



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Sam Owen, Policy Analyst

DATE: September 3, 2019

RE: Salt Lake City and Millcreek Boundary Adjustment Proposal and Interlocal Agreement

Item Schedule:

Briefing: 09/03/19

Public Hearing: 11/19/19

Potential Action: 12/03/19

GOAL OF THE BRIEFING

Update Council on the status of long-running negotiations between Salt Lake City and Millcreek regarding a boundary adjustment proposal near 1300 East Street and 3300 South Street.

ISSUE AT-A-GLANCE

Elected officials from Millcreek and Salt Lake City, including Salt Lake City Council Members and the Mayor, have been meeting over the past several months to discuss possible boundary adjustment options between the two cities. These negotiations are the most recent in a series of discussions between the two cities regarding issues at their mutual boundary in the Highland Drive/1300 East Street area. The Council authorized a subcommittee of its members to conduct negotiations prior to the Council's hearing the issue during a work session.

At this time, an area bounded by 1300 East Street, Highland Drive, Miller Avenue and Woodland Avenue has been proposed for adjustment into Millcreek's jurisdiction. A roundabout at approximately 2300 E and 2700 S has also been proposed to be included in an adjustment into Millcreek. See Attachment 1 for depictions of the affected areas. Both parties have agreed that this and any future potential boundary adjustments will not include the area known as "Brickyard Plaza."

Compensation to SLC from Millcreek for tax revenue loss resulting from the boundary adjustment will be paid to Salt Lake City in the form of ten years of Salt Lake City's value from the taxable properties affected by the boundary adjustment, paid in annual installments (estimated at a total \$610,000). The draft interlocal agreement (Attachment 2) provides for this compensation arrangement, as well as articulates expectations going forward.

The accompanying resolution (Attachment 3) would a) outline the process & background of the proposal up to this point and articulate future expectations, b) initiate the boundary adjustment process provided in state code and c) authorize execution of the related interlocal agreement.



The next steps are as follows:

1. The Council first hears the item during its work session on September 3
2. The resolution described above would be scheduled for possible adoption September 17
3. The Council's public hearing pursuant to the Utah Code 10-2-419 boundary adjustment requirements would be held November 19
4. The Council would consider and take action on an ordinance approving the boundary adjustment December 3; the interlocal would potentially be executed at that time (the boundary adjustment process entails administrative steps subsequent to the Council's scheduled December 3 vote as well)

POLICY QUESTIONS

1. The Administrations of Salt Lake City and Millcreek have expressed the mutual wish to coordinate on transportation in the area. The Council may wish to ask for future status updates as this coordination takes place.
2. The Council may wish to request that Millcreek conducts outreach with affected commercial properties, and communicates with Council Members on pertinent findings and new information.
3. The Council may wish to request check-ins with Millcreek at 6 months and 12 months as the process unfolds.

ADDITIONAL & BACKGROUND INFORMATION

During spring 2018, Millcreek officials approached Salt Lake City with proposals regarding the cities' mutual boundary. One aspect of the proposals would have placed the Brickyard Plaza area, as well as additional surrounding properties, within Millcreek's jurisdiction. Salt Lake City officials expressed concern regarding this and other aspects of the proposals. State legislation was introduced during the Legislature's 2019 General Session that would have created a process for the Brickyard Plaza boundary adjustment as proposed by Millcreek at that time; Millcreek and Salt Lake City worked together to reach consensus where the State legislation was not needed, and negotiations progressed. The current proposal is a result of those most recent negotiations. Both cities have committed not to seek State intervention at this time, or in the future, regarding boundary adjustment issues involving the two cities (Attachment 3).

ATTACHMENTS

1. Tentative renderings of proposed adjustment areas
2. Draft interlocal
3. Draft resolution

MILLER AVE WOODLAND BOUNDARY ADJUSTMENT






Published:
28 August 2019

Sources:
Utah State AGRC
Salt Lake County
Millcreek

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- Map Legend -

-  Boundary Adjustment
-  Parcels
-  City Boundary

0 0.01 0.01 0.03 Miles

Spatial Reference: NAD 1983 StatePlane Utah Central FIPS #302 Feet
Path: C:\GIS\Projects\2019\Economic Development\Expansion Boundaries.aprx

