by law. However, to the extent of actual and timely performance thereof by the Commission, such performance may be offered in satisfaction of such obligation or responsibility.

9.3 Obligations Special and Limited.

The obligations entered into by each Member pursuant to this Agreement are special limited obligations of each such Member, and nothing herein shall be construed or give rise to a general obligation or liability of any Member or a charge against its general credit or taxing powers. Members may enter into agreements to pledge revenues to finance projects undertaken by the Commission and to secure the bonds issued by the Jordan River Commission to finance such projects. Such pledges shall constitute ongoing financial obligations of the pledging Members only to the extent expressly authorized by the governing body of each Member and as provided for in the agreement authorizing the issuance of the bonds and pledging the revenues of the pledging Member.

9.4 Bonding.

Any Bonds issued or incurred by the Commission shall not constitute a debt of any individual Member, but shall be secured only in the manner set forth herein and pursuant to the terms of the separate agreement entered into by the individual pledging Member authorizing the issuance of the Bonds. There shall be no additional liability or obligation of a Member except as provided in Section 9.3.

9.5 Indemnification.

The Commission shall defend, indemnify, save harmless, and exempt the Members, 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 the Commission, its officers, agents, or employees. The Governing Board shall, prior to the commencement of construction of any project undertaken by the Commission provide for risk and liability coverage and payment and performance bonds in such amounts as the Commission deems necessary to insure against risks arising from the undertaking the project.

ARTICLE 10
Governing Board

10.1 Appointment.

There is hereby created a Governing Board of the Commission which shall consist of the following:

10.1.1 Appointed elected officials from each participating county, appointed in accordance with Section 5.3 and each county's respective rules or ordinances governing appointments to Boards;

10.1.2 An appointed elected official from each of the participating municipalities, appointed in accordance with each municipality's respective rules governing appointments to Boards;

10.1.3 An appointed representative of each department, division or agency of the State of Utah participating in the Commission as determined by the executive director of the department, division or agency;

10.1.4 One individual appointed by the Governor of the State of Utah;

10.1.5 A member of the Utah Legislature whose District includes all or a portion of the Jordan River, appointed jointly by the President of the Senate and the Speaker of the House;

10.1.6 An appointed representative of each Ex Officio Member appointed by that organization's governing body; and

10.1.7 An appointed member from each Limited Purpose Local Government Entity appointed in accordance with that entity's adopted policies or procedures

10.2 Terms.

The Governing Board members shall serve until replaced by the respective Member or Ex Officio Member that appointed the Board member or until no longer qualified to serve by virtue of no longer serving as an elected official. Reappointments and replacements should be by appointment of the public agency who appointed the Member being replaced or reappointed.

10.3 Compensation.

Members of the Governing Board shall serve without compensation and have their expenses paid by their appointing agency.

10.4 Leadership.

The Governing Board shall have a Chair, Vice-Chair, and Past Chair elected by and from their members, whose term shall be set in the By Laws.

10.5 Alternates.

The Board representative may send an alternate to act in his or her place at a Board or Executive Committee meeting, except if the Board representative is the Chair, then that Board representative's responsibilities for conducting the meeting or signing documents shall fall to the Vice-Chair.

10.6 Regular Meetings.

The Governing Board should hold regularly scheduled public meetings to accomplish the objectives of the Commission and adopt, amend and repeal By Laws, rules, policies and procedures for the conduct of their affairs. The Board shall hold at least one regular meeting annually. Meetings may be conducted by telephonic or other electronic means of communication. All meetings shall be noticed and conducted in accordance with the Utah Open and Public Meetings Act.

10.7 Minutes.

The Governing Board shall cause to be kept minutes of all meetings of the Board in accordance with the Utah Open and Public Meetings Act. As soon as possible after each meeting, a draft copy of the minutes shall be forwarded to each member of the Board.

10.8 Majority Vote.

The presence of the Board members entitled to cast a majority of the votes of the entire Board shall constitute a quorum for the transaction of business. Unless otherwise requiring a 2/3 or greater vote or a majority vote of all Members, a majority vote of the total votes of the Board members present when a quorum exists, shall constitute action by the Board.

