

# SALT LAKE CITY CORPORATION


NOV - 3 2008

LYN CRESWELL  
CHIEF ADMINISTRATIVE OFFICER

DIVISION OF SUSTAINABILITY  
OPEN SPACE LAND PROGRAM

RALPH BECKER  
MAYOR

## CITY COUNCIL TRANSMITTAL

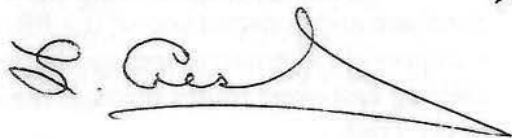
  
10/7/08  
David Everitt, Chief of Staff

Date Received: 10/6/08 - Steven  
Date sent to Council: ~~10/9/08~~ 11/3/2008 HL  
(added interlocal agreement)  
11/3/08 -  
RH

TO: Salt Lake City Council  
Jill Remington-Love, Chair

DATE: October, 3, 2008

FROM: Lyn Creswell, Chief Administrative Officer

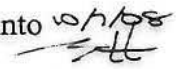


SUBJECT: Resolution - Interlocal Agreement for Open Space Acquisition

### STAFF CONTACT:

Emy Storheim 535-7730  
Open Space Lands Program Manager  
  
Vicki Bennett 535-6540  
Director of Sustainability

DOCUMENT TYPE: Resolution

RECOMMENDATION: City Council is being requested to approve a resolution to enter into an interlocal agreement for the acquisition of property for the Sugarhouse Draw Project, a portion of the PRATT Trail implementation. <sup>10/1/08</sup>  


BUDGET IMPACT: Salt Lake City Open Space Fund contribution will be \$110,000. For the acquisition Salt Lake City Corporation, will pay Woodbury Corporation \$385,000 from the Open Space Funds and will hold fee title. Salt Lake County Open Space Trust will pay to Salt Lake City Open Space Funds \$275,000 and will hold the conservation easement.

BACKGROUND/DISCUSSION: Salt Lake City Council has approved \$110,000 of Salt Lake City Open Space fund for this acquisition. Salt Lake County will contribute \$284,000. The appraisal value of the land is \$384,000.

Salt Lake County Open Space Trust and Salt Lake City Open Space Lands Program are partnering for the purchase the parcel for the planned connection of the PRATT Trail under 1300

East. The site is located on the west side of 1300 East between 2100 South and Wilmington Ave. This acquisition will provide egress for the connection between Sugar House Park and Hidden Hollow Park

The property is owned by Woodman Properties LC, who is willing sellers and final negotiations are underway. The property is approximately 11,265 square feet portion of land, along the south boundary line of a large parcel also owned by Woodman Properties LC, which is currently being planned as a multi building high-end condo development.

Benefits of this project include increased public access to open space as a direct result of the purchase and construction of the PRATT trail connection and 1300 East underpass. This trail will provide alternative transportation and recreational opportunities to pedestrian and cyclists seeking east-west routes through the city, connecting the Bonneville Shoreline Trail to the Jordan River Trail.

**PUBLIC PROCESS:** This acquisition supports the implementation of the PRATT Trail which has been developed and vetted by PRATT Board, Salt lake County Parks and Recreation and design consultants. Many presentations have been made to a number of groups including but not limited to: Slat Lake City and Salt Lake County Opens Space Boards, community councils, Sugar House Park Authority Board.

RESOLUTION NO. \_\_\_\_\_ OF 2008

AUTHORIZING THE APPROVAL OF AN  
INTERLOCAL COOPERATION AGREEMENT BETWEEN  
SALT LAKE COUNTY, UTAH AND  
SALT LAKE CITY CORPORATION  
AND RATIFYING ACTIONS PREVIOUSLY TAKEN

WHEREAS, Title 11, Chapter 13, Utah Code Ann., 1953, allows public entities to enter into cooperative agreements to provide joint undertakings and services; and

WHEREAS, the attached agreement has been prepared to accomplish said purposes;

THEREFORE, BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

1. It does hereby approve the execution and delivery of the following:

AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN SALT LAKE COUNTY, UTAH AND SALT LAKE CITY CORPORATION REGARDING THE PURCHASE OF PROPERTY KNOWN AS THE WOODBURY PROPERTY, AND A COUNTY PAYMENT TO SALT LAKE CITY FOR A PORTION OF THE PURCHASE PRICE IN EXCHANGE FOR A CONSERVATION OR PRESERVATION EASEMENT FROM THE CITY.

