REQUEST FOR COUNCIL ACTION

SUBJECT: MOU between the City of West Jordan and the City of Salt Lake regarding the South Valley Regional Airport

SUMMARY: This resolution authorizes the execution of an MOU between the City of West Jordan and the City of Salt Lake regarding use of property surrounding and/or location at the location of the South Valley Regional Airport

FISCAL/ASSET IMPACT: None

STAFF RECOMMENDATION: The City Manager’s office and the City Attorney’s office recommend approval of the ordinance.

MOTION RECOMMENDED: “I move to adopt Resolution 19-215, A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WEST JORDAN AND SALT LAKE CITY REGARDING THE SOUTH VALLEY REGIONAL AIRPORT”

To be Presented by:

Mayor Jim Riding

Authorized for Council Consideration:  
David R. Bricey  
City Manager

Reviewed for Legal Sufficiency:  
City Attorney’s Office
THE CITY OF WEST JORDAN
A Municipal Corporation

RESOLUTION NO. ________

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WEST JORDAN AND SALT LAKE CITY REGARDING THE SOUTH VALLEY REGIONAL AIRPORT

WHEREAS, the South Valley Regional Airport ("Airport") operated by Salt Lake City ("Salt Lake") is located within the City of West Jordan ("West Jordan"); and

WHEREAS, the property on which the Airport is located ("Property") comprises approximately 874 acres of land which constitutes approximately 4.22% of the land located within the corporate boundaries of West Jordan; and

WHEREAS, West Jordan continues to have concerns that (i) a sizeable portion of the Property is not actively used in the operation of the Airport, (ii) is centrally located within the corporate boundaries of West Jordan, (iii) has very good access to major transportation corridors, and (iv) has not been and is not used for a more financially productive use to benefit the health and welfare of the residents of West Jordan; and

WHEREAS, West Jordan and Salt Lake (jointly the "Parties") desire to explore the use, lease, sale, or other disposition of the Property ("Options" or "Option") which would be mutually acceptable to the Parties; and

WHEREAS, West Jordan and Salt Lake have negotiated a memorandum of understanding ("MOU") which sets forth their present respective intent regarding an effort to consider possible Options affecting the Property; and

WHEREAS, the City Council finds and determines that the best interests of the public health and welfare will be met by executing the MOU.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH as follows:

Section 1. MOU Approved. The City Council hereby approves the MOU, a copy of which is attached to this Resolution as Attachment 1.

Section 2. Effective Date. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL OF WEST JORDAN, UTAH this ___ day of __________, ________.

__________________________
JIM RIDING
Mayor

ATTEST:

__________________________
Jamie Brooks, Interim City Recorder
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Memorandum of Understanding
between
Salt Lake City
and
West Jordan City

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), dated for reference purposes
_____________ ("Reference Date"), is between Salt Lake City, a Utah municipal
corporation ("Salt Lake") and West Jordan City, a Utah municipal corporation ("West Jordan").
Either Salt Lake or West Jordan may be individually referred to as "Party", and both Salt Lake
and West Jordan may be jointly referred to as the "Parties."

Preliminary Statements

A. This MOU outlines the general objectives and understanding of the Parties regarding the
current and future use of certain property ("Property") owned by Salt Lake and located in
West Jordan.

B. The Property is the location of what is commonly referred to as South Valley Regional
Airport ("Airport") and the Soccer Field Property ("Soccer Fields"). The Property is
owned by and the Airport is operated by Salt Lake. The Soccer Fields are operated by
West Jordan. The approximate location of the Property is shown on Exhibit A.

C. The Property comprises approximately 874 acres of land which constitutes approximately
4.22% of the land within the corporate boundaries of West Jordan. The Property is tax
exempt property under Utah Law. A graphic representation of the comparative size of the
Property is shown on Exhibit A.

D. West Jordan continues to have concerns that a sizeable portion of non-taxable Property
(specifically portions of the Property which are not actively used in the operation of the
Airport) centrally located within the corporate boundaries of West Jordan, with very good
access to major transportation corridors, has not been available for a more financially
productive use to the benefit of the health and welfare of the residents of West Jordan. The
Parties desire to explore the use, lease, sale, or other disposition of the Property ("Options"
or "Option") which would be mutually acceptable to the Parties.

