

INTERLOCAL AGREEMENT
Park and Recreation Services in Stansbury Park, Utah

THIS INTERLOCAL AGREEMENT (“Agreement”), is made and entered into effective this 18th day of December, 2018 (the “*Effective Date*”), by and between TOOELE COUNTY, UTAH, a body corporate and politic of the State of Utah (the “*County*”), and STANSBURY SERVICE AGENCY, an interlocal agency organized under the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. (the “*Interlocal Cooperation Act*”), by and between the Stansbury Recreation Service Area, a body corporate and politic of the State of Utah (the “*Recreation Service Area*”), and the Stansbury Greenbelt Service Area, a body corporate and politic of the State of Utah (the “*Greenbelt Service Area*”). (collectively, the “*Stansbury Service Agency*”). The County and the Stansbury Service Agency are sometimes referred to herein individually as a “*Party*” and collectively as the “*Parties*.”

WHEREAS, the Greenbelt Service Area was created by the County as a local district to construct, own, operate, maintain, repair and replace the greenbelts, trails, open spaces, parkways, parks and related amenities either created by the Greenbelt Service Agency or developed by subdivision developers within the community of Stansbury Park and transferred to the Greenbelt Service Area (collectively, the “*Greenbelt Amenities*”); and the Recreation Service Area was simultaneously created by the County as a local district to construct, own, operate, maintain repair and replace the recreation amenities developed within the community of Stansbury Park, including, without limitation, the Stansbury Golf Course, Stansbury Lake, the Stansbury Clubhouse, the Stansbury swimming pool, tennis courts, baseball and soccer fields and other such facilities and amenities and to provide services related thereto (the “*Recreation Amenities*”); (the Greenbelt Service Area and the Recreation Service Area being hereinafter sometimes referred to collectively as the “*Service Areas*,” and the Greenbelt Amenities and the Recreation Amenities being sometimes referred to herein collectively as the “*Stansbury Amenities*”); and

WHEREAS, the Greenbelt Service Area and the Recreation Service Area are each governed by a board of trustees, duly elected by the registered voters residing within the community of Stansbury Park according to voting precincts as determined by the County; and

WHEREAS, the Stansbury Amenities, from the beginning, have been open and available for use by all residents within the community of Stansbury Park as it has expanded over the years, and by the general public as well; and

WHEREAS, by Interlocal Agreement, the Greenbelt Service Area and the Recreation Service Area have been combined into the Stansbury Service Agency;

WHEREAS, the Stansbury Service Agency is governed by a board of trustees comprised of the duly elected members of the board of trustees of both the Recreation Service Area and the Greenbelt Service Area, functioning and acting as a single combined board, to govern, administer and manage the operations of the Service Areas, for the purpose of constructing, operating, repairing, maintaining, replacing and renewing the Stansbury Amenities; and

WHEREAS, Utah Code Ann. Section 11-2-1, provides that the governing body of any local district ... or county “may designate and set apart for use as playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, indoor recreation centers . . . and other recreational facilities, any lands or buildings that would be suitable for such purposes, provide for the acquisition of lands or buildings, and equip, maintain, operate and supervise the same;” and

WHEREAS, Section 11-13-201 and 202 of the Interlocal Cooperation Act provides that any power, privilege or authority exercised or capable of exercise by a Utah public agency may be exercised and enjoyed jointly with any other Utah public agency having the same power, privilege, or authority, in a manner consistent with the provisions of said statute; and that any two or more public agencies may enter into an agreement with one another for joint cooperative action to provide services that they are each authorized by statute to provide; and

WHEREAS, the providing of park and recreation services is consistent with the authorized powers of the County and is reasonably related to the safety, health, morals and welfare of County inhabitants consistent with the County’s authorized powers as set forth in Utah Code Ann., Section 17-50-302(1)(a)(ii); and

WHEREAS, the County and the Stansbury Service Agency have mutually determined that the Stansbury Service Agency should be the public agency designated to provide the park, recreation and greenbelt services and amenities with respect to lands developed within the area of Stansbury Park, as defined herein, and should be delegated the specific authority to provide said services and amenities; and

WHEREAS, the Stansbury Service Agency's operations are generally financed through ad valorem property taxes levied on only those properties originally included within the legal boundaries of the Service Areas as legally defined when created, and those properties subsequently annexed thereto in conformance with the annexation requirements of State law; although, minor revenues are generated through user fees imposed in connection with the use of certain of the Stansbury Amenities which lend themselves to the imposition of fees for use, including primarily the golf course, clubhouse, and swimming pool ("*Revenue Producing Amenities*"), which on an annual basis are inadequate even to fund the cost of operating and maintaining those amenities, leaving the Stansbury Service Agency to rely on tax revenues to fund the balance of the cost of the Revenue Producing Amenities and the total cost of all the non-revenue producing amenities, including Stansbury Lake and the vast number of greenbelt parkways and open spaces, parks and ball fields which the Stansbury Service Agency operates and maintains throughout the year; and