2. Ralph Becker, Mayor of Salt Lake City, Utah, or his designee, is hereby authorized to approve, execute, and deliver said agreement on behalf of Salt Lake City Corporation, in substantially the same form as now before the City Council and attached hereto, or with such changes therein as the Mayor on behalf of the City shall approve, his execution thereof to constitute conclusive evidence of such approval. If the agreement was executed and delivered before the adoption of this resolution, such execution and delivery by the Mayor and others are hereby approved, ratified, and confirmed.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of

\_\_\_\_\_, 2008.

SALT LAKE CITY COUNCIL

By: \_\_\_\_\_  
CHAIRPERSON





**INTERLOCAL COOPERATION AGREEMENT**

**between**

**SALT LAKE COUNTY**

**and**

**SALT LAKE CITY**

**THIS INTERLOCAL COOPERATION AGREEMENT** (this "*Agreement*") is made effective \_\_\_\_\_, 2008, by and between **SALT LAKE COUNTY**, a body corporate and politic of the state of Utah (the "County"), and **SALT LAKE CITY CORPORATION**, a Utah municipal corporation (the "City").

**RECITALS:**

A. UTAH CODE ANN. §11-13-202 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 as contemplated in the referenced sections of the Utah Code (more specifically referred to as UTAH CODE ANN. § 11-13-101, *et seq.* - Interlocal Cooperation Act).

D. The City will acquire property known as the Sugarhouse Draw Property. The property is more particularly described in Exhibit "1" (the "Property").

E. The County Council previously expressed an interest in purchasing a Preservation Easement ("Easement") from City, for \$275,000.

F. The parties, wishing to finalize an exchange of property interests in conformance with the County Council's discussion, enter into this Agreement.

G. The City's transfer of the Easement to the County is an interest in real property as contemplated in the Interlocal Cooperation Act.

**AGREEMENT:**

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:

**ARTICLE 1  
GRANT**

Section 1. **Grant.** The City hereby agrees to grant and convey to the County an Easement in the Property, as attached as Exhibit "2".

**ARTICLE 2  
CONSIDERATION**

Section 2. **Consideration.** The County and the City agree that in consideration of the mutual benefit afforded the citizens of the City and the County from this Grant and the exchange of agreed upon consideration in accordance with Section 11-13-214 of the Interlocal Cooperation Act, the County will pay City \$275,000. No other consideration shall pass between the County and the City unless stated herein. Each party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

**ARTICLE 3  
ADDITIONAL PROVISIONS**

Section 3. **No Interference.** As long as City uses the Property in conformance with the Easement, the County shall not unreasonably obstruct or interfere with the free and unimpeded use of the Property by the City.

Section 3.1. **Duration.** The term of this Agreement shall commence upon its execution, and the duration shall be fifty (50) years from the date of execution. The Easement contemplated herein shall be perpetual.

Section 3.2 **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 of 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) No Interlocal Entity. The parties agree that they do not by this Agreement create an interlocal entity.

(l) 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 Mayor 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.

(m) Financing Joint Cooperative Undertaking and Establishing Budget. There is financing of joint or cooperative undertaking, but no future budget shall be established or maintained unless described herein.

(n) Manner of Acquiring, Holding or Disposing of Property. The Easement will 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.

(o) 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.

(p) Governmental Immunity. Both parties are governmental entities under the Governmental Immunity Act, Utah Code Ann. Title 63G Chapter 7; therefore, consistent with the terms of the Governmental 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 Governmental Immunity Act and all other applicable law, and both parties

maintain all privileges, immunities, and other rights granted by the Governmental Immunity Act and all other applicable law.

(q) 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 contract upon an 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 Salt Lake County's Ethics, Gifts and Honoraria ordinance (Chapter 2.07, Salt Lake County Code of Ordinances, (2001) or of Salt Lake City's conflict of interest ordinance, (Chapter 2.44, Salt Lake City Code)); 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, Salt Lake County ordinances or Salt Lake City ordinances.

(r) Attorney Review. This Agreement shall be reviewed as to proper form and compliance with applicable law by the authorized attorneys for the County and City in accordance with Utah Code Ann. § 11-13-202.5.

(s) 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.

(t) Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give any person, board or entity, other than the parties hereto and their successors and assigns, any right or remedies by reason of this Agreement, as a third party beneficiary or otherwise.

(u) Relationship of the Parties. Nothing contained in this Agreement shall constitute or be construed to create any partnership or agency relationship between the County and the City, or to create any new entity.

(v) Assignment. County or City shall not assign, sublease or transfer any interest in this Agreement.

(w) Entire Agreement. This Agreement, its Exhibits and Attachments, and the applicable laws, regulations and policies referenced herein, constitute the entire Agreement between the parties regarding the subject matter hereof and is intended to be a final expression of their Agreement. No promise, representation, warranty or covenant not included in this document has been or is relied upon by any party. Each party has relied upon its own examination of the full Agreement and the counsel of its own advisors.