E. Salt Lake and West Jordan desire to enter this MOU to set forth their present respective
intent regarding the effort to consider possible Options preliminary to negotiating definitive
transactional documents affecting the Property.
Understandings

1. **Good Faith Declaration.** This MOU is a good faith declaration only and may not be relied upon by either Party as the basis for a claim of contract by estoppel, detrimental reliance, or any other theory of liability. The Parties will not be contractually bound to one another as a result of the discussions contemplated in this MOU except through mutually agreed written terms, memorialize by the Parties in appropriate governing documents, and approved through lawfully required legislative or executive proceedings.

2. **Property Which is the Subject of this MOU.** The Property which is and will be the focus of the discussions of the Parties is comprised of two parcels separated by the 7800 South right of way. The parcel north of 7800 South is the location of the Airport. The parcel south of 7800 South is the location of the Soccer Fields. In this MOU the north parcel is referred to as the “Airport Property” and the south parcel is referred to as the “Soccer Field Property.”

3. **Soccer Field Property.**
   a. **Lease for Use of the Soccer Field Property.** Salt Lake and West Jordan entered a long-term lease (“Lease”) effective November 1, 1995 in which Salt Lake leased to West Jordan the Soccer Field Property for a period of thirty (30) years. The approximate location of the Soccer Field Property is shown on Exhibit A. A copy of the Lease is attached to this MOU as Exhibit B.
   
   b. **Specific Purpose for Lease.** The purpose for the Lease was to allow for the development and operation of a recreational complex by West Jordan. The Soccer Field Property was developed by West Jordan into nineteen (19) soccer fields (“Soccer Fields”). Thousands of youth and adults use the soccer fields each year.
   
   c. **Expiration of Lease.** The Lease of the Soccer Field Property expires October 31, 2025. West Jordan has expressed a desire to either extend the Lease term or otherwise acquire the Soccer Field Property from Salt Lake.

4. **Airport Property.**
   a. **Vacant Land on Airport Property.** The Parties have identified approximately 200 acres of land located on the east side of the Airport Property. Such acreage is vacant and is not actively used as part of the Airport operation (“Vacant Land”). The approximate location of the Vacant Land is shown on Exhibit C.
   
   b. **Consider and Explore Options on Vacant Land.** West Jordan has expressed to Salt Lake a desire to consider and explore possible Options relative to the Vacant Land
which would be more beneficial to West Jordan. Salt Lake agrees that it would be productive to engage in such consideration and exploration with West Jordan.

c. **Compatibility with Current Airport Operations.** The Parties acknowledge that so long as the Airport is located on the Property, any Option implemented or adopted must be compatible with the current operation of the Airport.

5. **Parameters of Consideration of Options.**

a. **Vacant Land Discussions to Commence First.** Given the term of the Lease does not expire until October 31, 2025 Salt Lake has expressed a desire to first begin exploring and considering with West Jordan Options relative to the Vacant Land. West Jordan agrees to postpone for the time-being discussions regarding the Soccer Field Property with the understanding that it is not the intent of the Parties that consideration of Options relative to the Vacant Land must be complete before further discussion of the Soccer Field Property Lease occurs among the Parties.

b. **Recognition of Possible Limitations.** The Parties recognize that many factors impact certain Options related to the Property. The Parties acknowledge that the use, lease, sale, or other disposition of the Property is subject to FAA regulation and/or approval. For example: Salt Lake previously negotiated a corrective action plan regarding the Lease with the Federal Aviation Administration (“FAA”) dated July 3, 2013, which is attached to this MOU as Exhibit D. Consequently, the implementation of a specific Option related to the Soccer Field Property would require involvement of and/or approval from the FAA.

c. **Commitment to Creative, Broad Discussion.** Notwithstanding any factor that may currently impact the Property, the Parties commit to engage in good faith, broad and creative discussion regarding any Option, including also (i) uses of the Vacant Land that bring enhanced financial benefit to West Jordan and further promote the health and welfare of the community of West Jordan, and (ii) the future use of the Soccer Field Property. Such discussion may result in and/or include the Parties renegotiating existing commitments relative to the Property with the FAA or other entities, and/or pursuing changes in existing laws, rules, regulations, and/or contractual commitments involving the Property to allow or to facilitate an Option.

d. **Party Representatives and Meetings.** Within thirty (30) days of the Reference Date, the Parties agree to appoint an individual as the lead representative (“Representative”) for that Party in the effort to consider and explore Options. The Parties agree that such Representatives will meet at a minimum on a monthly basis over the initial twenty-four-month period following the Reference Date to discuss and consider Options.
e. **Additional Professional Staff.** The Parties will make additional professional staff of varying backgrounds and interests available for the monthly meetings to enable the Representatives to address issues regarding Options. Such backgrounds may include land use, airport operations, engineering, finance and economic development, FAA and other Federal regulations, State regulations, and legal concerns, as examples.

f. **Good Faith Efforts in Considering and Exploring Ideas.** It is the intent of the Parties that the Representatives work together to explore and consider in good faith, any proposal each of the Parties suggests as well as other proposals that may come to the attention of the Parties as a result of the monthly meetings. Options may fall in the realm of commercial, retail, institutional, residential, entertainment, industrial, recreational, as examples. To facilitate such broad and creative discussion the Parties agree to provide accurate and complete information to one another relative to regulations, laws, agreements, and other information relevant to the operation of the Airport, use of the Property, operation of the soccer fields, and relevant infrastructure surrounding the Property, as examples.