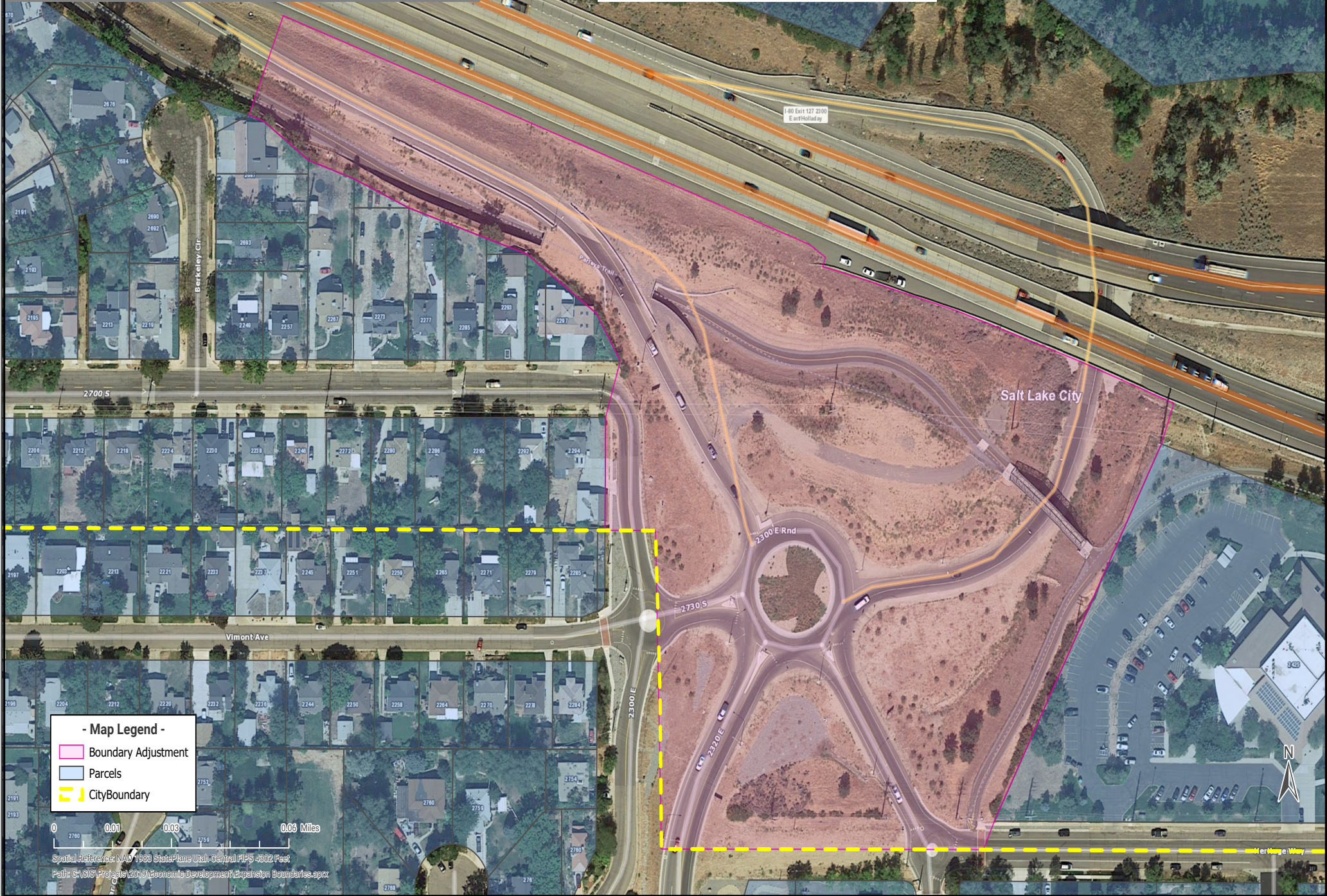
2300 E LOOP/HERITAGE WAY BOUNDARY ADJUSTMENT



Published:
28 August 2019

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Utah State AGRC
Salt Lake County
Millcreek

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- Map Legend -

- Boundary Adjustment
- Parcels
- City Boundary

0 0.01 0.03 0.06 Miles

Spatial Reference: NAD 1983 StatePlane Utah Central FIPS 5002 Feet
Path: C:\GIS\Projects\2019\Economic Development\Expansion Boundaries.aprx

Interlocal Cooperative Agreement

THIS INTERLOCAL COOPERATIVE AGREEMENT (this “*Agreement*”) is made effective _____ 2019 by and between the **SALT LAKE CITY**, a municipal corporation of the state of Utah (“*Salt Lake*”) and **MILLCREEK**, a municipal corporation of the state of Utah (“*Millcreek*”). Salt Lake and Millcreek are each referred to herein as a “*Party*” and are collectively referred to herein as the “*Parties*.”

