

RESOLUTION # 21-31C

A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN SANDY CITY AND ALTA CANYON RECREATION DISTRICT.

BE IT KNOWN AND REMEMBERED that the City Council of Sandy City, State of Utah, finds and determines as follows:

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Agreement Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the "Act"), public agencies, including political subdivisions of the State of Utah, are authorized to enter into mutually advantageous agreements for joint and cooperative actions; and

WHEREAS, Sandy City and the Alta Canyon Recreation District desire to contract for the services and enter into the Interlocal Agreement ("Agreement"), substantially in the form attached as **Exhibit "A"**; and

WHEREAS, the attached Agreement has been prepared to accomplish such purpose.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Sandy City that:

1. It does hereby approve the attached Agreement described as an Interlocal Agreement for Delivery of Limited Support Services Regarding Services between Alta Canyon Recreation District and Sandy City, substantially in the form attached hereto as **Exhibit "A"**.
2. This Agreement is in the best interest of the City and its residents.
3. The Hon. Kurt Bradburn, Mayor of Sandy City, is hereby authorized to execute the Agreement on behalf of the City and to act in accordance with its terms.
4. This resolution is effective upon adoption. The effective date of this Agreement shall be the date as indicated in the Agreement.

PASSED AND APPROVED by the Sandy City Council on this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Alison Stroud  
Sandy City Council Chair

ATTEST:

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

RECORDED this \_\_\_\_ day of \_\_\_\_\_, 2021.

## **Exhibit “A”**

**INTERLOCAL AGREEMENT BETWEEN  
SANDY CITY AND ALTA CANYON RECREATION DISTRICT  
FOR DELIVERY OF LIMITED SUPPORT SERVICES**

THIS INTERLOCAL AGREEMENT ("**Agreement**") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between **SANDY CITY**, a municipal corporation of the State of Utah (hereafter "**City**"), and **ALTA CANYON RECREATION DISTRICT**, a body corporate and politic of the State of Utah (hereinafter "**District**").

WITNESSETH:

WHEREAS, the City and the District are public agencies and are therefore authorized under the Utah Interlocal Co-operation Act, Section 11-13-101, *et seq.*, Utah Code Annotated, as amended, to enter into agreements with each other which enable them to make the most efficient use of their powers and resources; and

WHEREAS, the District desires to receive a broad range of support services from the City under circumstances which are efficient and consistent with good management practices of governmental economy; and

WHEREAS, the City and the District have independently reviewed the service delivery requirements of the District, and have determined that the support services can be most efficiently delivered by the City; and

WHEREAS, the City and the District have heretofore entered into interlocal co-operative agreements by which the City agreed to provide support services to the District; and

WHEREAS, the City has continuously provided services to the District for many years, many of them without a formal written agreement between the parties, during which period the City staff have met with the District's Board of Trustees monthly, and have provided essentially all the services needed to operate and staff the District programs; and

WHEREAS, the parties know of no pending claims for injuries to third parties or claims of one party against the other arising out of either the provision of services by the City, or arising out of Capital Improvements made to the property of the District by the City since the termination of the last written agreement between the parties; and

WHEREAS, the City and the District hereby declare that the public health, safety, welfare and convenience will be improved by having the City provide the support services identified in this Agreement; and

WHEREAS, the parties wish to (a) establish the efficient delivery of specified support services by the City to the District; (b) to compensate Sandy City for the costs of such services; and (c) to provide for liability, insurance, and other needed expenses and services, and to provide for the other aspects of the relationship between the parties; and

WHEREAS, on an annual basis the City adopts a budget for the operation of District programs, which budget may be modified from time to time; and

WHEREAS, the parties have been working under a financial arrangement by which revenues from or for the District are placed in a City account for the District, and from which the City then pays for the services set out in the City Budget on the District's behalf.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. FUNDING OF SERVICES.