IN WITNESS WHEREOF, Salt Lake and West Jordan have executed this MOU on the dates identified below.

Salt Lake City, a Utah municipal corporation

By: ___________________________________ Date: ______________

Jackie Biskupski, Mayor

Attest:

By: ___________________________________

City Recorder

West Jordan City, a Utah municipal corporation

By: ___________________________________ Date: ______________

Jim Riding, Mayor

Attest:

By: ___________________________________

City Recorder
Exhibit A

to

Memorandum of Understanding

Approximate Location of the Property
Graphic Representation of Comparative Size of the Property
Approximate Location of the Soccer Field Property

(Attached)
Exhibit B

to
Memorandum of Understanding

Lease

(Attached)
MEMORANDUM OF UNDERSTANDING AND LEASE AGREEMENT
AFFECTING
SALT LAKE CITY CORPORATION
AND
THE CITY OF WEST JORDAN

RECORDED
NOV 2 & 1995

CITY RECORDER

THIS MEMORANDUM OF UNDERSTANDING AND LEASE AGREEMENT,
effective November 1, 1995, involves and sets forth certain relationships between
SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah,
hereinafter "City," and THE CITY OF WEST JORDAN, a municipal corporation of
the State of Utah, hereinafter "West Jordan."

WITNESSETH

WHEREAS, City owns and through its Airport Authority, hereinafter
"Authority," operates Airport II, hereinafter "Airport," located in Salt Lake County;
and,

WHEREAS, West Jordan desires to construct, operate, and maintain a
regional soccer center on real property owned by the City and operated by the
Authority and which is located immediately south of the Airport; and,

WHEREAS, City requires said real property for future Airport related
development and consequently is agreeable to lease it on an interim basis to West
Jordan under such terms and conditions as are hereinafter set forth.

NOW, THEREFORE, the parties hereby agree as follows:
ARTICLE 1
LEASED PROPERTY

A. City hereby leases to West Jordan and West Jordan agrees to lease from City approximately 96.31 acres of real property, hereinafter "Leased Property" or "Leased Premises," as the same is set forth on Exhibit A, attached hereto and made part hereof.

B. During the entire term of this Agreement, West Jordan agrees not to construct, maintain, or permit to exist any objects, buildings, or other structures which penetrate any FAA FAR Part 77 imaginary surface upon the Leased Property.

C. The parties acknowledge that at the time of the execution of this Agreement, the Leased Property is vacant and unimproved. This Agreement and the obligations hereunder apply only to the Leased Property and the obligations hereunder have no applicability to adjacent real property owned by others and utilized similarly as part of the regional soccer center.

ARTICLE 2
TERM

A. The initial term of this Agreement shall commence November 1, 1995, and shall expire at midnight on October 31, 2025, unless otherwise prior terminated by City.
B. West Jordan shall have the option to lease the Leased Premises for an additional twenty (20) year term commencing November 1, 2025, at the City's sole discretion and at such terms and conditions as are mutually agreed on.

C. At any time during the term of this Agreement, if the City adopts or modifies a Runway Protection Zone ("RPZ") pursuant to FAA regulations or standards, West Jordan agrees to release any portion of the Leased Property which falls within that modified RPZ. City agrees to provide West Jordan 180 days prior written notice of any such RPZ modification. West Jordan further agrees at its sole cost and expense to remove any buildings or other improvements within the RPZ as it falls within the Leased Premises which may have been completed prior to the adoption of the modified RPZ.

ARTICLE 3

RENT AND FEES

West Jordan agrees to pay City the amount of One Dollar ($1.00) per year as consideration for the Leased Property.

ARTICLE 4

INDEMNITY

A. West Jordan agrees to indemnify, save harmless and defend City, its agents and employees from and against all claims, mechanics liens, damage, demands, actions, costs, charges and other liabilities for
property damage or injury or death to persons, including attorney’s fees, arising out of or alleged to arise on the Leased Premises or by reason of West Jordan’s activities on the Leased Property, or other use of the Leased Property during the term of this Agreement, and from West Jordan’s breach hereof.

