

UTAH INLAND PORT AUTHORITY

RESOLUTION NO. 2022-11

Interlocal Cooperation Agreement between Salt Lake City Corporation, Redevelopment Agency of Salt Lake City and the Utah Inland Port Authority

WHEREAS, the Utah Inland Port Authority Act was amended in the 2022 Utah Legislative Session to change the percentage of exempt area property tax differential distribution to the Utah Inland Port Authority (“Authority”) and to require that the Authority spend 40% of this property tax differential on environmental mitigation projects within the authority jurisdictional land (“Environmental Mitigation Money”) and 40% of this property tax differential on community mitigation projects for neighborhoods adjacent to the Authority jurisdictional land (“Community Mitigation Money”).

WHEREAS, Utah Code 11-58-604 requires Salt Lake City Corporation (“City”), the Redevelopment Agency of Salt Lake (“RDA”), and the Authority to execute an agreement by December 31, 2022 that provides for the following:

- A process for how the Authority is to spend the Environmental Mitigation Money and the Community Mitigation Money;
- Include a requirement that the Authority consult with the City in determining how to spend the Environmental Mitigation Money and the Community Mitigation Money;
- Require the RDA to spend the 10% of exempt area property tax it receives for affordable housing; and
- Require the City to agree to facilitate the efficient processing of land use applications relating to the authority jurisdictional land by providing at least one full-time employee as a single point of contact for the processing of the land use applications.

WHEREAS, the Interlocal Cooperation Agreement attached hereto as Exhibit A complies with Utah Code 11-58-604 and the City, RDA, and Authority desire to execute the agreement prior to December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Authority Board, that the Interlocal Cooperation Agreement, in the form attached to this resolution as Exhibit A, is hereby approved and the Authority’s Executive Director is hereby authorized and directed to execute and deliver the same on behalf of the Authority. The Effective Date of the Interlocal Cooperation Agreement shall be the date the last keeper of records for each Party attests and files the Agreement.

PASSED AND ADOPTED by the Authority Board this ____ day of October 2022.

UTAH INLAND PORT AUTHORITY

Miles Hansen, Chair

Attest:

Taneesa Wright, Records Officer

EXHIBIT A TO RESOLUTION

Interlocal Cooperation Agreement is attached

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is dated _____, 2022, to be effective on the date the last keeper of records for each Party attests and files the Agreement (“**Effective Date**”), by and between Salt Lake City Corporation, a Utah municipal corporation (“**City**”), the Redevelopment Agency of Salt Lake City, a Utah public entity (“**RDA**”), and the Utah Inland Port Authority (“**UIPA**”), a Utah public entity. The City, RDA, and UIPA are sometimes referred to individually as “Party” and collectively as the “Parties.”

R E C I T A L S

- A. During the general 2022 Utah legislative session, the Utah Legislature enacted HB443, which revised Utah Code §§ 11-58-101, *et seq.* (the “**Inland Port Act**”) to change, among other things, the distribution by Salt Lake County to UIPA, the City and the RDA of exempt area property tax differential, (defined in Utah law as the portion of property tax differential generated by a property tax levied by Salt Lake City in the port authority jurisdictional land (“**City Differential**”). Specifically, Utah Code Ann. § 58-11-604(6) specifies how UIPA may spend portions of the City Differential, so long as this Agreement has been executed.
- B. A material inducement for the Parties to execute this Agreement is the establishment of certainty for the Parties and other stakeholders on both (i) the percentage of City Differential that will be distributed to UIPA over the next 25 years, and (b) ensuring that the portion of City Differential will be spent by UIPA during the next 25 years to mitigate environmental and community effects of the inland port on Salt Lake City’s residents.
- C. HB443 requires the City, RDA, and UIPA to execute this Agreement no later than December 31, 2022, to establish this certainty and to create a process for UIPA’s expenditure of portions of the City Differential and the RDA’s expenditure of the housing payment.
- D. The Parties also acknowledge that establishing certainty on the expenditure of the City’s Differential can best be achieved by creating a master plan that will become a shared, agreed-upon framework to guide the UIPA’s decision-making and prioritization of projects to mitigate the inland port’s environmental and community impacts.
- E. HB443 also requires the City and UIPA to execute this Agreement no later than December 31, 2022, to ensure that the City agrees to facilitate the efficient processing of land use applications related to authority jurisdictional land, including by providing at least one full-time employee as a single point of contact for processing these land use applications.
- F. The Parties desire to enter into this Agreement to comply with Utah law, to establish a contractual relationship creating certainty on the 25-year distribution of the City Differential to UIPA and to commit to a process for the expenditure of a portion of the City Differential and the efficient processing of land use applications relating to authority jurisdictional land.

A G R E E M E N T

For good and valuable consideration, the Parties agree as follows:

1. **Efficient Facilitation of Land Use Applications.** Pursuant to Utah Code § 11-58-205(9), the City shall designate one full-time employee who will serve as an ombudsman and facilitator for the efficient and timely processing of all land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the City. This City employee will serve as the single point of contact for UIPA for the processing of such land use applications and will ensure that the City’s departments are communicating efficiently to process the land use applications in a timely manner. UIPA may suggest and the City may consider changes to ordinances and the requirements of the inland port authority overlay zone.