RECITALS:

A. Two certain parcels of real property located near Millcreek are presently situated within the corporate limits of Salt Lake (the parcels are hereafter collectively referred to as the “*Property*”). Maps showing the boundaries of the Property are attached hereto as exhibit “A.”

B. The Property is adjacent to portions of the common boundary between Salt Lake and Millcreek as illustrated in exhibit “A.”

C. Millcreek has requested that pursuant to Utah Code Ann. § 10-2-419 the common boundary between Millcreek and Salt Lake be adjusted to cause the Property to be included within the corporate limits of Millcreek.

D. Salt Lake has agreed to adjust the common boundary between Salt Lake and Millcreek with respect to the Property provided that (1) certain real and personal property taxes generated from the Property be remitted to Salt Lake, (2) certain point of sale sales taxes from sales transactions associated with the Property be remitted to Salt Lake, and (3) Millcreek shall not encourage and/or support legislation to change the boundaries between Millcreek and Salt Lake with respect to an area known as the Brickyard.

E. The Parties desire to enter into an “interlocal agreement” pursuant to the authority granted in the Interlocal Cooperation Act (Utah Code Ann. § 11-13-101, *et seq.*) (the “*Interlocal Act*”), and more specifically Utah Code Ann § 11-13-215 that provides in part that a city may, at the discretion of the local governing body, share its tax and other revenues with other cities.

F. The Parties are “public agencies” and cities for purposes of the Interlocal Act, and, consequently, are authorized to enter into this Agreement.

G. The Parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and in compliance with and pursuant to the terms hereof and the provisions of the Interlocal Act, the Parties hereby agree as follows:

Section 1. **Boundary Adjustment.**

A. Unless, at or before the hearing described Utah Code Ann. §10- 2-419 (2)(b), a written protest to the adjustment is properly filed by a person described in Utah Code Ann. § 10-2-419 (3)(d)(i) or (ii), the Parties agree that on or before _____ each party will adopt an

ordinance approving the adjustment of their common boundaries for the area identified in the Property as further described and depicted in exhibit “A”. The Parties agree to promptly pursue all requirements/filings to consummate the boundary adjustment contemplated herein.

- B. The Parties also agree to execute any easements necessary to preserve Salt Lake’s unencumbered access to utilities within the new Millcreek boundary, which easements will be recorded at the time of the filings to consummate the boundary adjustments.

Section 2. **Revenue/Tax Sharing.** Millcreek agrees to pay to Salt Lake a total aggregate amount of \$610,000.00 (“Revenue Share”) payable in ten consecutive equal payments of \$61,000.00 each, beginning on February __, 2020, and continuing on the same day of February of each year thereafter until paid in full. Millcreek’s obligation to pay the Revenue Share is specifically conditioned on the boundary adjustment being effective as set forth in Utah Code Ann. § 10-2-425.

Section 3. **Legislation.** Millcreek agrees not encourage and/or support legislation to change the boundaries between Millcreek and Salt Lake with respect to an area known as the Brickyard, and Millcreek acknowledges that this understanding is a material consideration and is integral to the willingness of the Parties to enter into this Agreement. Further Salt Lake will not disparage Millcreek or any of its employees, agents, attorneys, or elected officials regarding any issue related to the subject matter of this Agreement. Likewise, Millcreek will not disparage any of Salt Lake employees, agents, attorneys or elected officials regarding any issue related to the subject matter of this Agreement. The agreements not to disparage shall be enforceable notwithstanding any truth or falsity of the disparaging statement.

Section 4. **Conflict Resolution.** In the event of a dispute between the Parties regarding this Agreement, the Parties agree (without limiting any and all other legal and equitable remedies) that representatives of each of the Parties will meet as soon as practical to discuss and attempt to resolve the dispute. If the Parties do not agree, then the dispute shall be resolved pursuant to Section 9 below.

