

CENTRAL WASATCH COMMISSION
INTERLOCAL AGREEMENT

This Interlocal Agreement dated as of October , 2016 (this "Agreement") is entered into by and among the parties hereto (the "Members") pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the "Act").

WITNESSETH:

WHEREAS, the Act provides that two or more public agencies may agree to create a separate legal or administrative entity to accomplish the purpose of their joint or cooperative action, and the Act further provides that one or more public agencies may contract with each other or with a separate legal entity created pursuant to the Act to perform any governmental service, activity or undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, each of the Members is a "public agency" as defined in the Act and desires to be part of a separate legal entity and political subdivision of the State of Utah to be known as the "Central Wasatch Commission" (the "Commission") to accomplish the purpose of their joint and cooperative action and to vest in the Commission certain powers set forth in the Act and certain powers possessed by each of the Members; and

WHEREAS, many or all of the Members signed the Mountain Accord document (the "Accord") effective July 13, 2015, which is a foundational document that identifies a suite of actions that are recommended to be implemented to ensure that future generations can enjoy the activities provided by the Central Wasatch Mountains, while preserving our watershed and natural environments; and

WHEREAS, the Members intend to continue the Accord's robust, collaborative process that builds consensus to provide for the long-term protection of the Central Wasatch Mountains' water, lands, environment, recreational opportunities, economic prosperity, and a transportation system that serves these values; and

WHEREAS, Member Salt Lake City has a major interest in the watershed of the Wasatch Mountains, Member Salt Lake County encompasses the Central Wasatch Canyons, Member Sandy City is adjacent to Little Cottonwood Canyon, and Member Cottonwood Heights is adjacent to both Big Cottonwood Canyon and Little Cottonwood Canyon; and

WHEREAS, the Members are willing and desire to implement the Accord; and

WHEREAS, pursuant to the Act, the Members desire to form and be part of the Commission in order to implement the Accord; and

WHEREAS, all requirements of, and all actions required to be taken pursuant to, the Act and the laws of the State of Utah (the "State") to cause this Agreement to be the legal, valid and binding agreement of each of the Members and to cause the Commission to be duly constituted

and created as a separate legal entity and political subdivision of the State have been observed and taken:

NOW, THEREFORE, the Members agree as follows:

ARTICLE I

PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to provide for the creation of the Commission and to vest in the Commission all such power and authority as is necessary, desirable or useful to enable the Commission to accomplish and give effect to the joint and cooperative action of the Members to implement principles of the Accord and other related objectives determined by the Commission.

ARTICLE II

EFFECTIVE DATE AND TERM

This Agreement, having been approved by a resolution adopted by the governing body of each of the Members, filed in the official records of each of the Members and having been approved by a duly authorized attorney or attorneys for each of the Members, shall be effective on and as of the date first written above and, subject to earlier termination pursuant to Article IX, shall be effective for a term of fifty years from such date.

ARTICLE III

CREATION OF THE COMMISSION

Pursuant to the provisions of the Act, the Members hereby create the Commission as a separate legal entity and political subdivision of the State to accomplish the purpose of their joint and cooperative undertaking.

ARTICLE IV

DEFINITIONS

In addition to other capitalized terms defined elsewhere in this Agreement, the following words or phrases shall have the following meanings:

A. "Accord" means the written Mountain Accord document dated effective July 13, 2015, a copy of which is attached hereto without exhibits or signature pages as exhibit "A," which is further described in the above recitals.

B. "Additional Member" means a new Member of the Commission who, following the effective date of this Agreement consistent with the process provided in Article V. B. is invited by the Board to, and does, join the Commission by executing and delivering a counterpart of this Agreement following its approval by the governing body of the new Member.

