

# **Deer Crest Interlocal Agreement**

**December 17, 1998**

# Deer Crest Interlocal Agreement

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## Deer Crest Interlocal Agreement

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This Deer Crest Interlocal Agreement is made and entered into this 17th day of December, 1998, by and between Wasatch County ("County") and its Dependant Districts and Park City Municipal Corporation ("City") (jointly referred to herein as the "Parties").

### SUMMARY

Deer Crest currently lies primarily within the boundaries of Wasatch County, but adjoins the municipality of Park City in Summit County. Various physical features and existing infrastructure developments in the surrounding environs of Deer Crest affect the reasonable provision of services and distribution of impacts in both Wasatch County and Park City.

Since the development of Deer Crest has significant ramifications for both Wasatch County and Park City, both Parties consider it to be in their best interest to cooperate regarding the proposed Deer Crest annexation. Therefore, the purpose of the following Agreement is to identify and address issues caused by the Proposed Annexation and the development of Deer Crest, design mechanisms to accommodate the needs and concerns of each Party, and to consider benefits to one Party in conjunction with the impacts and burdens it generates for the other.

Specifically, Wasatch County and Park City agree to cooperate in good faith to address economic, infrastructure, development and service issues and provide mechanisms for oversight and dispute resolution.

### RECITALS

**WHEREAS**, County is a political subdivision organized and existing under the laws of the State of Utah; and

**WHEREAS**, City is a municipality organized and existing under the laws of the State of Utah. Although a majority of the City is in Summit County, a portion of the City is in Wasatch County, State of Utah; and

**WHEREAS**, Deer Crest is a parcel of property, the majority of which is located in Wasatch County, State of Utah, which has been proposed for residential and resort development (a copy of the proposed development map is attached hereto as Exhibit "A"); and

**WHEREAS**, Deer Crest remains bound to the terms of the Settlement Agreement, as amended. ~~The Settlement Agreement, as amended by the parties thereto, governs various aspects of the relationship between Deer Crest and City, and while not binding upon County, includes terms~~

relevant to the Proposed Annexation; and

**WHEREAS**, Deer Crest has petitioned for Annexation of a portion of the development into the municipal boundaries of City, which property is located in County, the "Annexation Parcel"; and

**WHEREAS**, the Annexation Parcel is within the boundaries of the Jordanelle Special Service District, the Wasatch County Fire Protection District, the Wasatch County School District, the Wasatch County Solid Waste District, the Wasatch County/Duchesne County Bluebench Landfill Special Service District, and the Wasatch County Recreation District; and

**WHEREAS**, the development by Deer Crest in the Annexation Parcel will have an impact on both County's and City's municipal services and infrastructure; and

**WHEREAS**, it is in the best interests of both the County and the City to have the proposed annexation take place in an orderly and logical manner and to resolve jurisdictional, economic and provision-of-service issues regarding the annexation in this Agreement; and

**WHEREAS**, County and City desire to proceed with the proposed annexation upon the following terms and conditions;

**NOW THEREFORE**, the parties agree as follows:

## **AGREEMENT**

### **I. DEFINITIONS**

The terms set forth in this Section shall have the following definitions in this Agreement:

**"Administrative Control Board"**, shall mean a board appointed by the Wasatch County Commissioners pursuant to State law, to which is delegated some or all of the administrative authority over a special service district.

**"Agreement"**, shall mean this Interlocal Agreement entered into by Park City and Wasatch County.

**"Annexation"**, shall mean the completion of that process whereby the Annexation Parcel becomes part of City.

**"Annexation Parcel"**, shall mean that portion of the Deer Crest Subdivision which is included in the petition for annexation and which is the subject of this Agreement.

**"Annexation Petition"**, shall mean the petition for annexation filed with Park City by Deer Crest Subdivision pursuant to the terms of this Agreement, State law, and the Settlement Agreement.

"Approved Plans", shall mean the complete set of plans, plats and other related documents for the Deer Crest Subdivision that have received final approval by the Wasatch County Commission.

"Boundary Commission", shall mean the Wasatch County Boundary Commission, formed pursuant to Section 10-2-409 et seq. of the Utah Code.

"Building Permit", shall mean a permit issued by either Wasatch County or Park City allowing construction of a specific improvement within the Annexation Parcel.

"Building Permit Fees", shall mean those fees, assessments and charges imposed by either Wasatch County or Park City in connection with the issuance of a building permit.

"City", shall mean Park City Municipal Corporation, a municipality organized and existing under the laws of the State of Utah.

"Construction", shall mean any development or construction activity for which a permit would be required by Wasatch County or Park City.

"County", shall mean Wasatch County.

"County Option Sales and Use Tax", shall mean that tax imposed pursuant to Utah Code §59-12-1101 et seq. (1953, as amended).

"Deer Crest Interlocal Agreement", shall mean this Agreement.

"Deer Crest", shall mean the entire proposed development commonly known as the Deer Crest Subdivision, or Deer Crest Project, which has received or shall receive final approval by Wasatch County.

"Developer", shall mean that person(s) or entity which is the authorized agent for the development of the Deer Crest Subdivision.

"Development", shall mean the Deer Crest Subdivision.