Section 5. **Indemnity.** The Parties are governmental entities under the “Governmental Immunity Act of Utah” (Utah Code Ann. § 63G-7-101, *et seq.*) (the “*Immunity Act*”). Consistent with the terms of the Immunity Act, and as provided herein, it is mutually agreed that each of the Parties is responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees. No Party waives any defenses otherwise available under the Immunity Act nor does any Party waive any limits of liability currently provided by the Immunity Act.

Section 6. **Term.** This Agreement shall be effective immediately upon its full execution and delivery. This Agreement shall terminate on _____ if the boundary adjustments described in Section 1 have not been completed by that date. If not sooner terminated, this Agreement shall terminate on 30 June 2069.

Section 7. **Additional Interlocal Act Issues.**

(a) **No Separate Entity.** This Agreement does not create a separate legal/interlocal entity.

(b) Joint Board. As required by Utah Code Ann. § 11-13-207, the parties agree that the cooperative undertaking under this Agreement shall be administered by the Advisory Board. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed of as determined by the Advisory Board.

(c) Financing Joint Cooperative Undertaking and Establishing Budget. There is no financing of joint or cooperative undertaking and no budget shall be established or maintained.

Section 8. Notice. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within two business days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below.

Salt Lake City: Salt Lake City
Attn: Salt Lake City Mayor's Office

With a copy to: Salt Lake City Council Office
451 S. State Street, Room 304,
Salt Lake City, Utah 84114-

With a copy to: Salt Lake City Attorney
451 S. State Street, Room 505A
Salt Lake City, Utah 84114-5478

Millcreek: MILLCREEK
Attn. Jeff Silvestrini
3330 South 1300 East
Millcreek, UT 84106

With a copy to: John N. Brems
BREMS LAW
c/o 3330 South 1300 East
Millcreek, UT 84106

Section 9. Claims and Disputes. Claims, disputes and other issues between the Parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, each of the Parties shall continue to perform its obligations hereunder during the pendency of such dispute.

Section 10. Titles and Captions. All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and

shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

Section 11. **Pronouns and Plurals**. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

Section 12. **Applicable Law**. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

Section 13. **Integration**. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings concerning the subject matter of this Agreement.

Section 14. **Time**. Time is the essence of this Agreement.

Section 15. **Survival**. All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

Section 16. **Waiver**. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

Section 17. **Rights and Remedies**. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provision(s) hereof.

Section 18. **Severability**. In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

Section 19. **Litigation Expenses**. If any action, suit or proceeding is brought by a party concerning this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

Section 20. **Counterparts**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Section 21. Approval by Attorneys. This Agreement shall be submitted to the authorized attorneys for each of the Parties for approval in accordance with Utah Code Ann. § 11-13-202.5.

IN WITNESS WHEREOF, each of the Parties, by resolution duly adopted by its council, has caused this Agreement to be signed by its mayor and attested by its recorder.

ATTEST: **SALT LAKE CITY**

_____, Recorder

By: _____

APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:

By: _____
Jaysen Oldroyd, Senior City Attorney

ATTEST: **MILLCREEK**

Elyse Greiner, Recorder
Date signed: _____

By: _____
Jeff Silvestrini, Mayor
Date signed: _____

APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:

By: _____
John N. Brems, City Attorney
Date Signed: _____

Exhibit A
(Maps showing the common boundary between Salt Lake and Millcreek)

RESOLUTION NO. ___ OF 2019

Interlocal Agreement Between Salt Lake City Corporation and Millcreek Regarding Boundary Adjustments

WHEREAS Salt Lake City Corporation (“Salt Lake City”) and Millcreek agree on the value of collaborating as neighbors, and

WHEREAS elected officials in both municipalities recognize the importance of precedent, predictable public policy and of preserving stable and reliable boundaries, and

WHEREAS the established boundaries of an entity are a key factor in the stability of that entity and its constituents, and

WHEREAS Salt Lake City admires and respects the work that the new city of Millcreek has undertaken for its creation and development, particularly in respect of planning for future growth in a new “city center” adjacent to Salt Lake City and integrated with Salt Lake City’s own plans for future growth, and