- C. **"Board"** means the governing body of the Commission.
- D. **"Commission"** means the Central Wasatch Commission Interlocal entity formed by this Agreement.
- E. **"Commissioner"** means a member of the Board.
- F. **"Member"** means an Organizing Member and any Additional Member.
- G. **"Member Commissioner"** means a Commissioner appointed by a Member of the Commission. Each Member Commissioner shall be a currently serving elected official of that Member.
- H. **"Mountain Accord"** means a process used by a diverse group of individuals and entities concerned about the Central Wasatch Mountain Area who developed the objectives of the Accord and signed the Accord effective July 13, 2015. The Mountain Accord did not create a separate legal or governmental entity, but instead functioned as a collaborative venture of those who signed the Accord.
- I. **"Non-Member Commissioner"** or **"Appointed Commissioner"** means a Commissioner appointed pursuant to the process provided in Article IV. B. (2) ~~by the Board~~ who does not represent a specific Member.
- J. **"Organizing Member"** means any of the public agencies originally creating the Commission by executing and delivering this Agreement on or about the effective date specified above. Salt Lake City, Salt Lake County, City of Sandy and city of Cottonwood Heights will be the Organizing Members if they so execute and deliver this Agreement.
- K. **"Project Study Area"** means the geographical study area of focus of the Commission, which is the area commonly referred to as the Salt Lake County and the area of Summit County that is located Westerly of US 40 and Southerly of I-80. As used in this Agreement, "Project Study Area" means the same as "Project Area". (See Exhibit B, a Map of the "Project Study Area".)
- L. **"Mountain Accord Stakeholder Council"** or **"Council"** means the group of Stakeholders who are appointed by the Board to serve as an advisory body to the Board as described below.
- M. **"Stakeholders"** are individuals and entities that have a direct interest in the objectives of the Accord, some of whom signed the Accord, as identified from time to time by the Board.

ARTICLE V

ORGANIZATION

- A. **Members.** The Commission is comprised of the Organizing Members and any Additional Members. Additional Members may be added to the Commission pursuant to the process provided in Article V.B.(3) ~~upon the unanimous vote by the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board.~~ To become a Member, the governing body of each proposed Additional Member must also approve

this Agreement by resolution and the proposed Member then shall execute and deliver a counterpart of this Agreement.

B. Board.

(1) Appointments of Member Commissioners.

(a) By Organizing Members. The Mayor or the governing body, as appropriate to the Member's form of government as created by the Laws of Utah 1977, Chapter 48, of each Organizing Member shall appoint an elected public official from their respective entity to serve as a Commissioner.

(b) By ~~New~~ Additional Members. Following an Additional Member's admission to the Commission, the Mayor or the governing body, as appropriate to the Member's form of government as created by the Laws of Utah 1977, Chapter 48, of such Additional Member shall appoint one of the Additional Member's elected officials to serve as a Commissioner on the Board.

(2) Appointment of Non-Member/Appointed Commissioners. Additional Commissioners who do not represent a specific Member entity may also be appointed to the Board pursuant to the process provided in Article V.B.(3). Such Non-Member/Appointed Commissioners shall be either an elected or appointed public official from the Project Area who is familiar with the Accord's objectives. ~~The appointment of a Non-Member Commissioner requires the unanimous vote of the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board.~~ It is the intent of the Organizing Members to appoint a Commissioner to represent the interests of the portion of the Project Area located to the East of the Wasatch Range (i.e., the so-called "Wasatch Back"). ~~At least one of any Non-Member Commissioners shall be an elected official from the portion of the Project Area located to the East of the Wasatch Range (i.e., the so-called "Wasatch Back").~~ Park City and Summit County may jointly nominate a person for appointment by the Board for this Non-Member/Appointed Commissioner. It is also the intent of the Organizing Members to appoint a Commissioner to represent the interests of the Utah Department of Transportation.

(3) Procedure for Approving Additional Members and Non-member/Appointed Commissioners.

(a) The appointment of any Additional Member or Non-Member/Appointed Commissioner requires:

(i) Unanimous approval of the Commissioners from the Organizing Members;

(ii) A two-thirds majority vote of all Commissioners then serving on the Board; and

(iii) Approval by the legislative body of each of the Members.

(b) Subparagraphs 3(a)(ii) & (iii) of this approval process are not required for the initial appointment of Non-Member/Appointed Commissioners from:

(i) The Utah Department of Transportation; and

(ii) An elected official from the Wasatch Back.

(34) Tenure. Each Commissioner shall serve until his or her tenure as an elected or appointed public official (as applicable) terminates, until his or her successor is duly appointed by the sponsoring Member or the Board (as applicable), or until his or her sponsoring Member (if any) withdraws from the Commission, whichever occurs first. A vacancy on the Board shall be filled in the same manner as the appointment of the Commissioner whose vacancy is being filled.