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

SALT LAKE COUNTY

By \_\_\_\_\_  
Mayor Peter Corroon or Designee

SALT LAKE COUNTY DISTRICT  
ATTORNEY APPROVAL:  
As to proper form and compliance with law

\_\_\_\_\_  
Date \_\_\_\_\_

STATE OF UTAH     )  
                              : ss  
County of Salt Lake    )

On this day of \_\_\_\_\_, 2008, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that (s)he is the \_\_\_\_\_ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Salt Lake County

SALT LAKE CITY

By \_\_\_\_\_  
Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Its: \_\_\_\_\_

SALT LAKE CITY  
ATTORNEY APPROVAL:  
As to proper form and compliance with law

\_\_\_\_\_  
Date \_\_\_\_\_

STATE OF UTAH     )  
                              : ss  
County of Salt Lake    )

On this day of \_\_\_\_\_, 2008, personally appeared before me  
\_\_\_\_\_, who being duly sworn, did say that (s)he is the  
\_\_\_\_\_ of Salt Lake City, Office of Mayor, and that the foregoing  
instrument was signed on behalf of Salt Lake City, by authority of law.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Salt Lake County

## EXHIBIT "1"

### OVERALL AS-SURVEYED DESCRIPTION

A PARCEL OF LAND SITUATE IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS S.00°01'00"E. ALONG THE MONUMENT LINE OF 1300 EAST STREET 394.99 FEET AND S.89°59'00"W. 71.97 FEET FROM THE INTERSECTION OF THE MONUMENT LINE OF 2100 SOUTH STREET WITH THE MONUMENT LINE OF 1300 EAST STREET, SAID POINT OF INTERSECTION BEING S.89°58'50"E. 41.81 FEET FROM A FOUND SALT LAKE CITY BRASS CAP MONUMENT IN 2100 SOUTH STREET, SAID POINT OF BEGINNING ALSO BEING S.00°01'00"E. 361.89 FEET FROM THE NORTHEAST CORNER OF LOT 10, BLOCK 46, 10 ACRE PLAT A, BIG FIELD SURVEY, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF 1300 EAST STREET, AND THE NORTH LINE OF A SURVEY KNOWN AS PARK VIEW PLAZA I & II, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY BUSH AND GUDGELL, INC. AS #S2004-12-0992 AND DATED JUNE 01, 2004; THENCE ALONG SAID NORTH LINE THE FOLLOWING FIVE (5) COURSES: 1) NORTHWESTERLY 46.55 FEET ALONG THE ARC OF A 386.31 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (CENTER BEARS S.18°06'22"W WITH A CENTRAL ANGLE OF 6°54'15"); 2) S.89°50'42"W. 3.92 FEET TO A POINT ON A 385.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; 3) NORTHWESTERLY ALONG SAID ARC 11.22 FEET (CENTER BEARS S.14°52'41"W WITH A CENTRAL ANGLE OF 1°40'12"); 4) S.89°38'00"W. 136.01 FEET TO THE EAST LINE OF LOT 3 OF A SURVEY KNOWN AS HOMESTEAD VILLAGE IN THE SALT LAKE COUNTY RECORDERS OFFICE DATED 10-20-97 IN BOOK 97-10P PAGE 316; 5) S.89°38'00"W. 75.81 FEET TO THE EAST LINE OF A SURVEY KNOWN AS HIDDEN HOLLOW PROPERTY SURVEY, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY SALT LAKE CITY CORPORATION AS #S01-04-0247 AND DATED APRIL 12, 2001; THENCE N.00°20'59"E. ALONG SAID EAST LINE TO AN ANGLE POINT 0.04 FEET; THENCE N.00°08'55"W. ALONG SAID LINE 39.96 FEET; THENCE N.89°38'00"E. 75.84 FEET TO A POINT ON THE EAST LINE OF HOMSTEAD VILLAGE AND THE WEST LINE OF A SURVEY KNOWN AS BECKSTRAND BUILDING, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY ENSIGN AS #S96-12-0595 AND DATED DECEMBER 16, 1996; THENCE N.89°38'00"E. 195.87 FEET TO THE WEST LINE OF 1300 EAST STREET; THENCE S.00°01'00"E. ALONG SAID WEST LINE 54.87 FEET TO THE POINT OF BEGINNING. CONTAINS 11,269 SQUARE FEET OR 0.26 ACRES MORE OR LESS