WHEREAS Millcreek admires and respects Salt Lake City’s leadership in planning for growth which incorporates transit, affordable housing and strives to mitigate congestion and improve air quality, and

WHEREAS both Salt Lake City and Millcreek recognize the challenges to coherent planning presented by the small area of Salt Lake City bisecting Millcreek’s proposed city center project located between Woodland and Miller Avenues between 1300 East (Richmond) and Highland Drive and a separate location consisting of the roundabout located near 2300 East and I80; and the cities have proposed boundary changes in the Interlocal Agreement that facilitate Millcreek’s City Center Master Plan, and

WHEREAS the boundaries existing as of the date of the incorporation of Millcreek as modified by the Interlocal Agreement are recognized and supported by both entities as a matter of public policy now and in the future, and

WHEREAS we recognize and welcome our mutual needs, as well as rich opportunities for interface at our shared border, including future cooperation and collaboration in transportation and redevelopment efforts to make the Greater Brickyard Area and Millcreek’s City Center function as an attractive area for residents of both cities to live, work and play, and

WHEREAS cities are established under Utah law through a defined process and a component of that process demonstrates to the future taxpayers that the proposed City can sustain itself under the parameters outlined by that proposed City and supported by its voters, and

WHEREAS each City holds the tools and the authority to incentivize development within its own City boundaries to enhance economic bases, and also has the authority to levy taxes and fees within its respective boundaries, and

WHEREAS each City is responsible to provide, contract for or otherwise arrange public safety and other local government services within its jurisdiction but not outside its jurisdiction, except as cities assist abutting entities within the professional reciprocal mutual aid standards, and

WHEREAS Millcreek and Salt Lake City are committed to providing services within their own respective boundaries, and

WHEREAS methods are available to track and confirm that the appropriate entity is furnishing the public safety and other services within its boundaries and each City has access to such data and is committed to monitoring service delivery, providing information to the public and promptly addressing issues should any arise, and

WHEREAS the cities agree that municipal land use decisions and redevelopment efforts should be made cooperatively, especially where City boundaries are concerned, and

WHEREAS Salt Lake City and Millcreek continued and concluded successful, amicable negotiations once concerns of third-party intervention were removed, and

WHEREAS elected officials from Salt Lake City and Millcreek have convened to share vision, decide on mutual expectations and identify shared goals, and

WHEREAS in an urban environment it is improbable that City boundaries would be ideal in the view of all parties; where imperfect boundaries exist, process is established in Utah law for making adjustments, and

WHEREAS the cities have explored a number of possibilities, and decided to propose the boundary adjustments and related terms referenced by the Interlocal Agreement, and

WHEREAS the boundary adjustment at issue would be undertaken to accommodate a unique circumstance to accommodate the continuous development of the Millcreek city center, and would provide Salt Lake City with compensation deemed fair and equitable by its elected officials;

WHEREAS, Utah Code Ann. § 10-2-419 requires that the legislative body of each municipality intending to adjust a boundary that is common with another municipality to adopt a resolution indicating the intent of said legislative body to adjust the common boundary; and

WHEREAS, Salt Lake City, and Millcreek desire to adjust their common boundaries at one location situated between Woodland and Miller Avenues and between 1300 East (Richmond) and Highland Drive, and a separate location consisting of the roundabout located

near 2300 East and I80. A map showing the approximate locations of the adjustments of the properties is attached hereto; and

WHEREAS, Salt Lake City and Millcreek have prepared the attached Interlocal Agreement to memorialize their understanding regarding the proposed boundary adjustment and related terms and conditions; and

WHEREAS, the Salt Lake City Council hereby indicates its intent to adjust the common boundaries with Millcreek as shown on the map attached hereto subject to the Interlocal Agreement; and

WHEREAS, the Council finds that the boundary adjustment meets the standards established by Utah Code Ann. § 10-2-419;

NOW THEREFORE; BE IT RESOLVED that it is the intent of the Council to adjust the common boundaries as described herein unless a protest as provided in Utah Code Ann. § 10-2-419 is received against the proposed boundary adjustment;

BE IT FURTHER RESOLVED: Salt Lake City will not seek state intervention to change its boundary with Millcreek without Millcreek’s express consent, and Millcreek will not seek state intervention to change its boundary with Salt Lake City without Salt Lake City’s express consent, and