WHEREAS, the community of Stansbury Park, being unincorporated, has no legally defined boundary as to what is and what is not officially included within the community of Stansbury Park; and

WHEREAS, those properties situated within the legal boundaries of the Service Areas are the only properties taxable by the Stansbury Service Agency, and as such it is the owners of those properties that are funding the operation and maintenance of all of the Stansbury Amenities, even though the Stansbury Amenities are open and available for use by the residents in subdivisions being newly developed on land commonly thought of as being ins Stansbury Park but which are situated outside the legal boundaries of the Service Areas; and

WHEREAS, the Parties have mutually determined that providing for park and recreation services contributes to the safety, health, morals, and welfare and is in the best interest of County inhabitants, and
{01446146-1}

that there is a distinct benefit to providing a means whereby (i) new park and recreation facilities and amenities developed in connection with new subdivisions within the area of Stansbury Park are properly designed, and the construction and installation thereof are properly supervised, inspected and approved; and (ii) the ongoing ownership, and consistent professional operation, maintenance, repair and replacement of such park and recreation amenities are provided for on a long-term basis in the best interest of the public to be served thereby; and

WHEREAS, the Parties desire to enter into this Agreement to facilitate the purposes of the Parties as set forth herein;

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually and cooperatively agree as follows:

1. INCORPORATION OF RECITALS. The Recitals first set forth above are hereby incorporated into and made a part of this Agreement as though fully set forth herein.

2. STANSBURY SERVICE AGENCY DSEIGNATED TO PROVIDE SERVICES. The Board of County Commissioners of Tooele County, Utah, and the Board of Trustees of the Stansbury Service Agency have found and determined that, in the best interest of the public:

(a) The Stansbury Service Agency is hereby designated as the public agency duly authorized by the County to review and approve the design, plans and specifications of all new open space, park, recreation and greenbelt facilities and amenities (collectively “*New Stansbury Amenities*”), which are to be developed in connection with new subdivisions and real estate development projects within the area of Stansbury Park according to the criteria set forth in Section 3 herein.

(b) The construction and installation of all New Stansbury Amenities shall be supervised, inspected and approved by the Stansbury Service Agency, the Stansbury Service Agency shall become the owner of all New Stansbury Amenities after they are constructed and the applicable warranty period has expired, and the Stansbury Service Agency shall be responsible for the consistent and ongoing professional operation, maintenance, repair and replacement of the same a long-term basis; and

(c) The County, in the exercise of its general police powers shall require, as a condition to development approval for all new subdivisions and real estate development projects being developed on land in the area of Stansbury Park, to be determined in accordance with the criteria set forth below (“*Development Land*”), that said land shall be required to be annexed into the legal boundaries of both the Recreation Service Area and the Greenbelt Service Area, and that the Stansbury Service Agency be added as a required signatory to the subdivision plat for each subdivision developed on the Development Land as a condition to final plat approval by the County.

3. ANNEXATION REQUIREMENT AND CRITERIA. The County shall consult with the Stansbury Service Agency immediately following the submission of a land use and development application for land within the area of Stansbury Park (as defined by the criteria set forth below), in order to determine whether and to what extent Amenity Services shall be provided by the Stansbury Service Agency as required in Section 2(c) above resulting from the development of said lands. If such Amenity Services shall be provided by the Stansbury Service Agency based upon the criteria set forth below, the applicable subdivisions and real estate development projects containing such Amenity Services shall, as stated above, be annexed into and become a part of the Stansbury Service Agency, with the owner of said subdivisions or real estate development projects being responsible for such annexations as a condition of development approval. The factors and other criteria to be considered as it relates to annexation are as follows:

(a) Whether the Development Land is contiguous, at any point, to any other land currently situated within the legal boundaries of the Service Areas;

(b) Whether the Development Land is situated within one-half (1/2) mile of any existing legal boundary of the Service Areas;

(c) Whether the Development Land is to receive municipal water, sanitary sewer and/or storm drainage services from Stansbury Park Improvement District; and/or

(d) Whether the Development Land is to include, either at the discretion of the subdivision developer or as required by the County, storm drainage facilities which are to be owned by

and operated as a storm drainage facility of Stansbury Park Improvement District, and which may be utilized and/or maintained as a park or other recreation facility.