### AS-SURVEYED DESCRIPTION

#### PARCEL 1

A PARCEL OF LAND SITUATE IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS S.00°01'00"E. ALONG THE MONUMENT LINE OF 1300 EAST STREET 394.99 FEET AND S.89°59'00"W. 71.97 FEET FROM THE INTERSECTION OF THE MONUMENT LINE OF 2100 SOUTH STREET WITH THE MONUMENT LINE OF 1300 EAST STREET, SAID POINT OF INTERSECTION BEING S.89°58'50"E. 41.81 FEET FROM A FOUND SALT LAKE CITY BRASS CAP MONUMENT IN 2100 SOUTH STREET TO THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION, SAID POINT OF BEGINNING ALSO BEING S.00°01'00"E. 361.89 FEET FROM THE NORTHEAST CORNER OF LOT 10, BLOCK 46, 10 ACRE PLAT A, BIG FIELD SURVEY, POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF 1300 EAST STREET, AND THE NORTH LINE OF A SURVEY KNOWN AS PARK VIEW PLAZA I & II, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY BUSH AND GUDGELL, INC. AS #S2004-12-0992 AND DATED JUNE 01, 2004; THENCE ALONG SAID NORTH LINE THE FOLLOWING FOUR (4) COURSES: 1) NORTHWESTERLY 46.55 FEET ALONG THE ARC OF A 386.31 FOOT RADIUS NON-TANGENT



CURVE TO THE LEFT (CENTER BEARS S.18°06'22"W WITH A CENTRAL ANGLE OF 6°54'15"); 2) S.89°50'42"W. 3.92 FEET TO A POINT ON A 385.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; 3) NORTHWESTERLY ALONG SAID ARC 11.22 FEET (CENTER BEARS S.14°52'41"W WITH A CENTRAL ANGLE OF 1°40'12"); 4) S.89°38'00"W. 136.01 FEET TO THE EAST LINE OF A SURVEY KNOWN AS HOMESTEAD VILLAGE IN THE SALT LAKE COUNTY RECORDERS OFFICE DATED 10-20-97 IN BOOK 97-10P PAGE 316; THENCE N.00°05'39"W. 40.00 FEET; THENCE N.89°38'00"E. 195.87 FEET TO THE WEST LINE OF 1300 EAST STREET; THENCE S.00°01'00"E. ALONG SAID WEST LINE 54.87 FEET TO THE POINT OF BEGINNING.

CONTAINS 8,236 SQUARE FEET OR 0.19 ACRES MORE OR LESS

AS-SURVEYED DESCRIPTION

PARCEL 2

A PARCEL OF LAND SITUATE IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS S.00°01'00"E. ALONG THE MONUMENT LINE OF 1300 EAST STREET 394.99 FEET AND S.89°59'00"W. 71.97 FEET FROM THE INTERSECTION OF THE MONUMENT LINE OF 2100 SOUTH STREET WITH THE MONUMENT LINE OF 1300 EAST STREET, SAID POINT OF INTERSECTION BEING S.89°58'50"E. 41.81 FEET FROM A FOUND SALT LAKE CITY BRASS CAP MONUMENT IN 2100 SOUTH STREET SAID POINT OF BEGINNING ALSO BEING S.00°01'00"E. 361.89 FEET FROM THE NORTHEAST CORNER OF LOT 10, BLOCK 46, 10 ACRE PLAT A, BIG FIELD SURVEY, POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF 1300 EAST STREET, AND THE NORTH LINE OF A SURVEY KNOWN AS PARK VIEW PLAZA I & II, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY BUSH AND GUDGELL, INC. AS #S2004-12-0992 AND DATED JUNE 01, 2004; THENCE ALONG SAID NORTH LINE THE FOLLOWING FOUR (4) COURSES: 1) NORTHWESTERLY 46.55 FEET ALONG THE ARC OF A 386.31 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (CENTER BEARS S.18°06'22"W WITH A CENTRAL ANGLE OF 6°54'15"); 2) S.89°50'42"W. 3.92 FEET TO A POINT ON A 385.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; 3) NORTHWESTERLY ALONG SAID ARC 11.22 FEET (CENTER BEARS S.14°52'41"W WITH A CENTRAL ANGLE OF 1°40'12"); 4) S.89°38'00"W. 136.01 FEET TO THE EAST LINE OF LOT 3 OF A SURVEY KNOWN AS HOMESTEAD VILLAGE IN THE SALT LAKE COUNTY RECORDERS OFFICE DATED 10-20-97 IN BOOK 97-10P PAGE 316 AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE S.89°38'00"W. 75.81 FEET TO THE EAST LINE OF A SURVEY KNOWN AS HIDDEN HOLLOW PROPERTY SURVEY, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY SALT LAKE CITY CORPORATION AS #S01-04-0247 AND DATED APRIL 12, 2001; THENCE N.00°20'59"E. ALONG SAID EAST LINE TO AN ANGLE POINT 0.04 FEET; THENCE N.00°08'55"W. ALONG SAID LINE 39.96 FEET; THENCE N.89°38'00"E. 75.84 FEET TO A POINT ON THE EAST LINE OF HOMSTEAD VILLAGE; THENCE S.00°05'39"E. ALONG SAID WEST LINE 40.00 FEET; TO THE POINT OF BEGINNING.