BE IT FURTHER RESOLVED: Salt Lake City and Millcreek agree that if a dispute arises with regard to their mutual boundary or other circumstances related to the Interlocal Agreement, the dispute will be settled through negotiation; if negotiation is unsuccessful, the parties will attempt good-faith resolution through mediation before resorting to other dispute resolution procedures, and

BE IT FURTHER RESOLVED: Millcreek and Salt Lake City agree that no further adjustment of their boundary, beyond the adjustments described herein, is required or advisable, now or in the future, in the Greater Brickyard Area, and that this understanding is integral to the willingness of Salt Lake City and Millcreek to agree to the Interlocal Agreement, and

BE IT FURTHER RESOLVED that the Interlocal Agreement is approved, and that the Mayor is hereby authorized to execute such Interlocal Agreement, or a substantially similar version of the Interlocal Agreement with only minor changes that do not materially affect the rights and obligations of Salt Lake City.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2019.

SALT LAKE CITY COUNCIL

By: _____

CHAIRPERSON

ATTEST:

By: _____
City Recorder

SALT LAKE CITY ATTORNEY'S OFFICE
Approved As To Form
By: Jaysen Oldroyd
Jaysen Oldroyd
Date: 8/29/19

Resolution Millcreek-SLC - Clean

MILLER AVE WOODLAND BOUNDARY ADJUSTMENT






Published:
28 August 2019

Sources:
Utah State AGRC
Salt Lake County
Millcreek

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-  Boundary Adjustment
-  Parcels
-  City Boundary

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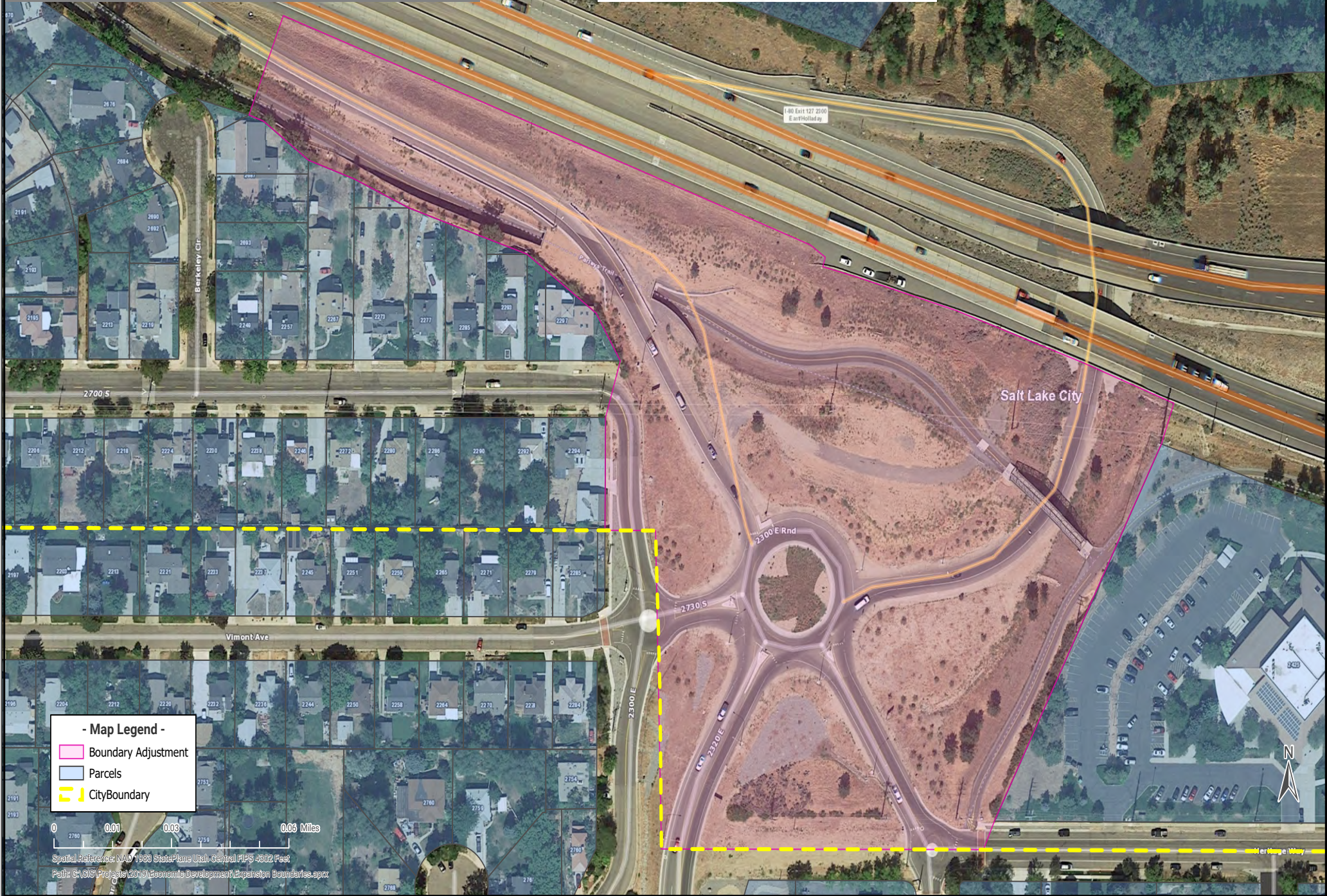
2300 E LOOP/HERITAGE WAY BOUNDARY ADJUSTMENT