4. CONSULTATION WITH REGARD TO OTHER LAND TO BE DEVELOPED.

Notwithstanding the provisions of Section 3 above, in connection with subdivisions or real estate projects which are intend to have or are otherwise required to have and maintain open space, park, recreation and greenbelt facilities and amenities, but which do not fall within the annexation criteria set forth in Section 3 above, the County, in its discretion and as a condition to its development approval process, may require the developers thereof, as a condition to approval by the County, to consult, in good faith, with the Stansbury Service Agency concerning the Stansbury Service Agency's willingness to take title to and assume responsibility for the operation, maintenance, repair and replacement of said facilities.

5. EXCEPTIONS. Notwithstanding anything herein to the contrary, the governing board of trustees of the Stansbury Service Agency shall have the right to exclude any Development Land from the requirements of this Section if said board determines that the owners of land within the subdivision would not reasonably be benefitted by the Stansbury Amenities and related services provided by the Stansbury Service Agency and/or the board determines, in its discretion, that it is unwilling or incapable of reasonably providing said amenities and services.

6. FURTHER DOCUMENTS AND ACTS. Each of the Parties hereto agrees to cooperate in good faith with the other, and to execute and deliver such documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the intent of the Parties hereunder.

7. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all other prior agreements, understandings, statements, representations and warranties, oral or written, express or implied, by and among the Parties and their respective affiliates, representatives and agents in respect of the subject matter hereof.

8. AMENDMENTS. This Agreement may only be changed, modified or amended, in writing, upon agreement of the Parties.

9. NO THIRD PARTY BENEFIT. This Agreement shall not be deemed to create any right in any person who is not a Party (other than the permitted successors and assigns of a Party), and shall not be construed in any respect to be a contract, in whole or in part, for the benefit of any third party (other than permitted successors and assigns of a Party hereto).

10. CONSTRUCTION. This Agreement is the result of negotiations between the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or who's attorney) prepared the executed Agreement or any earlier draft of the same. As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

11. PARTIAL INVALIDITY. If any term or provision of this Agreement or the application thereof to a person or circumstance shall, to the extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

12. COUNTERPARTS; ELECTRONIC SIGNATURES. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute only one agreement. A signature received via facsimile or electronically via e-mail shall be as legally binding for all purposes as an original signature.

13. WAIVER. No consent or waiver, express or implied, by any Party to or of any breach or default by any other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of obligations hereunder by such other Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first Party of any of its rights hereunder.

14. NO SEPARATE LEGAL ENTITY. No separate legal entity is created by this Agreement.

15. DURATION. Pursuant to the provisions of Section 11-13-216 of the Interlocal Cooperation Act, this Agreement shall extend for a term of not to exceed 50 years, or longer term as hereafter authorized by statute. Notwithstanding the forgoing, however, this Agreement may be terminated by either party, for any reason and without cause, by giving six (6) months' prior written notice of such termination to the other party.

16. ASSIGNMENT. No Party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from the other Party, which consent shall not be unreasonably withheld, conditioned or delayed so long as the assignee thereof shall reasonably be expected to be capable and willing to perform the duties and obligations being assigned.

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

(a) Pursuant to the provisions of Section 11-13-202.5 of the Interlocal Cooperation Act, this Agreement shall be authorized and adopted by resolution of the County Commission on behalf of the County and the governing board of trustees on behalf of the Stansbury Service Agency;

(b) Pursuant to the provisions of Section 11-13-202.5(3) of the Interlocal Cooperation Act, this Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party; and

(c) Pursuant to the provisions of Section 11-13-209 of the Interlocal Cooperation Act, executed copies of this Agreement shall immediately be deposited with and remain in the official records of Tooele County and Stansbury Service Agency during the effective term hereof.

18. EFFECTIVE DATE. This Agreement shall become effective upon a resolution duly adopted by the Tooele County Commission and the governing board of trustees of the Stansbury Service Agency and compliance with the provisions of Subsection 15(c) herein.

19. AUTHORITY TO BIND. Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the Party for whom such person is acting.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the day and year first set forth above.

TOOELE COUNTY COMMISSION

Wade B. Bitner

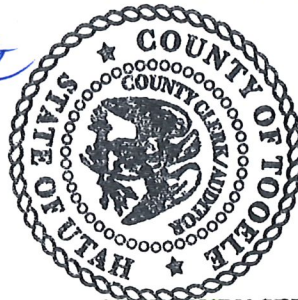
Wade B. Bitner, Chair

ATTEST:

Marilyn K. Gillette
Marilyn K. Gillette, Clerk/Auditor

APPROVED AS TO FORM:

Scott A. Broadhead
Scott A. Broadhead
Tooele County Attorney



STANSBURY SERVICE AGENCY

Neil Smart
Neil Smart, Chair

APPROVED AS TO FORM:

D. Brent Rose
D. Brent Rose
Clyde Snow & Sessions
Attorney for the Stansbury Service Agency