10.9 Notice of Meetings.

Notice to Board members shall be sufficient if delivered in writing, by fax, or by e-mail to the designated representative of the respective Member, at the address, fax number, or e-mail address provided. Public notice of meetings shall be given in accordance with the Utah Open and Public Meetings Act.

10.10 Requests for Information.

The Governing Board shall have an ongoing duty to see that all of its Members are informed regarding all activities of the Commission and, accordingly, shall cause a copy of all materials (unless they are not public records; in which case, notice of their existence shall be given) delivered in the manner it deems appropriate to Board members for meetings of the Board, including meeting agendas and minutes of past meetings, and to such other persons as the Member may request in writing, including each Member's legal counsel. The Executive Director shall promptly respond to all requests for information made by any Member.

ARTICLE 11
Powers and Duties of the Governing Board

The Governing Board shall have the following powers and duties:

11.1 Executive Committee.

The Governing Board shall have the authority to appoint an Executive Committee consisting of members of the Board.

11.1.1 The Executive Committee shall include a Past Chair elected by the Board, the Chair, the Vice-Chair and other members as determined by the Board through its By Laws.

11.1.2 The Board may delegate to the Executive Committee such powers and responsibilities as the Board deems appropriate.

11.1.3 The voting, powers, and responsibilities of the Executive Committee shall be as established in the By Laws of the Commission.

11.1.4 The Governing Board may not delegate the following powers and duties: (i) the election of the Past Chair, Chair and Vice Chairs of the Board; (ii) the election of the group representatives to the Executive Committee; (iii) the power to adopt, modify, and

approve changes in the By Laws and the power to recommend proposed changes to the Agreement that must be approved by the Members' governing bodies; (iv) the power to terminate or dissolve the Commission; and (v) the adoption of budgets, amendment of budgets or the allocation or reallocation of budgeted amounts between budget categories.

11.1.5 Other Committees. The Governing Board shall have the authority to appoint additional committees made up of members of the Governing Board and such other individuals as are approved by the Board. It shall also have authority to establish committees separate and apart from the Technical Committee established in Article 12, to advise and confer with the Governing Board and the Technical Advisory Committee.

11.1.5.1 Membership of the various committees shall be at the will and pleasure of the Governing Board, for time limited or project limited assignments, and are not permanently associated with the Commission.

11.1.5.2 The various committees shall engage in such projects and reviews as assigned by the Governing Board.

11.2 Executive Reports.

The Governing Board shall receive and act upon reports of the Executive Committee and of the Executive Director.

11.3 Executive Director and Staff.

The Governing Board may hire a limited staff including appointing an Executive Director on such terms and conditions as the Board determines appropriate, and may employ such persons as the Board deems necessary for the proper administration of the Commission. The Governing Board shall have the general supervisory and policy control over the day to day decisions and administrative activities of the Executive Director.

11.4 By Laws.

The Governing Board shall adopt By Laws in compliance with state law and as otherwise deemed needed by the Governing Board and thereafter amend the By Laws in compliance with state law. The adoption and any amendments shall be by a seventy-five percent (75%) vote of the Board. Each Member shall receive a copy of the By Laws.

11.5 Rules.

The Governing Board shall have the authority to establish rules governing its own conduct and procedures not inconsistent with the By Laws.

11.6 Records.

The records of the Commission shall be governed by the "Government Records Access and Management Act," Section 63G-2-101, et seq., to the extent applicable, except that the governing body and/or legal counsel of each Member shall have full access to inspect all records and copy public records of the Commission.

11.7 Policies and Procedures.

The Governing Board shall adopt policies and procedures in compliance with state law and as otherwise deemed needed by the Governing Board, and thereafter amend the policies and procedures. The adoption and amendments shall be by a majority vote of the Board. Each Member shall receive a copy of the policies and procedures.