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- Map Legend -
- Boundary Adjustment
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RECITALS:

A. Two certain parcels of real property located near Millcreek are presently situated within the corporate limits of Salt Lake (the parcels are hereafter collectively referred to as the "*Property*"). Maps showing the boundaries of the Property are attached hereto as exhibit "A."

B. The Property is adjacent to portions of the common boundary between Salt Lake and Millcreek as illustrated in exhibit "A."

C. Millcreek has requested that pursuant to Utah Code Ann. § 10-2-419 the common boundary between Millcreek and Salt Lake be adjusted to cause the Property to be included within the corporate limits of Millcreek.

D. Salt Lake has agreed to adjust the common boundary between Salt Lake and Millcreek with respect to the Property provided that (1) certain real and personal property taxes generated from the Property be remitted to Salt Lake, (2) certain point of sale sales taxes from sales transactions associated with the Property be remitted to Salt Lake, and (3) Millcreek shall not encourage and/or support legislation to change the boundaries between Millcreek and Salt Lake with respect to an area known as the Brickyard.

E. The Parties desire to enter into an "interlocal agreement" pursuant to the authority granted in the Interlocal Cooperation Act (Utah Code Ann. § 11-13-101, *et seq.*) (the "*Interlocal Act*"), and more specifically Utah Code Ann § 11-13-215 that provides in part that a city may, at the discretion of the local governing body, share its tax and other revenues with other cities.

F. The Parties are "public agencies" and cities for purposes of the Interlocal Act, and, consequently, are authorized to enter into this Agreement.

G. The Parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and in compliance with and pursuant to the terms hereof and the provisions of the Interlocal Act, the Parties hereby agree as follows:

Section 1. Boundary Adjustment.

A. Unless, at or before the hearing described Utah Code Ann. §10- 2-419 (2)(b), a written protest to the adjustment is properly filed by a person described in Utah Code Ann. § 10-2-419 (3)(d)(i) or (ii), the Parties agree that on or before _____ each party will adopt an

ordinance approving the adjustment of their common boundaries for the area identified in the Property as further described and depicted in exhibit "A". The Parties agree to promptly pursue all requirements/filings to consummate the boundary adjustment contemplated herein.

- B. The Parties also agree to execute any easements necessary to preserve Salt Lake's unencumbered access to utilities within the new Millcreek boundary, which easements will be recorded at the time of the filings to consummate the boundary adjustments.

Section 2. **Revenue/Tax Sharing.** Millcreek agrees to pay to Salt Lake a total aggregate amount of \$610,000.00 ("Revenue Share") payable in ten consecutive equal payments of \$61,000.00 each, beginning on February __, 2020, and continuing on the same day of February of each year thereafter until paid in full. Millcreek's obligation to pay the Revenue Share is specifically conditioned on the boundary adjustment being effective as set forth in Utah Code Ann. § 10-2-425.