(45) Compensation and Expenses of Commissioners. Commissioners may not receive compensation or benefits for their service on the Board, but may receive per diem and reimbursement for travel expenses incurred as a Board member at the rates established by the State of Utah, Division of Finance.

(56) Open Meetings Act. Board meetings are subject to the Utah Open and Public Meetings Act.

C. Officers. Bi-annually, the Commissioners shall elect from their membership a Chair, a Co-Chair, a Secretary and a Treasurer.

D. Voting.

(1) A Commissioner may not delegate the right to vote on Commission matters to any designee; provided, however, that a Commissioner may send a non-voting designee to Commission meetings for the purpose of gathering information for and expressing the viewpoint of the designee's Commissioner. The Board shall, however, adopt a written protocol for electronic meetings as authorized in the Utah Open and Public Meetings Act.

(2) Unless otherwise expressly provided in this Agreement, all actions of the Commission require approval of at least the two-thirds majority vote of all Commissioners then serving on the Board.

ARTICLE VI

OBJECTIVES AND POWERS

A. Commission Objectives.

(1) To implement the Accord, the Commission shall pursue the following objectives:

(a) Evaluate, study, prepare reports, and make recommendations concerning the future of the Project Area.

(b) Engage the public and collaborate with Stakeholders concerning the objectives of the Accord.

- (c) Develop transportation improvements and solutions that may decrease single-occupancy vehicle use, and increase biking and walking.
- (d) Plan and implement visitor amenities, trails, and canyon stewardship.
- (e) Conserve and protect watershed and stewardship of natural resources.
- (f) Undertake other efforts to ensure the welfare of the Project Area as contemplated by the Accord.

(2) In carrying out its objectives, the Commission shall consider the following aims for the Project Area:

(a) A natural ecosystem that is conserved protected and restored such that it is healthy, functional, and resilient for current and future generations.

(b) A recreation system that provides a range of settings and accommodates current and increasing demand by encouraging high levels of use at thoughtfully designed locations (nodes) with convenient access, while protecting solitude, nature, and other backcountry values.

(c) A sustainable, safe, efficient, multi-modal transportation system that provides year-round choices to residents, visitors and employees; connects to the overall regional transportation network; serves a diversity of commercial and dispersed recreation uses; is integrated within the fabric of community values and lifestyle choices; supports land-use objectives; and is compatible with the unique environmental characteristics of the Project Area.

(d) Broadly shared economic prosperity that enhances quality of life and preserves natural and scenic resources and infrastructure that is attractive, sustainable, and provides opportunity for visitors and residents.

B. Commission Powers. The Commission shall have all powers granted by this Agreement and is hereby authorized to do all acts necessary to accomplish its stated purposes, including, but not limited to, any or all of the following:

(1) To contract generally as approved by the Board, including contracts with public and private entities for any purpose necessary or desirable for dealing with affairs of mutual concern, and to accept all funds, services and other assistance resulting therefrom.

(2) To acquire real and personal property or an undivided, fractional, or other interest in real and personal property, necessary or convenient for the purposes of the Commission.

(3) To acquire, hold, utilize, spend, or dispose of its real and personal property, contributions, grants, and donations of real and personal property, funds, services, and other forms of assistance from persons, firms, corporation, and other private or governmental entities for projects or activities benefitting the Commission's objectives and the public interest.

(4) To act as an agency to receive and disburse federal and state grants, other grants; loans from Members, or funds from private organizations for all Board-approved planning and

development programs and projects which are specifically intended to accomplish the Commission's purposes and objectives.

(5) To hire and discharge a staff, including appointing an executive director, administrator and consultants, and to employ and discharge such other persons as the Board deems appropriate for the proper administration of the Commission. The Board shall have the general supervisory and policy control over the day-to-day decisions and administrative activities of such persons.

(6) To transfer and accept the transfer of contracts and inter-local agreements by and between Stakeholders, vendors, contractors and public agencies.