CONTAINS 3,033 SQUARE FEET OR 0.07 ACRES MORE OR LESS

WHEN RECORDED MAIL TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parcel Nos: 16-20-229-013

16-20-229-046

16-20-229-052

PRESERVATION EASEMENT AND RESERVATION OF RIGHTS

This Preservation Easement and Reservation of Rights (the "Easement") is executed this \_\_\_\_ day of \_\_\_\_\_, 2008, by and between Salt Lake City, a Utah municipal corporation ("City" or "Grantor"), and Salt Lake County, a political subdivision of the State of Utah ("County" or "Grantee").

RECITALS

WHEREAS, City will purchase a certain of real property located in Salt Lake City, State of Utah, known as the Draw at Sugarhouse, which property is more particularly described in Exhibit "A" attached to this Easement and by reference is incorporated (the "Property").

WHEREAS, the Property is part of the Parley's Trail system and will be master planned by Salt Lake County, upon approval and acceptance by the City, and a copy will be attached hereto as Exhibit "B" (the "Master Plan").

WHEREAS, this Easement is being granted for the purpose of preserving and maintaining the Property as part of the Parley's Trail (the "Trail") and for recreational use and public access to Sugar House Park and to Hidden Hollow Nature Park (the "Park") for the benefit of the public and the residents of County and City.

WHEREAS, the Property is valued by the community as a trail and as access to a peaceful urban Park amenity; and

WHEREAS, the Grantor intends that the recreation values of the Property, including without limitation those relating to the Property's passive recreational use and public access, be preserved and maintained; and

WHEREAS, the Grantor further intends, as the owner of the Property, to convey to the Grantee the right to preserve and protect the Property in perpetuity.

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and legal sufficiency of which is acknowledged, City hereby grants the following Easement to County:



1. Purpose. It is the purpose of the Easement to assure that the Property, as described in Exhibits "A" & "B", will be retained and maintained forever for passive recreational use and public access, while preserving the elements of the Master Plan and permitting recreational use for the benefit of the general public. This Easement is granted to prevent any use of the Property that will impair, interfere with or be inconsistent with the foregoing.

2. Definitions. In addition to the terms defined above in this Easement, the following terms shall have the meanings set forth.

a. "Recreational use" means, but is not limited to, recreational activities such as walking, bicycling, hiking, studying nature and other activities associated with public trails.

b. "Recreational facilities" means all improvements, facilities and systems to be constructed, operated or maintained in connection with the Master Plan as they may exist from time to time either on a permanent or temporary basis including, without limitation, lighting, trails, landscaping, interpretive signage, and irrigation and drainage systems and facilities.

c. "Mortgage" means a recorded mortgage, deed of trust or other security agreement creating a lien on the Property.

d. "Mortgagee" means the mortgagee, beneficiary or other secured party under a Mortgage.

e. "Occupant" means any Person that, by virtue of a contract to purchase, a lease, a rental arrangement, a license or any other instrument, agreement, contract document, understanding, or arrangement is entitled to or does occupy, possess or use the Property or any portion of the Property.

f. "Owner" means the Person that, at the time concerned, is the owner of record in the office of the County recorder of Salt Lake County, Utah of a fee interest in the Property or any portion of the Property. In the event there is more than one owner of the Property or any portion of the Property involved at the time concerned, the liability of each such Owner for performance or compliance with the applicable provisions of the Declaration shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a Mortgagee and until such Person has acquired fee title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof.

g. "Person" means a natural person or a legal entity.

3. Grant of Easement. City hereby grants to County a perpetual easement for the purpose of constructing, maintaining, and operating a public trail and an emergency drainage system, and appurtenant landscaping and improvements, preserving



the Property's access to Sugarhouse Park and the Park, and for preservation of the Property as a trail. County shall have the right, at its sole risk and expense, to enter the Property at all times and without notice to the Owner of the Property, for the purposes stated in this Easement. Except for those uses expressly provided for in this Easement and subject to the reservations set forth in Section 4 below, the Property shall be limited to use as a public trail for the enjoyment of the public.