B. Notwithstanding the provisions of Paragraph A above, West Jordan shall not be liable for nor required to indemnify or defend City against claims arising out of those aeronautical accidents not involving a direct and physical connection between the aircraft and the activities conducted upon the Leased Premises. West Jordan will be liable and agrees to indemnify only if the activity on the ground directly and physically contacts the aircraft or physically interferes with the safe operation of the aircraft. Distraction of the pilot will not be the basis of liability on the part of West Jordan.

C. The City assumes no responsibility for any damage or loss that may occur to West Jordan’s property, except the obligation the City assumes that it will not willfully, intentionally, or negligently damage the property of West Jordan.

ARTICLE 5
USES AND PRIVILEGES

A. The premises are leased for the construction, operation, and maintenance of a regional soccer center which will consist of
approximately twenty one (21) soccer play fields together with related parking areas, spectator areas, and ancillary improvements and for no other purpose. West Jordan will not knowingly allow or permit activities upon or within the Leased Property which will interfere with the use of the Airport and its aeronautical operations. City and West Jordan will have the right to enforce, in a reasonable and lawful manner, such prohibited activities by requiring the violator to immediately cease and desist such activity.

B. West Jordan will not knowingly allow or permit activities upon or within the Leased Premises which will interfere with the use of the Airport and aeronautical operations including but not limited to:

1. Kite flying, radio-controlled models, launching or recovery of model airplanes;

2. Golfing, driving of golf balls, archery or other similar activities;

3. The installation of lakes, ponds, or other fixed bodies of water which will attract birds or other wildlife;

4. The installation of lighting fixtures which would interfere with the Airport lighting system and/or the aircraft landing system, lighting or communication systems.

West Jordan shall install appropriate signage on the Leased Premises indicating that the activities described in this Paragraph B are prohibited upon the Leased Premises. West Jordan shall enforce, in a
reasonable and lawful manner, these prohibitions by requiring the
offender to immediately cease and desist such activity.

C. West Jordan, at its sole expense, shall construct the regional soccer
center on the Leased Property and shall operate the same in
accordance with this Lease Agreement. City shall have no
responsibility to participate in the construction or maintenance costs of
the regional soccer center or activities whatsoever.

D. West Jordan shall have the right of ingress and egress from the Leased
Property over and across City owned roadways serving the Airport for its
employees, representatives, agents, patrons, guests, and suppliers,
subject to such laws, ordinances, rules and regulations as now or may
hereafter have application at the Airport. City hereby retains the right of
ingress and egress over, through, and across the Leased Property at any
time.

E. West Jordan shall have no right to perform any activities not listed in this
Article 5.

ARTICLE 6

NONDISCRIMINATION

A. West Jordan, for itself, its heirs, personal representatives, successors in
interest, and assigns, as a part of the consideration hereof, hereby
covenants and agrees as a covenant running with the land that in the
event facilities are constructed, maintained, or otherwise operated on the
said property described in this agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, West Jordan shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

B. West Jordan, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, hereby covenants and agrees as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that West Jordan shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.
C. In the event of a breach of any of the nondiscriminatory covenants pursuant to Part 21 of the Regulations of the Office of the Secretary of Transportation, as amended, the City shall have the right to terminate this Agreement and to re-enter and repossess the Leased Property and hold the same as if said Agreement had never been made or issued.

D. West Jordan does hereby agree to include the above clauses in all subleases and cause sublessees to similarly include clauses in further subleases.

E. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right forbidden by Section 308 of the Federal Aviation Act of 1958, as amended.

ARTICLE 7

UTILITIES

All reasonable utility services required by West Jordan during the term of this Agreement for the Leased Property or facilities located thereon shall be provided by West Jordan.

ARTICLE 8

MAINTENANCE AND REPAIRS

A. West Jordan shall maintain the entire Leased Property and every improvement thereon in good and neat appearance, repair and safe condition during the entire term hereof.
B. West Jordan shall provide or cause to be provided a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Leased Property, of all trash, garbage, and other refuse caused as a result of the operations conducted on the Leased Property.

ARTICLE 9

TAXES AND LICENSES

West Jordan agrees to pay, on or before the last day on which payment therefor may be made without penalty, all nondiscriminatory taxes, assessments or charges which during the term hereof may become a lien or be levied by the State, County, City or other tax levying body on all personal property of West Jordan, upon all improvements made to the Leased Property by West Jordan in connection with issues and occupancy thereof, and upon the possessory interest, if any, of West Jordan in the Leased Property, which shall specifically include, but not by way of limitation, any taxes levied under Section 59-4-101 et seq, Utah Code Ann., 1953, as amended or its successor, if applicable.