(a) All revenues of the District, including property taxes assessed by the District, except for monies reasonably needed to fund the District's responsibilities set out in Subsection 3(a) below, shall be under the City's control, and shall be used by the City (a) for the operation, maintenance, staffing and repair of the Alta Canyon Recreation District Center and its programs; and (b) if budgets allow and upon approval by the City and the District, for needed Capital Improvements.

(b) As used herein, the term "**Capital Improvement**" means (a) the acquisition of land or easements, (b) the purchase of machinery or equipment that are fixtures to the real property, (c) the planning, engineering, design, and construction of new or remodeled or expanded facilities, or (d) the performance of any extraordinary, non-recurring major maintenance of existing facilities, all of which may be acquired, purchased, or constructed to improve, maintain, or develop the District property.

(c) The City shall pay the expenses for services, supplies, insurance, in its reasonable discretion to meet the needs of the District.

2. PAST SERVICES, EXPENDITURES, ACCESS TO CITY BOOKS AND RECORDS.

Except with respect to things about which a party lacks knowledge or has no reason to know, the parties hereby ratify the services, operations, actions, maintenance, repairs, Capital Improvements, and expenditures of the City previously rendered for the District. The City shall provide to the District reasonable access to review the City's records related to its services, and financial books and records related to this Agreement.

3. SERVICES, INSURANCE, CAPITAL IMPROVEMENTS TO BE PROVIDED BY THE PARTIES.

(a) District Responsibilities. The District shall be responsible to fulfill the duties of its Board of Trustees, including setting policy and providing high-level direction and budget approval for the operations, programs, facilities, maintenance, repair, and Capital Improvements of the District, and meeting regularly with the City's Director of Parks and Recreation or his or her Assistant Director, about the funding, operation and needs of the District and its patrons.

(b) City Responsibilities. Subject to sufficient funding from the receipt of District taxes, fees, and other revenues, the City agrees to continue to provide the Services in the manner and at the level it presently provides to the District for its operations, programs, property and facilities at 9565 South Highland Drive, Sandy, Utah, as detailed in the

City's annual budget ("**Services**") in a professional and ethical manner in compliance with applicable laws and standards of performance. The City shall have no obligation to provide additional services, maintenance, or repairs above the level agreed to herein, or beyond the level of the constraints of the City budget, even if such limitation results in injury to the District or third parties.

(c) The City's rendition of the Services, replacing equipment, making repairs and improvements to District real property, the standards of performance in the discipline of employees, and other matters incident to the performance of the Services, including the control of personnel performing them, shall be exclusively in the City's discretion. All District services, improvements, Capital Improvements, and functions which are not specifically identified in this Section shall remain the sole responsibility of the District.

(d) The City shall make reasonable efforts to follow the policies and direction of the Board of Trustees relative to the City's duties under this Agreement. The City shall have no responsibility to make Capital Improvements to the District property, to make major repairs, replace equipment, or do other services for which there is inadequate funding from District revenues. Notwithstanding the foregoing, the City may, in its sole discretion, make repairs, replace equipment, and make Capital Improvements to the property and equipment of the District with its own funds, provided that any Capital Improvements which substantially alter the appearance of the District's real property, facilities or buildings, or which will substantially modify the operations of the District or its facilities, must first be approved in writing by the District or in a meeting of the District's Board of Trustees.

(e) The City's Director of Parks and Recreation, or the Assistant of the Director of Parks and Recreation, and such City staff as are reasonably needed, shall meet regularly with the District's Board of Directors.

4. REPORTS. The City shall provide a report to the District at its monthly Board of Trustees' meetings in such form and containing such information as the District may reasonably request concerning the completion by City of the Services to be performed herein.

5. RESPONSE TO SERVICE DELIVERY COMPLAINTS. The City shall be responsible for receiving and responding in a timely manner to any Service delivery questions or complaints. In the event the District receives complaints concerning Services rendered by the City hereunder, it shall forward the complaints to the City through a process agreed to by the parties. The parties shall cooperate in addressing complaints, and shall share relevant information regarding claims, demands, or lawsuits arising from the City's Services under this Agreement.