2. **Distribution of Tax Differential.** The Parties agree that a material inducement to executing this Agreement is the establishment of certainty regarding the distribution of the City Differential for the next 25 years. While the Parties acknowledge that, through HB433, the Utah Legislature set the percentages of distribution of the City Differential, this law creates an expectation of certainty for the term of this Agreement. In reliance on the commitment made by the Utah Legislature under HB443, the Parties expect that for the term of this agreement, the distribution of the City Differential to the City, RDA and UIPA shall be as follows:
 - a. UIPA shall receive, for a period of 25 years, 25% of the City Differential (the “**25% Set Percentage**”).
 - b. UIPA shall receive an additional percentage of the City Differential which shall decrease over a period of 25 years as follows (the “**Decreasing Percentage**”:
 - i. 40% for the first tax year after the effective date of this Agreement, decreasing 2% for each year so that by 2029, the payment is 28%;
 - ii. 10 % from 2030 for seven years; and
 - iii. 8% from 2037 until 2047, at which time the payment of the City Differential to UIPA shall be 0%.
 - c. During the term of this Agreement, the RDA shall receive 10% of the City Differential, which shall be used for affordable housing under Utah Code 17C-1-412.

3. **Process to Determine Expenditure of the 25% Set Percentage and the Decreasing Percentage.** During the term of this Agreement, within a week of receiving the 25% Set Percentage and the Decreasing Percentage (collectively, the “**City Generated Differential**”), UIPA will notify the City of the amount of City Generated Differential it received. UIPA shall spend the City Generated Differential as follows and pursuant to the process set forth in Section 3(c), below:
 - a. *Environmental Mitigation Projects within the Authority Jurisdictional Land:* UIPA will spend 40% of the City Generated Differential on environmental mitigation

projects in the authority jurisdictional land within the City (“**Environmental Differential**”) according to the following:

- i. During the first year of this Agreement, the City and UIPA will mutually engage an outside firm with national expertise in health impact assessments to create a comprehensive health impact assessment (“**HIA**”) analyzing the planned inland port development in the authority jurisdictional land within the City. The HIA will use a data-based analysis to evaluate the existing and potential health effects of the inland port development in Salt Lake City. The parties will use the HIA as a master plan to guide all future development plans on the authority jurisdictional land. The HIA will be completed by December 31, 2023, will be reviewed by the NWQ Review Group (defined below) and approved by the UIPA board, and will be funded with the Environmental Differential.
 - ii. During the first year of this Agreement, the City and UIPA will mutually engage an outside firm with national expertise in traffic studies, including specifically the impacts on logistics hubs, truck traffic, and railyards on air quality and traffic in adjacent communities. This outside firm will create a traffic study using data-based analysis on best practices to mitigate environmental impacts on communities related to logistics hubs, railyards, and truck traffic (“**Traffic Study**”). The parties will use the Traffic Study as a master plan to guide all future development plans on the authority jurisdictional land. The Traffic Study will be completed by December 31, 2023, will be reviewed by the NWQ Review Group and approved by the UIPA board and will be funded by the Environmental Differential.
 - iii. During the term of the Agreement, UIPA will spend the Environmental Differential in conformance with the HIA and the Traffic Study and will use the Environmental Differential to mitigate the environmental impacts on Salt Lake City related to the development of the authority jurisdictional land. Such environmental mitigation projects may include, but are not limited to, net zero, electric, or equivalent building; mitigation of truck traffic; protection of wetlands; construction that supports migratory bird patterns in and around the jurisdictional land; low water usage; solar or renewable energy and/or electrification of rail.
 - iv. Expenditure of the Environmental Differential will only occur after the City and UIPA follow the process described in Section 3(c) below.
- b. Mitigation Projects for Communities within the City. UIPA will spend 40% of the City Generated Differential (“**Community Differential**”) on mitigation projects

for communities that are within the City; are adjacent to the authority jurisdictional land; and are west of the east boundary of the right of way of commuter rail used by the City (“**Westside Community**”) according to the following:

- i. During the first year of this Agreement, the City and UIPA will mutually engage an outside firm with national expertise in community impact assessments to create a comprehensive community impact assessment (“**CIA**”) for the planned inland port development in the authority jurisdictional land and the impacts on the Westside Community. The CIA will use a data-based analysis to evaluate the potential economic, community, and health effects of the inland port development on the Westside Community. The parties will use the CIA as a master plan to guide all future development plans on the authority jurisdictional land. The CIA will be completed by December 31, 2023, will be reviewed by the NWQ Review Group and approved by the UIPA board and will be funded with the Community Differential.
 - ii. During the term of the Agreement, UIPA will spend the Community Differential in conformance with the CIA and to mitigate the impacts of the inland port development on the Westside Community, including but not limited to, projects that create quiet zones, railroad crossings, new infrastructure to benefit adjacent communities, apprenticeship programs, career and youth development, and scholarships for certain careers associated with UIPA.
- c. Process to Review and Identify Expenditures for the Environmental Differential and Community Differential. During each fiscal year, within 30 days after receiving the amount of City Differential from the County, the UIPA executive team will develop a list of priority projects to spend the Environmental Differential and Community Differential (collectively, the “**Mitigation Money**”), in conformance with the priorities of the CIA, Traffic Study and the HIA. The UIPA executive team will submit any proposed use of Mitigation Money to the City’s advisory group of experts, which will be comprised of members of City departments, including but not limited to, the Redevelopment Agency, Planning, Public Utilities, and Sustainability, Mayor’s Office and Council Office, and stakeholders invested in the City’s Northwest Quadrant including the Audubon Society and community leaders from adjacent neighborhoods (“**NWQ Review Group**”). The NWQ Review Group may develop as separate list of priority projects to spend the Mitigation Money.
- d. The UIPA team and representatives of the NWQ Review Group will meet in May and seek to develop a joint recommendation to be presented to UIPA’s board. The Parties anticipate that there will always be more ways to spend the Mitigation

Money than there is money available. If there is no agreement on a joint recommendation, each shall separately submit their priority of projects to UIPA's board. In either case (i.e., whether a joint recommendation is submitted or separate recommendations are submitted) the submissions shall be made prior to the board meeting in June in which a public hearing will be held to approve the budget for UIPA's next fiscal year which commences July 1. The UIPA executive team and representatives of the NWQ Review Group agree to meet quarterly (likely in the months of August, November and February) to discuss whether to recommend mid-year adjustments to the previously approved UIPA budget for the Mitigation Money as well as to develop and adjust priorities for subsequent fiscal years, including by making adjustments to the priorities in the HIA, CIA, or the Traffic Study to account for changed conditions. In all events, UIPA's board shall approve a budget after a public hearing, and such budget will include line-item approval of projects for the expenditure of the Mitigation Money.

- e. *Economic Development Activities.* UIPA will spend the remaining 20% of the City's Property Tax on economic development projects within the authority jurisdictional land in Salt Lake City. UIPA will use commercially reasonable efforts to incentivize economic development projects that comport with the HIA, CIA, and Traffic Study.
4. **Use of Housing Payment for Affordable Housing.** As required by Utah Code Ann. § 11-58-604(2)(b)(iii), the RDA agrees to use for affordable housing the payment made by the County to it pursuant to Utah Code Ann. § 11-58-604(4)(c) and such amount shall be credited toward UIPA's obligation under 11-58-601(7)(b).
5. **Duration and Termination.** The term of this Agreement shall commence on the Effective Date and shall terminate when Mitigation Money is no longer distributed to UIPA under Utah Code § 11-58-604 but it shall not exceed forty (40) years.
6. **Damages for Breach.** A Party's violation of any of the terms of this Agreement constitutes a breach. The Party that believes that the other Party is in breach shall give written notice of the alleged breach and the other Party shall have 30 days to mitigate the breach or explain why it is not in breach. If alleged breach is not remedied or the Parties do not agree that there is a breach, then the Parties shall submit the issue to non-binding mediation and share the costs. After mediation, if the Party continues believes that the other Party is still in breach then it may determine, in its sole discretion, to continue performing under this Agreement but may bring an action and its sole remedies are injunction, mandamus, abatement, or other remedy to prevent, enjoin, abate, or enforce any relevant provision. However, no Party is entitled to money damages for any breach determined by a court to have occurred.

7. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Interlocal Cooperation Act, and in connection with this Agreement, the Parties agree as follows:
- (a) This Agreement shall be approved by each Party pursuant to Utah Code §11-13-202.5 of the Interlocal Cooperation Act, including by the Board of the RDA, the Salt Lake City Council, and the UIPA Board of Directors.
 - (b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Utah Code §11-13-202.5 of the Interlocal Cooperation Act.
 - (c) A duly executed original counterpart of this Agreement shall be filed with keeper of records of each Party, pursuant to Utah Code §11-13-209 of the Interlocal Cooperation Act.
 - (d) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs.
 - (e) Any Party may withdraw from the joint or cooperative undertaking described in this Agreement only upon the termination of this Agreement.
 - (f) No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent that a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.
 - (g) No joint board or entity is created through this Agreement.
 - (h) The functions to be performed by the joint or cooperative undertaking are those described in this Agreement.

IN WITNESS WHEREOF, the Parties are executing this Agreement to be effective as of the Effective Date.

Utah Inland Port Authority, a Utah public entity

Name: _____

Title: _____

Approved as to Proper Form and Compliance with Applicable Law:

Lyndon Ricks, Attorney for Utah Inland Port Authority

Salt Lake City Corporation, a Utah municipal corporation

Erin Mendenhall, Mayor

Approved as to Proper Form and Compliance with Applicable Law:

Katherine Lewis, City Attorney

Redevelopment Agency of Salt Lake City, a Utah public entity

Erin Mendenhall, Executive Director

Approved as to Proper Form and Compliance with Applicable Law:

Katherine Lewis, City Attorney

Attest:

Cindy Lou Trishman, City Recorder