Section 3. **Legislation.** Millcreek agrees not encourage and/or support legislation to change the boundaries between Millcreek and Salt Lake with respect to an area known as the Brickyard, and Millcreek acknowledges that this understanding is a material consideration and is integral to the willingness of the Parties to enter into this Agreement. Further Salt Lake will not disparage Millcreek or any of its employees, agents, attorneys, or elected officials regarding any issue related to the subject matter of this Agreement. Likewise, Millcreek will not disparage any of Salt Lake employees, agents, attorneys or elected officials regarding any issue related to the subject matter of this Agreement. The agreements not to disparage shall be enforceable notwithstanding any truth or falsity of the disparaging statement.

Section 4. **Conflict Resolution.** In the event of a dispute between the Parties regarding this Agreement, the Parties agree (without limiting any and all other legal and equitable remedies) that representatives of each of the Parties will meet as soon as practical to discuss and attempt to resolve the dispute. If the Parties do not agree, then the dispute shall be resolved pursuant to Section 9 below.

Section 5. **Indemnity.** The Parties are governmental entities under the "Governmental Immunity Act of Utah" (Utah Code Ann. § 63G-7-101, *et seq.*) (the "*Immunity Act*"). Consistent with the terms of the Immunity Act, and as provided herein, it is mutually agreed that each of the Parties is responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees. No Party waives any defenses otherwise available under the Immunity Act nor does any Party waive any limits of liability currently provided by the Immunity Act.

Section 6. **Term.** This Agreement shall be effective immediately upon its full execution and delivery. This Agreement shall terminate on _____ if the boundary adjustments described in Section 1 have not been completed by that date. If not sooner terminated, this Agreement shall terminate on 30 June 2069.

Section 7. **Additional Interlocal Act Issues.**

(a) **No Separate Entity.** This Agreement does not create a separate legal/interlocal entity.

(b) Joint Board. As required by Utah Code Ann. § 11-13-207, the parties agree that the cooperative undertaking under this Agreement shall be administered by the Advisory Board. Any real or personal property used in the parties' cooperative undertaking herein shall be acquired, held, and disposed of as determined by the Advisory Board.

(c) Financing Joint Cooperative Undertaking and Establishing Budget. There is no financing of joint or cooperative undertaking and no budget shall be established or maintained.

Section 8. **Notice**. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within two business days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below.

Salt Lake City: Salt Lake City
Attn: Salt Lake City Mayor's Office

With a copy to: Salt Lake City Council Office
451 S. State Street, Room 304,
Salt Lake City, Utah 84114-

With a copy to: Salt Lake City Attorney
451 S. State Street, Room 505A
Salt Lake City, Utah 84114-5478

Millcreek: MILLCREEK
Attn. Jeff Silvestrini
3330 South 1300 East
Millcreek, UT 84106

With a copy to: John N. Brems
BREMS LAW
c/o 3330 South 1300 East
Millcreek, UT 84106

Section 9. **Claims and Disputes**. Claims, disputes and other issues between the Parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, each of the Parties shall continue to perform its obligations hereunder during the pendency of such dispute.

Section 10. **Titles and Captions**. All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and

shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

Section 11. **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

Section 12. **Applicable Law.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

Section 13. **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings concerning the subject matter of this Agreement.

Section 14. **Time.** Time is the essence of this Agreement.

Section 15. **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

Section 16. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

Section 17. **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provision(s) hereof.

Section 18. **Severability.** In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

Section 19. **Litigation Expenses.** If any action, suit or proceeding is brought by a party concerning this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

Section 20. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Section 21. Approval by Attorneys. This Agreement shall be submitted to the authorized attorneys for each of the Parties for approval in accordance with Utah Code Ann. § 11-13-202.5.

IN WITNESS WHEREOF, each of the Parties, by resolution duly adopted by its council, has caused this Agreement to be signed by its mayor and attested by its recorder.

ATTEST: **SALT LAKE CITY**

_____, Recorder By: _____

APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:

By: _____
Jaysen Oldroyd, Senior City Attorney

ATTEST: **MILLCREEK**

Elyse Greiner, Recorder By: _____
Date signed: _____ **Jeff Silvestrini**, Mayor
Date signed: _____

APPROVED IN ACCORDANCE WITH UTAH CODE ANN. § 11-13-202.5:

By: _____
John N. Brems, City Attorney
Date Signed: _____

Exhibit A
(Maps showing the common boundary between Salt Lake and Millcreek)