6. FOLLOW LAWS. The parties, their agents and employees shall follow all laws applicable to their services and obligations under this Agreement, including the laws of the State of Utah, and of the United States.

7. OTHER CLAIMS AND OBLIGATIONS. No payment or obligation due under this Agreement may be used as a credit or set-off against any other claim, debt, or obligation. Nothing herein shall obligate the City to finance the upgrade or expansion of the District's capital facilities.

8. RIGHT OF CITY TO DIRECT EMPLOYEES AND ESTABLISH PERFORMANCE STANDARDS. Except as otherwise provided in this Agreement, the City shall have the exclusive right to direct, discipline, establish and implement standards of performance for its employees.

9. RISK MANAGEMENT INDEMNIFICATION AND LIABILITY. Both parties are governmental entities under the Governmental Immunity Act of Utah, Title 63G-7-101, *et seq.*, Utah Code Annotated (1953), as amended. Consistent with the terms of this Act, the City and the District agree to retain and manage their separate risks of liability, and to indemnify each other as follows:

(a) Retention of Separate Risks. The City and the District shall each, separately, be responsible for all damages to persons or property that occur as the result of the negligence or fault of its own individual officers, agents, or employees. The District retains all responsibility and risk for the public facilities or Capital Improvements of the District as they existed and were designed as of the effective date of the first interlocal Agreement between the parties for limited supported services by the City ("**First City Services Date**"), and for all claims arising prior to that date. The City shall be responsible for its negligent maintenance of, and repairs and Capital Improvements to the District's property and facilities after the First City Services Date, except as otherwise provided herein, and except to the extent due to the negligence or breach of the obligations of the District, and except for structural failures not directly caused by the negligence of the City, its officers, agents or employees which cause bodily injury or damages. **Notwithstanding anything else contained herein, the City shall not be liable for damage, injuries, or losses caused by insufficient District revenues.**

(b) District Indemnification of City. The District shall indemnify, defend and hold harmless the City, its officers, agents, employees and volunteers from all damages, costs or expenses in law or equity, including attorneys' fees, that may at any time arise or be set up because of damages to property, personal or bodily injury received by reason of negligent or wrongful acts or omissions of the District, its officers, employees, agents or volunteers, Board of Trustees, including failure to adequately fund the District's services, operations, programs, repairs, materials, or Capital Improvements, or their breach of this Agreement. In the event that the City's tender of its defense, based upon the foregoing, is rejected by the District, and the District is later found by a court of competent jurisdiction to have breached this Agreement or engaged in negligent or wrongful acts or omissions, the District agrees to pay City's reasonable costs, expenses and attorneys' fees incurred in proving such negligent or wrongful acts or omissions, or breach of this Agreement.

(c) City Indemnification of District. The City shall indemnify, defend and hold harmless the District, its officers, agents, employees and volunteers from all damages, costs or expenses in law or equity, including attorneys' fees, that may at any time arise or be set up because of damages to property, personal or bodily injury received by reason of negligent or wrongful acts or omissions of the City, its officers, employees, agents or volunteers, or their breach of this Agreement. In the event that the District's tender of its defense, based upon the foregoing, is rejected by the City, and the City is later found by a court of competent jurisdiction to have breached this Agreement or engaged in negligent or wrongful acts or omissions, the City agrees to pay the District's reasonable costs, expenses and attorneys' fees incurred in proving such negligent or wrongful acts or omissions, or breach of this Agreement.

(d) No Waiver of Governmental Immunity. Neither party waives any defenses available under the Governmental Immunity Act of Utah (the “**Act**”), nor does any party waive any limits of liability provided by the Act.

(e) Insurance. The City shall secure and maintain insurance meeting the requirements of **Appendix “A”**, attached hereto as set forth in the City annual budget.