(7) To adopt, amend and repeal bylaws, resolutions, rules and regulations with respect to its powers and functions and not inconsistent with the provisions of the Act or this Agreement.

(8) To provide for insurance, including self-insurance, of any property or operations of the Commission or of its Members, directors, officers and employees, against any risk or hazard, and to indemnify its Members, directors, officers and employees against any risk or hazard.

(9) To sue or be sued.

(10) To levy and collect fees and charges as may be appropriate to discharge its responsibility for the acquisition, construction, operation, maintenance, and improvement of any asset of the Commission.

(11) To invest funds as permitted by law.

(12) To issue bonds, notes or other obligations for the purposes for which the Commission was created, and assign, pledge or otherwise convey as security for the payment of any such bonds, notes or other obligations, the revenues and receipts derived from or in connection with all or part of a Commission asset, which assignment, pledge or other conveyance may, if so determined by the Members, rank prior in right to any other obligation except taxes, or payments in lieu of taxes, if any, payable to the State or its political subdivisions.

(13) In addition to the previously enumerated powers, but subject to the limitations set forth below, to exercise all other powers incident to the purposes and objectives of the Commission enumerated in this Agreement upon the two-thirds majority vote of all the Commissioners then serving on the Board.

C. Limitations on Commission Powers. Notwithstanding anything to the contrary in this Agreement:

(1) The Commission has no authority to, nor does it, supplant any powers of its Members as set forth in the Utah Constitution, state law, county or municipal ordinance, or other powers specifically given to them; nor does the Commission have superseding authority over other government entities and jurisdictions; nor does the Commission have the authority to require alterations of duly adopted plans or decisions of any agency or jurisdiction.

(2) The Commission may not limit or otherwise affect a municipality's authority with respect to development on land within the jurisdiction of the municipality or to protect its watershed through extraterritorial jurisdiction.

(3) The Commission may not limit or otherwise affect a county's authority with respect to the development on land within the jurisdiction of the county.

(4) The Commission may not limit or otherwise affect the taxing authority or tax revenues of any governmental entity.

(5) The Commission may not limit or otherwise affect the protection of the watershed of the Project Area.

ARTICLE VII

THE MOUNTAIN ACCORD STAKEHOLDERS COUNCIL

A. Organization. The Board shall empanel an advisory body to the Board known as the "Mountain Accord Stakeholders Council," which shall include 28-35 Stakeholders.

(1) The Council shall be appointed by the Board.

(2) The Board shall appoint a Chair and a Vice-Chair of the Council, who shall serve two-year terms that expire on June 30, or until their successors are appointed.

(3) Council ~~m~~Members will serve for a four-year term ending on June 30th; however, at the first meeting of the Council, half of the Council ~~m~~Members will be assigned a two-year term by the Chair. Those receiving two-year terms may be candidates for a subsequent four-year term at the expiration of their initial terms expiring on the first June 30th that is at least two years after their appointment so that every two years approximately half of the Council ~~m~~Members slots will be designated for new four-year terms. There will be no restriction on the number of terms a Council ~~m~~Member may serve. The Council may provide the Board with a list of recommended replacements when there is a need for replacements.

(4) ~~The~~ Council ~~m~~Members may not receive compensation or benefits for their service on the Council.

(5) ~~-~~Council ~~m~~Members may be removed by the Board for such cause as the Board deems appropriate.

B. Objectives of the Council.

(1) ~~-~~ The Council is advisory to the Board.

(2) ~~-~~ Council meetings are subject to the Utah Open and Public Meetings Act.

(3) ~~-~~ The Council will meet as frequently as they choose; however, at least once a year they will meet in a public, noticed meeting of the Board to report on the Council's activities and future work.

(4) Commissioners may attend or may send a designee to participate in Council meetings.

(5) Council members are expected to attend Council meetings if at all possible.

(6) Council members may assist the Commission by communicating regularly with residents, interested parties, associations, networks and associates about Commission actions, projects, and Council meetings and work groups.

(7) Council members agree to:

(a) Support a consensus-based process for issues impacting the Project Study Area.

(b) Share information.

(c) Be collaborative and allow others to express their opinion and viewpoint.

(8) _____—The Council may consult with the Board and/or with Commission staff and its consultants with respect to the technical aspects of the Commission’s work and provide expertise and resources to inform the Commission’s decision making.