ARTICLE 12
Technical Advisory Committee

12.1 Creation.

There is hereby created a Technical Advisory Committee to the Commission which shall consist of appointed representatives as follows:

12.1.1 One representative from each participating county, appointed in accordance with each county's respective rules governing appointments to Boards;

12.1.2 One appointed representative from each of the participating municipalities listed in Appendix 1, appointed in accordance with each municipality's respective rules governing appointments to Boards;

12.1.3 One appointed representative from the Department of Environmental Quality, Division of Water Quality and each of the following Divisions of the Department of Natural Resources: Division of Wildlife Resources, Division of Forestry, Fire and State Lands; Division of Parks and Recreation; and the Division of Water Resources, as determined by the Department;

12.1.4 One appointed representative of the Jordan Valley Water Conservancy District, appointed by its board;

12.1.5 Three individuals representing the Ex Officio Members appointed by majority vote of the Ex Officio Members.

12.1.6 One member from each local district or public utility designated by the Governing Board for participation on the Technical Advisory Committee. The Governing Board shall choose one or more local districts or utilities operating in the jurisdictions of the Members to represent the interests of all such local districts or utilities.

12.1.7 Additional members as appointed by the Governing Board.

12.2 Terms.

The terms of Technical Advisory Committee members shall be set in the By Laws. Reappointments and replacements shall be by appointment of the public agency who appointed the member being replaced or reappointed or by vote of the Ex Officio Members.

12.3 Compensation.

Members of the Technical Advisory Committee shall serve without compensation by the Commission and shall have their expenses paid by their appointing agency.

12.4 Leadership.

The Technical Advisory Committee shall have a Chair and a Vice-Chair elected by and from their members, whose term shall be set in the By Laws.

12.5 Advice.

The Technical Advisory Committee shall advise the Governing Board with respect to the technical aspects of the Governing Board's work including water rights affecting the River, maintaining or amending the Jordan River Jordan River Blueprint, standards, goals, best management practices and recommendations for uniform rules, regulations, policies and ordinances.

12.6 Meetings.

Unless otherwise provided by By Laws or resolution of the Board, the Technical Advisory Committee shall meet as often as it deems necessary to conduct its business.

12.7 Information Gathering.

The Technical Advisory Committee, on its own initiative or when requested by the Board or Executive Director, shall gather information, investigate the appropriate issues, and make recommendations to the Board.

12.8 Subcommittees.

The Technical Advisory Committee may create subcommittees from among its members and appoint others to work with said committees as it deems necessary to fulfill its purposes and specific assignments.

ARTICLE 13
Funding, Budget, Accounts and Financial Records

13.1 Funding; Investment and Disbursement of Funds.

The Members, including Ex Officio Members, shall contribute based on a formula developed and approved by the Board to cover annual operating expenses, including projects approved by the Board. Other sources of funding could include fees and contributions from other Federal agencies, State agencies, local governments, grants from private individuals or organizations, developers, and businesses. Failure of a Member to provide its contribution shall constitute a breach of this Agreement. The Governing Board shall provide for the investment and disbursement of funds and their periodic review.

13.2 Annual Budget.

The Governing Board shall annually adopt an operating budget pursuant to the provisions of this Agreement, By Laws or policies adopted by the Governing Board and applicable law. The annual budget shall be approved by the Governing Board not less than sixty days prior to the end of the fiscal year. A funding formula for calculating Member contributions and dues established by the Board may be modified by a 2/3 vote of the Commission Members, but such changes shall not take effect until the beginning of a new budget year. The Members recognize and agree that

all individual Member contributions for annual dues or project costs are subject to the availability and appropriation of funds by that Member.

13.3 Funds and Accounts.

The Executive Director shall establish and maintain such funds and accounts as may be required by governmental accounting practices and the State's fiscal procedures act. Financial records of the Commission shall be open to inspection at all reasonable times by Members' representatives and shall be public records if so required by Utah State law.

13.4 Certified Annual Audit.

The Governing Board shall provide for a certified annual audit, or other financial reporting as required by law, of the accounts and records of the Commission, which shall conform to generally accepted accounting standards and requirements set forth by the Utah State Auditor. Such annual audit shall be open for inspection by each Member representative at all reasonable times.

13.5 Executive Director's Responsibility for Funds.

The Executive Director shall have custody of and shall disburse the Commission's funds. The Executive Director shall have the authority to delegate the signatory function to such persons as are authorized by the Governing Board.

13.6 Fidelity Bonds.

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

13.7 Financial Records.

The Executive Director shall 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 duties as are provided for in the By Laws.

13.8 Selling of Services.

The Executive Director may authorize the sale of the Commission's services, output or products to other entities upon approval of the Board.