ARTICLE 10

RULES AND REGULATIONS

In conducting its operations hereunder, West Jordan shall comply with all applicable Federal, State, County, and City laws, rules and regulations in its use of the Leased Property.
ARTICLE 11
INSURANCE

A. West Jordan, at its own cost and expense, shall secure and maintain comprehensive third-party public liability insurance for injury to property and person to protect City herein from such claims and actions. Said insurance shall have limits of not less than $1,000,000 combined single limit each occurrence.

B. West Jordan City currently participates in the Utah Risk Management Mutual Association, a consortium of Utah municipalities which have, pursuant to interlocal agreement, established the Association which is a "public mutual" insurance company, licensed as such by the Utah Insurance Department. West Jordan's participation in the Association and the "public liability" insurance coverage thereunder is acceptable to the City. In the event West Jordan shall terminate its membership in the Association and shall not participate in a similarly-established public liability insurance program or shall become "self-insured", West Jordan shall procure a policy of insurance from an insurance company listed on the current Department of the Treasury Fiscal Services List 570 or having a general policy holders rating of not less than "A" in the most current available "Best's Insurance Reports," and be qualified to do business in the State of Utah.
C. Certificates evidencing such insurance coverage shall be filed with City upon execution of this Agreement. Such certificates shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days prior written notice to City. At least thirty (30) days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed shall be filed with City. If such insurance coverage is canceled or reduced, West Jordan shall within fifteen (15) days after receipt of written notice from City of such cancellation or reduction in coverage, file with City a certificate showing that the required insurance has been reinstated or provided through an insurance company or companies qualifying under Subparagraph B hereof.

D. In the event that West Jordan shall at any time fail to furnish City the certificate or certificates required, City, upon written notice to West Jordan of its intention to do so, shall have the right to secure the required insurance, at the cost and expense of West Jordan, and West Jordan agrees to reimburse City promptly for the cost thereof and ten percent (10%) for cost of administration.

E. All insurance policies shall name and certificates shall show the City as an insured.
ARTICLE 12
TERMINATION & DEFAULT

A. This Agreement shall expire at the end of the full term hereof, unless sooner terminated as provided hereinafter.

B. This Agreement may be terminated by the City in the event West Jordan shall:

1. Make a voluntary or involuntary assignment contrary to Article 17 hereof.

2. Abandon the Leased Property.

3. Except for payment of rents and fees, be in default in the performance of any of the covenants and conditions required herein to be kept and performed by West Jordan, and such default continues for a period of thirty (30) days after receipt of written notice from City of said default. If the nature of the default is such that it cannot be cured within thirty (30) days, City in its sole judgment may determine to terminate this Agreement or permit a cure.

C. In the case of any of the aforesaid events of termination, City may exercise the above right of termination by delivering a written notice of termination to West Jordan at the address set forth herein, and this Agreement shall terminate as of that date and time. Delivery may be by hand or by certified mail. Thereafter, City may take immediate
possession of the Leased Property and all improvements thereon and remove West Jordan's personal property. Any rental due hereunder shall be payable to said date of termination.

D. It is agreed that failure to declare this Agreement terminated upon the default of West Jordan for any reasons set forth above shall not operate to bar or destroy the right of City to declare this Agreement null and void by reason of any subsequent violation of the terms of this Agreement.

ARTICLE 13

ASSIGNMENT AND SUBLEASING

West Jordan shall not assign, transfer, sublease, pledge, hypothecate, surrender or otherwise encumber or dispose of this Agreement or any estate created by this Agreement, or any interest in any portion of the same, or permit any other person or persons, company or corporation to occupy the Leased Property without written consent of the City being first obtained, which consent, except for involuntary actions, shall not be unreasonably withheld.

ARTICLE 14

REMOVAL OF PERSONAL PROPERTY

A. Title to personal property shall at all times remain in West Jordan, and West Jordan shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which West Jordan may have placed or installed upon the Leased Property. Any and all fixtures, tools, devices, appliances, furniture, pictures, furnishings,
equipment, and supplies, of every kind and nature, heretofore or hereafter placed or installed by West Jordan on the Leased Property, as between City and West Jordan, shall be and remain the personal property of West Jordan, notwithstanding the same are or may be attached or affixed to the floors, ceilings, or any other parts of any buildings or structures on the Leased Property. West Jordan shall have said right to remove same provided that, upon any such removal, West Jordan shall repair, at its own expense, any damage resulting therefrom and leave the Leased Property in a clean and neat condition, with all improvements in place.