(9) _____—The Council may gather information, conduct fact-finding, counsel together, provide analysis, conduct feasibility studies, and otherwise collaborate with broader constituencies with interests in the Project Area in order to make suggestions, recommendations and proposals to the Board and the Commission's staff and consultants. The Council may consult with the Board and/or with Commission staff and its consultants with respect to the technical aspects of the Commission’s work.

ARTICLE VIII

FINANCING AND BUDGET; DISPOSITION OF ASSETS; INSURANCE

A. Annual Budget.

The Board shall adopt annually a budget for the Commission for the next fiscal (July 1 - June 30) year which shall set forth in reasonable detail the Commission's revenues and receipts as well as its operating, capital and administrative expenses, together with such other information as shall be necessary or desirable in connection with the Commission’s operations. The Board may revise and amend each annual budget during the course of that budget year to the extent necessary or desirable.

B. Voluntary Appropriations by the Members.

Pursuant to the Act and in addition to any contractual obligations that may be undertaken by any of the Members pursuant to a loan agreement, financing agreement or other agreement with the Commission, each of the Members may appropriate funds, supply tangible or intangible property and provide personnel and services to the Commission to the extent permitted by law to enable or assist the Commission in the accomplishment of its purposes.

C. Insurance.

(1) Each Member shall be solely responsible for providing (a) workers compensation coverage for its agents, representatives, officers, employees, or contractors as required by law, and (b) insurance, including self-insurance, in an amount at least equivalent to the governmental immunity limits prescribed by State law, to cover liability arising out of such Member's negligent acts or omissions under this Agreement.

(2) The Commission shall purchase insurance, independent of the insurance maintained by each Member, to provide protection for the Commission's operations including, but not limited to (a) insurance to cover the liability arising out of its negligent acts and omissions, (b) worker's compensation insurance for its agents, representatives, officers, employees, or contractors, as required by law, and (c) directors and officers liability insurance.

ARTICLE IX

WITHDRAWAL, TERMINATION AND DISSOLUTION

A. Withdrawal.

(1) No Member that is a party to an existing obligation to the Commission may withdraw from the Commission while and so long as any obligations of the Commission are outstanding that are secured or payable, in whole or in part, from the amounts payable by such Member under any written agreement with the Commission.

(2) Any Member that is not a party to any written agreement with the Commission may withdraw as a Member of the Commission at any time without the consent of the Commission, provided that the withdrawing Member shall file notice of withdrawal with the Board at least 90 days before the intended effective date of withdrawal. Any withdrawn Member shall remain obligated to the Commission for any liabilities imposed by law or that arose from facts or circumstances occurring during that Member's tenure on the Commission.

B. Termination. The Commission may terminate the membership of any Member that is not a party to any existing payment agreement with the Commission only upon the unanimous vote of the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board; provided that such Member shall have been given at least 60 days' prior written notice of the proposed termination and an appropriate opportunity to respond to the Board concerning the proposed termination. Any such termination shall be effective 90 days after the Board files with the governing body of such Member a certified copy of the Board's resolution effecting such termination.

C. Treatment of Contributions Upon Withdrawal or Termination. Upon withdrawal of any Member or termination of the membership of any Member, all amounts theretofore paid or contributed by such Member shall be and remain the property of the Commission and no part thereof shall be refunded to the withdrawn or terminated Member.

D. Dissolution. Upon final payment and upon the complete performance or satisfaction of performance by the Commission and its Members of all contracts entered into in connection with work of the Commission, this Agreement shall terminate upon adoption of a resolution of the Board providing for such termination which is approved by the unanimous vote of the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board. Any remaining net assets of the Commission shall be distributed among the then Members pro rata based on prior contributions or upon such other basis as the Board shall determine to be fair and equitable at the time.

ARTICLE X

AMENDMENTS AND SUPPLEMENTS

A. Amendments. Except as otherwise required by the Act, this Agreement may be amended from time to time upon the unanimous vote of the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board.