10. CITY AND DISTRICT PERSONNEL NOT AGENTS OF EACH OTHER. The City and District employees providing services pursuant to or consistent with the terms of this Agreement are solely the officers, agents, or employees of their respective employing entities, and not of the other party. Each party shall assume any and all liability for the payment of salaries, wages, or other compensation due or claimed due, including workers' compensation claims, and each party shall hold the other harmless therefrom. The City shall not be liable for compensation or indemnity to any District officer or employee for any injury or sickness arising out of his or her employment, and the District shall not be liable for compensation or indemnity to any City officer or employee for injury or sickness arising out of his or her employment, and each party hereby agrees to hold the other party harmless against any such claim.

11. NO THIRD-PARTY RELIANCE. This Agreement is solely for the benefit of the City and the District and is not intended to create any right, privilege, or cause of action in any third party, whether referred to herein or not, which claim is expressly denied.

12. TERM, AUTOMATIC RENEWAL, REVIEW AND DISCUSSION OF TERMS. The term of this Agreement shall commence upon its execution by both parties and delivery of a copy of the fully signed Agreement to the other party and shall continue until June 30, 2022, (the “**Original Term**”) unless terminated earlier as provided herein. Subject to budget annual appropriation by the City Council, this Agreement shall automatically renew from year to year (each a “**Renewal Term**”) for up to ten additional years after the Original Term, subject to the right of either party to terminate this Agreement as set forth herein on 180 days written notice to the other. The parties shall meet and discuss the terms hereof at reasonable times upon the request of either party.

13. ADMINISTRATION AND REPRESENTATIVES.

(a) The City appoints its Director of Parks and Recreation as its representative and initial contact for all matters relating to the City's administration of this Agreement.

(b) The District appoints the current Chair of its Board of Trustees as its representative and initial contact for all matters relating to the District's administration of this Agreement.

(c) Either party may designate another person than the person named herein by written notice the party's representative named herein, or (i) the City's Mayor or CAO may designate another person; (ii) the District's Board of Trustees may name another person than the chair of the Board of Trustees.

(d) No separate legal entity is created by this Agreement, however, to the extent that any administration of this Agreement becomes necessary, then the parties'

representatives just named, or their designees, shall constitute a joint board for such purpose.

14. ENTIRE AGREEMENT; AMENDMENTS, NO WAIVER. This Agreement constitutes the entire agreement of the parties, and replaces all prior agreements and understandings, written or oral, between the parties. This Agreement may only be modified in writing signed by both parties. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

15. TERMINATION. This Agreement may be terminated as follows:

(a) by mutual agreement of the parties;

(b) upon thirty (30) days' written notice by either party to the other if the other party fails to cure a default within that thirty (30)-day period, or if the default cannot be cured within such 30-day period, then such longer period as is reasonably required to cure; or

(c) upon 180 days' written notice by either party to the other.

16. PROPERTY DIVISION ON TERMINATION.

(a) All real or personal property of the District maintained, repaired, modified, improved, or constructed under this Agreement shall remain the property of the District except as otherwise agreed by the parties.

(b) The parties do not anticipate that they will jointly acquire or hold any real or personal property in this cooperative undertaking, but in the event that any such property is acquired by the parties jointly for the undertaking, and paid for by both of them, then it shall be divided as the parties' representatives shall agree, or, if no agreement is reached, then it shall be divided according to their respective payments for the property; or if it cannot be practically divided, then the property shall be sold and the proceeds divided according to the parties' proportionate share of the purchase of the item of property.

(c) If real or personal property is purchased at one party's sole expense in connection with this Agreement, then the property so purchased shall be and remain the property of the party which purchased it.

17. INDEPENDENT CONTRACTORS, NO PARTNERSHIP OR JOINT VENTURE. The parties agree that the relationship between them is created by this Agreement and is that of independent contractors. No agent, employee or servant of one party is or shall be deemed to be an employee, agent or servant of the other. None of the benefits provided by either party to its employees, including but not limited to worker's compensation insurance, health insurance and unemployment insurance, shall be, as a result of this Agreement, available to the employees, agents, or servants of the other. Each party is solely and entirely responsible for its acts and for the acts of its agents, employees, servants and/or subcontractors during the performance of this Agreement. Nothing herein contained shall constitute a partnership between or joint venture by the parties hereto or constitute any party the agent of the other. No



party shall hold itself out contrary to the terms of this section, and no party shall become liable by any representation, act or omission of the other contrary to the provisions hereof.