B. West Jordan at its sole cost and expense, shall remove all personal property from the Leased Property prior to termination of this Agreement. City shall be entitled to remove all personal property from the Leased Property if West Jordan fails to remove said personal property, and City shall store such property at West Jordan's expense, plus 30% of the removal and storage expense and cost of administration.

ARTICLE 15

INSPECTION OF LEASED Property

City, its agents, or employees may enter upon the Leased Property, at any and all reasonable times during the term hereof for the purpose of determining whether or not West Jordan is complying with the terms and conditions hereof or for any other purpose incidental to rights of City. If West Jordan is in violation of any of the covenants of this Agreement and fails to correct said violations as provided herein, the
City may elect, in lieu of cancellation, to provide that the necessary action be taken at the cost and expense of West Jordan, and West Jordan agrees to reimburse City promptly for the cost thereof together with ten percent (10%) for the cost of administration.

ARTICLE 16

FORCE MAJEURE

Any prevention, delay, or stoppage of performance of West Jordan's or City's obligations hereunder due to acts of God, governmental restrictions, governmental controls, governmental regulations, enemy or hostile government action, civil commotion, fire or other casualty, or any other causes beyond the reasonable control of either shall not be deemed to be a breach of this agreement or a violation of or failure to perform any covenants hereof, and either shall have a reasonable time after cessation of any of such causes within which to render performance delayed thereby.

ARTICLE 17

SPONSOR'S ASSURANCES

This Agreement shall be subordinate to the provisions of any existing or future agreements between City and the United States Government, and any applicable Federal laws or regulations relative to the operation, security or maintenance of the Airport, the execution of or compliance with which is, or will be required as a condition precedent to the granting of Federal funds for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States at other civil air carrier airports receiving Federal funds.
and provided that City agrees to give West Jordan written notice in advance of the execution of such agreements of any provisions which will modify the terms of this Agreement.

ARTICLE 18
QUIET ENJOYMENT

City represents that the Leased Property is zoned to permit the uses provided for in this Agreement. City represents that it has a marketable title and unencumbered fee interest to the Leased Property. City will defend West Jordan's right to quiet enjoyment of the Leased Property from the claims of third persons.

ARTICLE 19
RIGHT OF FLIGHT

West Jordan understands and agrees that City reserves the right of flight for the passage of aircraft above the surface of the Leased Property, hereunder in accordance with Federal Aviation Administration criteria, and such right of flight shall include the right to cause in such airspace such noises as may be inherent to the operation of aircraft now known or hereafter used for navigation of or flight in the air; and that City reserves the right to use said airspace for landing at, taking off from or operating aircraft on or over said Airport.

ARTICLE 20
REDELIVERY OF LEASED PROPERTY

West Jordan shall, upon termination of this Agreement quit and deliver up the Leased Property to City peaceably, quietly, and in as good order and condition as the
same now are or may hereafter be improved by West Jordan or City, reasonable use, wear, tear and deterioration excepted.

ARTICLE 21

HOLDING OVER

In the event West Jordan remains in possession of the Leased Property after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement but shall create only a tenancy at will from month to month, which may be terminated at any time by City giving thirty (30) days prior written notice of termination.

ARTICLE 22

THIRD PARTIES

This Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties any rights to claim damages or to bring any suit, action or other proceeding against the City because of any breach hereof or because of any of the terms, covenants, agreements or conditions herein contained.

ARTICLE 23

AGREEMENT MADE IN UTAH

This Agreement has been made in, shall be construed in accordance with and enforced under the laws of the State of Utah.
ARTICLE 24
SUCCESSORS

This Agreement shall bind and inure to the benefit of any successor of City and any successor, assignee, or sublessee of West Jordan.

ARTICLE 25
HEADINGS

The Article headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

ARTICLE 26
NON-WAIVER

Any waiver of any breach of covenants herein contained to be kept and performed by West Jordan shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the City from declaring a forfeiture or termination for any succeeding breach either of the same condition or covenant or otherwise.

ARTICLE 27
TIME OF ESSENCE

Time is of the essence of this Agreement.