4. Rights. County shall have the exclusive and non-terminable right to develop, construct, operate and maintain the Property from time to time and to carry out the provisions of the attached Master Plan, subject to and consistent with the purpose of this Easement as described in Section 1 above, and Section 3 above, and City ordinances. County shall have the right to block access across the Property temporarily for maintenance and to inundate the property to relieve flooding at Sugarhouse Park when Parley's Creek is at flood stage.

5. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Easement is prohibited. Prohibited uses shall include the following unless such uses are expressly contemplated by Section 1 or Section 4, above.

- A. No buildings or improvements of any kind may be constructed, built, maintained or operated on the Property at any time except for the Trail, and drainage facilities, as outlined in the Master Plan;
- B. Use of motorized vehicles, including motorcycles, all-terrain vehicles, and snowmobiles, except for security, emergency, and maintenance purposes and as otherwise specifically permitted under this Easement; and
- C. Construction, expansion, relocation or location of any structure except for structures specifically permitted under this Easement; and
- D. Development, pre-sale, division, subdivision, or defacto subdivision (through long term leasing or otherwise) of the Property for any type of human occupation; and
- E. Construction of buildings, residences, mobile homes, or other structures, or any other improvements constructed or placed in, on, under, or upon the Property except to the extent provided in Paragraph 4; and
- F. New telephone, telegraph, cable television, electric, cellular phone towers, gas, water, sewer, or other utility lines nor a utility corridor or easement routed over, through, under, in, or upon the Property; and
- G. Quarrying, mining, excavation, depositing, or removing of rocks, gravel, minerals, sand, or other similar materials from the Property; and
- H. Construction of any roads, except as existing on the Property; and

- I. Exploration or drilling for or production of oil, gas, or other hydrocarbons; and
- J. Mining or removal of groundwater for use off of the Property including, but not limited to, the sale, removal or transfer of water rights and shares for use off of the Property unless expressly agreed to by Grantee; and diking, draining, filling or altering of bodies of water; and
- K. Swimming in any pond, stream, canal, or wetland feature; and
- L. Maintenance of any livestock or domestic animals on the property, such as sheep, goats, horses, chickens, geese, ducks, or ornamental fish; and
- M. Dumping, depositing, abandoning, discharging, storing, maintaining, or releasing any gaseous, liquid, solid, or hazardous wastes, substance, materials, pollutants, or debris of whatever nature on, in or over the ground or into surface or ground water of the Property; and
- N. Placement, erection, or maintenance of signs, billboards, or outdoor advertising structures on the Property except for a reasonable number of signs for the following purposes:
  - a. to state the name of the Park or any portion thereof; and
  - b. to post the Property with appropriate recreational and resource interpretive signs and signs posting rules and restrictions.

Provided, however, this sub-Paragraph (N) shall not limit the right of Grantee to display on the Property, at its discretion, such sign as it may customarily use to identify lands under preservation easement, the terms of such Easement and that the Easement was purchased using bond proceeds from the County's Parks and Open Space Bond. All locations of Grantee's signs shall be subject to approval by City; and

O. Hunting; and

P. All other uses and practices inconsistent with and significantly detrimental to the stated objectives and purposes of the Easement or not in accordance with Salt Lake City's rules and regulations governing property owned by Salt Lake City and used in the manner identified in this Easement.

6. Notice and Approval of Grantor's Activities. Grantor shall not undertake or permit any activity requiring prior approval by the Grantee without first having notified and received approval from the Grantee as provided herein. Salt Lake County Parks and Recreation Division will consult with and receive approval from City on any proposed improvements on the Property, such as trail construction, landscaping, or other improvements that alter the condition of the Property.



7. Enforcement of Easement.

A. City, and its successors in interest, shall notify Grantee, or its successors in interest, in writing, before exercising any right reserved by City or its successors in interest, expressly or impliedly, with respect to the Property or the exercise of its right to make changes to the Property from its original condition that may have a significant impact on the Property. Said notice shall inform Grantee of all aspects of the proposed activity including, but not limited to, the nature, magnitude, and anticipated effect of the proposed activity or use with respect to the purpose of the Easement. Such notice shall be sent by registered or certified mail, return receipt requested, addressed to the following:

Salt Lake County Mayor  
2001 South State Street, N2100  
Salt Lake City, UT 84190-1000

with copies to:

Salt Lake County Real Estate  
Division  
2001 South State Street, N4500  
Salt Lake City, UT 84190-3100

or to such other address as Grantee may designate.

B. Grantee shall have ninety-(90)-days from the mailing of such notice to review the proposed activity and notify City, or its successors in interest, of any objections thereto. Such objections, if any, shall be based upon Grantee's opinion that the proposed activity is inconsistent with this Easement, and Grantee shall inform City, or its successors in interest, of the manner, if any, in which the proposed activity can be modified to be consistent with the Easement. Grantee shall have the right to prevent any proposed activity that is incompatible with the authorized uses or prohibitions specified herein. If notice of Grantee's objection is not given to City, or its successors in interest, as required by Paragraph 7 (A), within ninety-(90)-days after City, mails its notice of a proposed activity, Grantee shall have waived its right to object to the proposed activity.