18. SEVERABILITY. If any provision of this Agreement shall be held or deemed to be, or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

19. TITLES AND CAPTIONS. The titles and captions of this Agreement are for convenience only, and shall be deemed part of this Agreement and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Agreement.  
IN WITNESS WHEREOF, the parties each execute this Agreement on the dates set out below.

ATTEST:

**SANDY CITY**

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

\_\_\_\_\_  
Kurt Bradburn, Mayor

Date: \_\_\_\_\_

APPROVED AS TO FORM AND COMPLIANCE  
WITH APPLICABLE LAW:

\_\_\_\_\_  
Attorney for Sandy City

Print name: \_\_\_\_\_

ATTEST:

**ALTA CANYON RECREATION DISTRICT**

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM AND COMPLIANCE  
WITH APPLICABLE LAW:

\_\_\_\_\_  
Attorney for Alta Canyon Recreation District

Print name: \_\_\_\_\_

## **Appendix "A"**

### **INSURANCE AND BOND REQUIREMENTS FOR: PARTIES CONTRACTING WITH SANDY CITY FOR:**

### **INTER-LOCAL AGREEMENT BETWEEN SANDY CITY and ALTA CANYON RECREATION CENTER**

Contracting party shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the contracting party, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contracting party's proposal.

#### **A. MINIMUM LIMITS OF INSURANCE**

Contracting party shall maintain limits no less than:

1. PUBLIC OFFICIALS ERRORS & OMISSIONS COVERAGE: \$3,000,000 combined single limit per occurrence, Broad Form Commercial General Liability is required.
2. PROPERTY INSURANCE: On Alta Canyon Recreation District buildings at replacement cost.

#### **B. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retention, exceeding 5% limit of policy, must be declared to and approved by Sandy City. At the option of Sandy City, either; the insurer may be required to reduce or eliminate such deductibles or self-insured retention as respects Sandy City, its officers, officials and employees; or the contracting party may be required to procure a bond guaranteeing payment of losses and related investigations, claim distribution and defense expenses.

#### **C. NOTICE OF INCIDENT OR ACCIDENT**

Contracting party shall agree to disclose to Sandy City, all incidents or occurrences of accident, injury, and/or property damage covered by the insurance policy or policies.

**D. OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

I. General Liability and Automobile Liability Coverages.

A. Sandy City, its officers, officials, employees and volunteers are to be covered as an additional insured as respects: liability arising out of activities performed by or on behalf of the contracting party; products and completed operations of the contracting party; premises owned, leased, hired or borrowed by the contracting party. The coverage shall contain no special limitations on the scope of protection afforded to Sandy City, its officers, officials, employees or volunteers.

B. The contracting party's insurance coverage shall be a primary insurance as respects to Sandy City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Sandy City, its officers, officials, employees or volunteers shall be in excess of the contracting party's insurance and shall not contribute with it.

C. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Sandy City, its officers, officials, employees or volunteers.

D. The contracting party's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

II. Workers' Compensation and Employers Liability Coverage.

The insurer shall agree to waive all rights of subrogation against Sandy City, its officers, officials, employees and volunteers for losses arising from work performed by the contracting party for Sandy City.

III. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Sandy City.

**E. ACCEPTABILITY OF INSURERS**

Insurance and bonds are to be placed with insurers admitted in the State of Utah with a Bests' rating of no less than A-, IX, and in the limits as listed in this document, unless approved by the Director of Risk Management.

**F. VERIFICATION OF COVERAGE**

Contracting party shall furnish Sandy City with certificates of insurance and with original endorsements effecting coverage required by this clause. The

certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be furnished to and accepted by Sandy City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, with all endorsements, at any time.

**G. SUBCONTRACTORS**

Contracting party shall include all subcontractors as an insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.