ARTICLE 28
NOTICES

Notices to City provided for herein shall be sufficient if sent by certified mail, postage prepaid, addressed to:
Executive Director - Salt Lake City Airport Authority  
Salt Lake City International Airport  
AMF Box 22084  
Salt Lake City, Utah 84122

and

Manager, Denver ADO  
5440 Roslyn, Suite 300  
Denver, Colorado 80216

and notices to West Jordan, if sent by certified mail, postage prepaid, addressed to:

West Jordan City Manager  
8000 S. Redwood Road  
West Jordan, Utah 84088

or at such other addresses as the parties may designate to each other in writing from time to time.

ARTICLE 29

ASSIGNMENT

This Agreement cannot be assigned by either party without the prior written consent of the other.

ARTICLE 30

ENTIRE AGREEMENT AND ALTERATIONS

A. This Agreement supersedes and revokes all previous negotiations, arrangements, letters of intent, offers to lease, lease proposals, brochures, representations, and information conveyed, whether oral or in writing, between the parties hereto or their respective representatives or any other person purporting to represent the City or West Jordan. West
Jordan acknowledges that it has not been induced to enter into this Agreement by any representations not set forth in this Agreement, it has not relied on any such representation or construction of this Agreement, and the City shall have no liability for any consequences arising as a result of any such Representations.

B. No alteration, amendment, change or addition to this Agreement shall be binding upon the City or West Jordan unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

RECORDED
NOV 28 1995
CITY RECORDER

SALT LAKE CITY CORPORATION

EXECUTIVE DIRECTOR
SALT LAKE CITY AIRPORT AUTHORITY

ATTEST:

CHIEF DEPUTY CITY RECORDER

ATTEST:

MAX R. HOGAN, MAYOR

CITY OF WEST JORDAN, UTAH

CITY RECORDER

CITY OF WEST JORDAN
State of Utah
STATE OF UTAH
court of
county

COUNTY OF SALT LAKE

On ____________, personally appeared before me LOUIS E. MILLER and S. R. Kivett, who being by me duly sworn, did say that they are the EXECUTIVE DIRECTOR, SALT LAKE CITY AIRPORT AUTHORITY and CHIEF DEPUTY CITY RECORDER, respectively, of SALT LAKE CITY CORPORATION, and said persons acknowledged to me that said corporation executed the same.

[Signature]
NOTARY PUBLIC, residing in Salt Lake County, Utah

STATE OF UTAH

court of

county

COUNTY OF SALT LAKE

On ____________, personally appeared before me

MAY R. HOGAN, who being by me duly sworn did say that she is the Mayor of the City of West Jordan, Utah, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution (or bylaws) of its Board of Directors; and said persons acknowledged to me that said corporation executed the same.

[Signature]
NOTARY PUBLIC, residing in Salt Lake County, Utah

My Commission Expires: ____________

[Signature]
NOTARY PUBLIC, residing in Salt Lake County, Utah
Exhibit C

to

Memorandum of Understanding

Vacant Land

(Attached)
Exhibit D

to

Memorandum of Understanding

FAA Corrective Action Plan

(Attached)
July 3, 2013

Mr. David Everitt  
Chief of Staff  
Salt Lake City Corporation  
451 South State Street, Room 306  
PO Box 145474  
Salt Lake City, UT  84114-5474

Dear Mr. Everitt:

Thank for your February 4 letter, concerning the corrective actions proposed to the Federal Aviation Administration’s (FAA) compliance review of Salt Lake City Department of Airports (DOA). The items sent were in response to our request for additional information and modifications of the original corrective action plan submitted by the City on August 2, 2012. We appreciate the fact that your letter recognizes the City’s full commitment to implement corrective actions for violations of FAA’s Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy).

Your responses to the five findings indicated, in part:

West Jordan Soccer Field: The City will allow the initial term of the soccer field to run its course through October, 2025, but the City will not allow West Jordan to exercise an option for a second, 20-year term.

Land Swap/Easement: The City’s General Fund, subject to annual appropriation, will reimburse the DOA $983,943.19 ($912,656 plus statutory interest of $71,287.19) over a 10-year pay period on the following schedule (which accounts for accumulating interest on the unpaid balance):