C. Regardless of receipt of notice, if Grantee determines that City, or City's successors in interest, are in violation of the terms of this Easement, Grantee shall give written notice to City, or City's successors in interest, of such violation and demand corrective action sufficient to cure the violation and where this violation has injured the Property because of a use or activity inconsistent with this Easement, to restore the Property the extent possible to the condition of the Property before the violation occurred. The Parties recognize that Grantee may bring an action in law or equity in a court of competent jurisdiction to enforce the terms of this Easement, enjoin violations, or require restoration of the Property, as needed.

D. Any violation of the Easement shall be subject to injunctive proceedings with the imposition of temporary restraining orders. The Parties recognize that monetary damages and/or other non-injunctive relief are not an adequate remedy for violations of



the covenants and restrictions of this Easement, and will not return the Property to the condition that existed at the time this Easement was signed.

E. Except otherwise provided herein, failure by any party to exercise its rights under this instrument in the event of any breach shall not be deemed or construed to be a waiver of the Parties' rights hereunder as to that breach or any subsequent breach.

8. Amendment of Boundaries of Property. City shall not have the right to expand or reduce any boundary of the Property without the prior written consent of County.

9. Effect on Mortgages. This Easement shall limit and restrict the right of City or its successors or assigns to execute, deliver and record Mortgages on the Property, but shall not limit or restrict the right of City to grant other rights or easements in respect of the Property.

10. Covenants to Run with Land. This Easement and the restrictions and covenants created herein are covenants running with the land and shall be binding upon each Owner, Occupant, and any other Person who acquires or comes to have any interest in the Property; and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. Each Owner and Occupant shall comply with, and all interests in the Property shall be subject to, the terms of this Easement. By acquiring, or in any way coming to have an interest in the Property, the Person so acquiring or coming to have such interest in the Property, shall be deemed to have consented to, and shall be bound by, each and every provision of this Easement. County shall have the right to enforce the restrictions set forth herein by appropriate legal proceedings.

11. Payment of Costs, Taxes or Assessments. County or its successors in interest shall bear all costs of operation, upkeep and maintenance of the Property. City or its successors in interest shall pay all real estate taxes or assessments levied by competent authorities upon the Property, and Grantee shall have no obligation or responsibility for payment of taxes or assessments levied upon any of the Property. All obligations of City under this Easement, if more than one person or entity is the successor or assign of City, shall be jointly severally binding on each such person or entity.

12. Amendments: Termination. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, City and Grantee may by mutual written agreement jointly amend this Easement; provided that no amendment shall be made that will adversely affect the qualification of this Easement under any applicable laws, including Sections 170(h) and 501(c)(3) of the United States Tax Code and the laws of the State of Utah. Any such amendment shall be consistent with the purpose of this Easement and shall not affect its perpetual duration, shall not permit residential, commercial or industrial development of the Property and shall not permit any impairment of the significant Conservation Values of the Property. Any such amendment shall be filed in the Recorder's office of Salt Lake County, State of Utah. Nothing in this

paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

13. Governmental Immunity. County is a body corporate and politic of the State of Utah and City is a municipal corporation and both parties are subject to the Utah Governmental Immunity Act ("Act"), Utah Code Ann. §§ 63G-7-101, et. seq. (1953, as amended). The Parties agree that each of them shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Easement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

County and City each represent, that each are self-insured pursuant to the provisions of Section 63G-7-801 of the Utah Code.

14. Titles, Captions and References. All section titles or captions in this Easement are for convenience of reference only, shall not be deemed part of this Easement and in no way define, limit, extend or describe the scope or intent of any provision of this Easement.

15. Program and Plurals. Whenever the context may require, any pronoun used in this Easement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

16. Applicable Law. This Easement shall be construed in accordance with and governed by the laws of the State of Utah.

17. Exhibits. All exhibits attached to or otherwise referenced in this Easement are expressly made a part of this Easement as fully as though set forth in this Easement.

18. Change of Conditions. The fact that any use of the Property expressly prohibited by this Easement or otherwise determined inconsistent with the purpose of this Easement may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Easement, has been considered by Grantor in granting this Easement. It is Grantor's belief that any such changes will increase the public's benefit and interest in the continuation of this Easement, and it is the intent of both Grantor and Grantee that any such changes not be considered circumstances sufficient to terminate this Easement, in whole or in part. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination.