B. Supplement for Additional Members. This Agreement may be supplemented from time to time to add Additional Members as provided in Article V, above. ~~No approval of the governing bodies of the then current Members (i.e., excepting the new Additional Member) shall be required to approve any such supplement to this Agreement.~~

ARTICLE XI

DISPUTE RESOLUTION

A. Dispute Resolution. Any dispute, controversy or claims arising out of or relating to this Agreement or the breach, termination, interpretation or invalidity thereof (a "Dispute") will be resolved as follows:

(1) The Members will endeavor for a period of one month to resolve the Dispute by negotiation, including by scheduling face-to-face meetings with representatives of the Members.

(2) If negotiations are unsuccessful, the representatives of the Members will, at the request of any other Member, attempt to mediate the Dispute before a mutually acceptable mediator. The mediation will be completed within two months of the request for meditation unless the requesting Member extends the period in writing.

(3) If the Dispute is not successfully mediated, the Members may pursue any available remedies in District Court for the State of Utah.

ARTICLE XII

MISCELLANEOUS

A. Members not Partners. The Members shall not be deemed to be partners, joint ventures or associated in any manner that obligates any Member for the obligations, defaults or miscarriages of any other Member or of the Commission.

B. Governing Law. This Agreement shall be construed under and in accordance with the Act and the laws of the State of Utah.

C. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original.

D. Severability. Should any term or provision of this be determined to be illegal, void or unenforceable by a court of competent jurisdiction, such term or provision shall be deemed to be severed from this Agreement and the validity and enforceability of the remaining provisions of this Agreement shall not be affected; provided, however, that in lieu of such illegal, invalid, or unenforceable provision, the Organizing Members shall negotiate in good faith to formulate a substitute, legal, valid, and enforceable provision that most nearly implements the Organizing Members' intent in entering into this Agreement, and this Agreement shall be deemed so amended upon the unanimous vote by the Commissioners from the Organizing Members and the two-thirds majority vote of all Commissioners then serving on the Board

E. Governmental Entities. The Commission and the Members are governmental entities as set forth in the Governmental Immunity Act of Utah, Title 63, Chapter 7 of the Utah Code Annotated (the "Immunity Act"). Consistent with the terms of the Immunity Act, and as provided herein, it is mutually agreed that the Commission and the Members are each responsible for their own wrongful and negligent acts which are committed by them or their agents, officials or employees. The Commission and the Members do not waive any defenses otherwise available under the Immunity Act, nor does any Member or the Commission waive any limits of liability currently provided by the Immunity Act which immunity and damage caps are expressly preserved and retained.

F. Additional Interlocal Act Requirements. In satisfaction of the requirements of the Act, and in connection with this Agreement, the Members further agree as follows:

(1) This Agreement shall be approved by each Member pursuant to Section 11-13-202.5 of the Act;

(2) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Member, pursuant to Section 11-13-202.5 of the Act;

(3) A duly executed original counterpart of this Agreement shall be filed with the keeper of records of each Member, pursuant to Section 11-13-209 of the Act;

(4) Except as otherwise specifically provided herein, each Member shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs.

G. Authorization. Each of the Members represents and warrants to the others that the warranting Member has taken all steps, including the publication of public notice where necessary, in order to authorize the execution, delivery, and performance of this Agreement by each such Member.

H. Incorporation of Recitals. The recitals set forth above are hereby incorporated by reference as part of this Agreement.

I. Representation and Warranties.

(1) Each Member represents and warrants that it is a public agency and political subdivision of the State and is authorized to enter into this Agreement and to carry out its obligations under this Agreement and that the execution and delivery of this Agreement does not violate under any law, order, regulation, or rule to which such Member is subject or give rise to a default under any contract or other agreement to which such Member is a party.

(2) Each Member represents and warrants that there is no litigation or legal or governmental action, proceeding, inquiry or investigation pending or threatened by governmental authorities or others or to which such Member is a party or to which any of its property is subject which, if determined adversely to the Member, would individually or in the aggregate affect the validity or the enforceability of this Agreement with respect to the Member, or otherwise materially adversely affect the ability of the Member to comply with its obligations under this Agreement.

DATED effective the date first-above written.

[Signature pages follow]

EXHIBIT A
THE ACCORD, JULY 13, 2015

EXHIBIT B
PROJECT AREA MAP