<table>
<thead>
<tr>
<th>Date</th>
<th>Principal</th>
<th>Accumulated Interest</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/01/13</td>
<td>$94,047.33</td>
<td>$9,839.43</td>
<td>$103,886.76</td>
</tr>
<tr>
<td>7/01/14</td>
<td>$94,987.81</td>
<td>$8,898.96</td>
<td>$103,886.76</td>
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<tr>
<td>7/01/15</td>
<td>$95,934.68</td>
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<td>7/01/16</td>
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<tr>
<td>7/01/17</td>
<td>$97,866.03</td>
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<tr>
<td>Date</td>
<td>Amount</td>
<td>Amount</td>
<td>Amount</td>
</tr>
<tr>
<td>--------</td>
<td>------------</td>
<td>------------</td>
<td>------------</td>
</tr>
<tr>
<td>7/01/18</td>
<td>$98,844.69</td>
<td>$5,042.07</td>
<td>$103,886.76</td>
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<tr>
<td>7/01/19</td>
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<td>7/01/22</td>
<td>$102,858.18</td>
<td>$1,028.58</td>
<td>$103,886.76</td>
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<tr>
<td>Total</td>
<td>$983,943.19</td>
<td>$54,924.46</td>
<td>$1,038,868.65</td>
</tr>
</tbody>
</table>

The DOA will annually certify to the FAA that these amounts have been properly withheld from the DOA’s payments to the General Fund for city services rendered to the airport system.

Boeing Lease: Based on the appraised fair market value of the subject property, Boeing will pay a rental rate of $0.27/sf for the “Premises” lease, effective January 1, 2013. If Boeing exercises its options on the “Land Bank” or “additional property” over the next five years, Boeing will be required to pay the appraised fair market value of $0.23/sf. These lease rates will be updated every five years to reflect then-current appraised value in conjunction with Boeing’s options to renew the lease.

Wingpointe Golf Course: The City would make reasonable efforts to rezone the property to allow aeronautical uses over the next five years. The DOA would amend the existing MOU so that the MOU expires on December 31, 2017 (instead of June 30, 2087) and, effective July 2, 2013 (the start of the next fiscal year), require the City, subject to appropriation, to reimburse the DOA for its costs (currently about $55,000/year) for maintaining security, managing wildlife and otherwise ensuring that the use of the property as a golf course does not impair the use of Salt Lake City International Airport (SLC) as an airport.

The MOU would also be amended to provide if, as of December 31, 2017, the property is not needed for aeronautical use, the MOU may be extended for an additional 5-year term, but only if the City pays the DOA the current appraised fair market value rent for the golf course. The City has agreed to the following annual payment schedule, subject to appropriation:

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual Payment</th>
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<tbody>
<tr>
<td>FY 2014</td>
<td>$55,000</td>
</tr>
<tr>
<td>FY 2015</td>
<td>$60,000</td>
</tr>
<tr>
<td>FY 2016</td>
<td>$65,000</td>
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<tr>
<td>FY 2017</td>
<td>$70,000</td>
</tr>
<tr>
<td>7/17-12/17</td>
<td>$37,500</td>
</tr>
</tbody>
</table>

Cost Allocation Plan: As recommended by the FAA, the DOA’s internal auditor will review the City’s cost allocation plan on an annual basis.

Based on your responses, FAA has agreed to your corrective action plan. However, you noted that both payments for the Golf Course and Easement are subject to annual appropriations. We understand the DOA’s annual budget is subject to City Council approval and that the City is committed to resolving the findings. However, failure to not appropriate
these annual payments could place the DOA in noncompliance with Federal law. Sanctions for noncompliance can include:

- Withholding of future and existing grants;
- Withholding approval of an application to impose a passenger facility charge;
- Federal court action; and
- Civil penalties as stated in FAA’s Revenue Use Policy.

In an effort to alleviate FAA’s concerns over the “subject to annual appropriations” language, the Executive Director of SLC provided a plan to formalize the repayment for the Golf Course and Easement. It states that if the City’s golf course enterprise fund does not make the proposed rental payments, the City will close the golf course and return it to the Airport. For the Easement, the City will include the payments in the City’s nondepartmental budget schedule, where it will be described as “10 Year Plan – Airport Trail Reimbursement Required by FAA Corrective Action Plan.” The DOA believes that this expressly shows the City’s full commitment to making the scheduled payments and inclusion in the non-departmental budget will formalize the obligation.

FAA will continue to monitor the lease arrangements and/or repayments for the Golf Course, Boeing, and the Soccer Field. In the future, please submit copies of supporting documentation to the FAA on an annual basis for the payments made to the DOA for the Golf Course and Easement. In addition, we fully expect the DOA and the City to fulfill its promises with regard to the proposed current and future lease modifications.

Should you have any further questions, please contact David Duchow at (202) 493-4604.

Sincerely,

[Signature]

Randall S. Fiertz
Director of Airport Compliance
and Management Analysis

cc: Maureen Riley, Executive Director, SLC
    Scott Lewis, Anderson & Kreiger, LLP.
    John Bauer, Denver Airports District Office
    Joelle Briggs, Northwest Mountain Airports Division