19. Hold Harmless. Consistent with paragraph 13 above and the Governmental Immunity Act, City, or its successors in interest, will hold harmless, indemnify and defend Grantee and its officers, employees, agents and contractors and its successors, and assigns (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments,



including, without limitation, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any part of the Property, but not including injuries or damage resulting from the negligence or intentional wrongdoing of any of the Indemnified Parties; (2) the obligations specified in Paragraph 7 so long as City is the Owner of the Property; (3) the existence or administration of this Easement; and (4) any presence or alleged presence of any hazardous substance, hazardous waste, here taken in the broadest context, cleanup resulting from previous landfills, dumping, toxic refuse or other waste for which the Superfund Act may be applied.

20. Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Easement and to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation to the contrary.

Grantor:  
SALT LAKE CITY

By: \_\_\_\_\_  
Mayor or Designee

ATTEST:

\_\_\_\_\_  
, City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Senior City Attorney

Grantee:  
SALT LAKE COUNTY

By: \_\_\_\_\_  
Mayor or Designee

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

On this \_\_\_\_ day of \_\_\_\_\_, 2008, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that (s)he is the \_\_\_\_\_ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
Residing in Salt Lake County

HB\_ATTYY-#6185-v1-Preservation\_easement\_with\_County\_for\_Draw\_at\_Sugarhouse.DOC



## EXHIBIT A

### LEGAL DESCRIPTION

16-20-229-052, 16-20-229-046, and 16-20-229-013.

A PARCEL OF LAND SITUATE IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS S.00°01'00"E. ALONG THE MONUMENT LINE OF 1300 EAST STREET 394.99 FEET AND S.89°59'00"W. 71.97 FEET FROM THE INTERSECTION OF THE MONUMENT LINE OF 2100 SOUTH STREET WITH THE MONUMENT LINE OF 1300 EAST STREET, SAID POINT OF INTERSECTION BEING S.89°58'50"E. 41.81 FEET FROM A FOUND SALT LAKE CITY BRASS CAP MONUMENT IN 2100 SOUTH STREET, SAID POINT OF BEGINNING ALSO BEING S.00°01'00"E. 361.89 FEET FROM THE NORTHEAST CORNER OF LOT 10, BLOCK 46, 10 ACRE PLAT A, BIG FIELD SURVEY, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF 1300 EAST STREET, AND THE NORTH LINE OF A SURVEY KNOWN AS PARK VIEW PLAZA I & II, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY BUSH AND GUDGELL, INC. AS #S2004-12-0992 AND DATED JUNE 01, 2004; THENCE ALONG SAID NORTH LINE THE FOLLOWING FIVE (5) COURSES: 1) NORTHWESTERLY 46.55 FEET ALONG THE ARC OF A 386.31 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT (CENTER BEARS S.18°06'22"W WITH A CENTRAL ANGLE OF 6°54'15"); 2) S.89°50'42"W. 3.92 FEET TO A POINT ON A 385.00 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; 3) NORTHWESTERLY ALONG SAID ARC 11.22 FEET (CENTER BEARS S.14°52'41"W WITH A CENTRAL ANGLE OF 1°40'12"); 4) S.89°38'00"W. 136.01 FEET TO THE EAST LINE OF LOT 3 OF A SURVEY KNOWN AS HOMESTEAD VILLAGE IN THE SALT LAKE COUNTY RECORDERS OFFICE DATED 10-20-97 IN BOOK 97-10P PAGE 316; 5) S.89°38'00"W. 75.81 FEET TO THE EAST LINE OF A SURVEY KNOWN AS HIDDEN HOLLOW PROPERTY SURVEY, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY SALT LAKE CITY CORPORATION AS #S01-04-0247 AND DATED APRIL 12, 2001; THENCE N.00°20'59"E. ALONG SAID EAST LINE TO AN ANGLE POINT 0.04 FEET; THENCE N.00°08'55"W. ALONG SAID LINE 39.96 FEET; THENCE N.89°38'00"E. 75.84 FEET TO A POINT ON THE EAST LINE OF HOMSTEAD VILLAGE AND THE WEST LINE OF A SURVEY KNOWN AS BECKSTRAND BUILDING, FILED IN THE SALT LAKE COUNTY SURVEYORS OFFICE BY ENSIGN AS #S96-12-0595 AND DATED DECEMBER 16, 1996; THENCE N.89°38'00"E. 195.87 FEET TO THE WEST LINE OF 1300 EAST STREET; THENCE S.00°01'00"E. ALONG SAID WEST LINE 54.87 FEET TO THE POINT OF BEGINNING. CONTAINS 11,269 SQUARE FEET OR 0.26 ACRES MORE OR LESS