ARTICLE 14
Dissolution of the Commission

14.1 Outstanding Indebtedness.

So long as there are any outstanding Bonds or other indebtedness of the Commission, the Commission 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.

14.2 Dissolution of the Commission by Vote.

If there are no outstanding Bonds or other indebtedness that cannot be covered by current funds, the Commission may be dissolved with a seventy-five percent (75%) vote of the Members at any time.

14.3 Powers of Governing Board Upon Dissolution.

The Governing Board is vested with all powers necessary for the purpose of winding up and dissolving the business affairs of the Commission consistent with and subject to the limits of this Agreement.

14.4 Division of Assets.

Upon dissolution and after payment in full of all outstanding Bonds and other Commission obligations, the Governing Board shall equitably disburse the assets of the Commission to the then current Members. After deducting costs, any cash or other assets jointly shared shall be disbursed, or interests deeded, pro rata.

ARTICLE 15
Filing of this Interlocal Cooperation Agreement

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

ARTICLE 16
Miscellaneous Provisions

16.1 Confidentiality.

The Governing Board and Technical Advisory Committee shall take such steps as they deem necessary to protect and keep confidential appropriate information received or kept by it in accordance with the Government Records Access and Management Act. The Members shall protect and keep confidential information kept or received by the Commission during the term of this Agreement and after the termination of their membership in the Commission pursuant to the By Laws or other policies adopted by the Board and consistent with law. Nothing in this section shall be construed to allow the Board, the Technical Advisory Committee, the Officers or employees from withholding information from any Commission Member, so long as the Member agrees to maintain the confidentiality of such information.

16.2 Status of Members' Employees.

When members of the Governing Board and the Technical Advisory Committee, and the employees and agents of the Commission are acting on behalf of the Commission within the scope of their authority, office or employment, they shall be considered to be acting on behalf of their respective public agency employer within the meaning of the Governmental Immunity Act and Section 63G-7-101, et seq., and thus, shall be entitled to indemnification and representation so long as they meet the requirements of said Act.

16.3 Prohibition Against Assignment.

No Member may assign any right, claim, or interest it may have under this Agreement; and no creditor, assignee, or third party beneficiary of any Member shall have any right, claim, or title to any asset of the Commission.

16.4 Severability Clause.

In the event that any article, provision, clause, or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability will not affect the validity or enforceability with respect to other articles, clauses, applications, or occurrences, and this Agreement is expressly declared to be severable.

16.5 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.

16.6 Amendment.

This Agreement may be amended at any time by the written approval of seventy-five percent (75%) of all current Members signatory to it.

16.7 Governing Law.

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

16.8 Binding Effect.

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

16.9 Captions.

The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.

16.10 Time.

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

16.11 Appendices and Exhibits.

The Appendices attached hereto, and those Appendices and Exhibits subsequently attached hereto from time to time by a seventy-five percent (75%) vote of the Governing Board, shall be considered to be a part of this Agreement and binding upon all parties. The parties'

signatures on any Appendices and Exhibits shall be evidence that the same are accepted.

16.12 Counterparts.

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

16.13 Breach of Agreement.

The failure of a party to substantially comply with the material terms and conditions of this Agreement shall constitute a breach of this Agreement. A party shall have thirty (30) days after receipt of written notice to correct the conditions 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. After notice, if corrective action is not taken, the Board may take appropriate action including revocation of the breaching party's membership.

SIGNATURE PAGE

INTERLOCAL COOPERATION AGREEMENT

MODIFYING THE 2010 INTERLOCAL COOPERATION AGREEMENT THAT ESTABLISHED THE

JORDAN RIVER COMMISSION

IN WITNESS WHEREOF, the parties have signed and executed this Interlocal Cooperation Agreement amending the 2010 Interlocal Cooperation Agreement that created the Jordan River Commission, after resolution duly and lawfully passed, on the dates listed on the signatory pages, below, to become effective on the Effective Date, first written above.

COTTONWOOD HEIGHTS, a Utah municipality

By_____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

By:_____
Linda W. Dunlavy, Recorder

APPROVED AS TO FORM:

By:_____
Wm. Shane Topham, City Attorney