"Economic Review Committee", shall mean the committee, organized pursuant to Section V.C.2. of this Agreement, for the purpose of administering the division of various revenue between the Parties according to the terms of this Agreement.

"Equivalent Residential Unit" or "EAU", shall mean a unit of measurement used by the Jordanelle Special Service District for calculating water and sewer usage. An ERU, for purposes of this Agreement, is defined by the Jordanelle Special Service District.

"Final Plat", shall mean the complete set of plans, plats and documents for Deer Crest which

have received final approval of the Wasatch County Commission.

**“Fire Protection”**, shall mean fire prevention and suppression equipment, personnel, systems, devices, and other improvements, the express purpose of which is the prevention or suppression of accidental or uncontrolled fire.

**“Fire Protection Standards”**, shall mean those standards adopted by either Wasatch County or Park City relating to any aspect of Fire Protection, as specifically amended by this Agreement for purposes of application of those standards to the Annexation Parcel.

**“Heber Valley Special Service District”**, shall mean that Special Service District, created by Wasatch County pursuant to Utah Code § 17A-2-1301 *et seq.* (1953, as amended) for the purpose of treating wastewater.

**“Home Owner’s Association”** or **“HOA”**, shall mean that organization of property owners within the Deer Crest Subdivision which has been formed pursuant to the final documents approved by Wasatch County.

**“Impact Fees”**, shall mean those fees legally imposed against new construction by Wasatch County or Park City to mitigate the impact caused by that new construction.

**“Initial Infrastructure”**, shall mean the original construction of water, sewer, roads, utilities and other improvements primarily for the purpose of delivering municipal-type services to the Development.

**“Infrastructure”**, shall mean water, sewer, roads, utilities and other improvements constructed primarily for the purpose of delivering municipal-type services to the Development.

**“Infrastructure Improvements”**, shall mean all water, sewer, road, drainage, retaining walls, bridges, tunnels, and other similar construction in the Annexation Parcel.

**“Inspection”**, shall mean that procedure, set forth in the ordinances and resolutions of either Wasatch County or Park City, whereby the County or City ensures that construction proceeds according to approved plans and specifications.

**“Inspection Fees”**, means any fee, assessment or other charge legally imposed by Wasatch County or Park City for any required inspection.

**“Interlocal Agreement”**, means an agreement entered into between public entities pursuant to Utah Code Ann. § 11-13-5 *et seq.* (1953, as amended).

**“Jordanelle Special Service District”** or **“JSSD”**, shall mean the Jordanelle Special Service District, created and controlled by Wasatch County pursuant to Utah Code §17A-2-1301 *et seq.* (1953, as amended).

"Local Option Sales Tax", shall mean that tax imposed pursuant to Utah Code §59-12-201 et seq. (1953, as amended).

"Midway Sanitation District", shall mean that Special Service District created by Wasatch County pursuant to Utah Code § 17A-2-1301 et seq. (1953, as amended) for the purpose of providing wastewater collection services to properties within its boundaries.

"Municipal Services Review Committee", shall mean the committee, organized pursuant to Section V.C.2.b. of this Agreement, for the purpose of administering the division of various revenue between the Parties according to the terms of this Agreement.

"Mutual Aid Agreement", shall mean a written agreement between any special service district, municipality or county for the purpose of providing cooperative assistance in responding to any fire, or other disaster.

"Other Fees", shall mean any fee, charge, assessment, fine, interest or penalty imposed by Wasatch County or Park City which is not otherwise defined herein.

"Property", shall mean the real property, located in Wasatch County, which makes up the Annexation Parcel.

"Property Tax", shall mean that tax imposed pursuant to Utah Code §59-2-1 et seq. (1953, as amended).

"Proposed Annexation", shall mean the property identified by Deer Crest's Petition for Annexation to City.

"Resort Sales Tax", shall mean that tax imposed pursuant to Utah Code § 59-12-401 et seq. (1953, as amended).

"Road Standards", shall mean any Wasatch County or Park City ordinance, resolution, policy or guideline regarding the construction of roads or related improvements.

"Settlement Agreement", shall mean that agreement entered into between Park City Municipal Corporation, Park City Consolidated Mines Company, and Trans-Wasatch Company, dated December 29, 1995, modified on August 8, 1996 and amended by letter agreement dated August 6, 1996 and by the First Amendment to the Telemark Park Settlement Agreement, dated April 8, 1997 and any subsequent amendment.

"School District", shall mean the Wasatch County School District or the Park City School District.

"Special Service District", shall mean any special service district created for the purpose of delivering municipal-type services pursuant to Utah Code § 17A-2-1301 et seq. (1953, as amended),



or other applicable statute.

“Special Service District Fees or Assessments”, shall mean any fee, charge, assessment, penalty, fine or interest imposed by a special service district.

“Transient Room Tax”, shall mean that tax imposed pursuant to Utah Code §59-12-205 et seq. (1953, as amended).

“Transit Tax”, shall mean that tax imposed pursuant to Utah Code § 59-12-501 et seq. (1953, as amended).

“Wasatch/Duchesne Blue Bench Landfill Special Service District”, shall mean that special service district created and controlled by Wasatch County pursuant to Utah Code § 17A-2-1301 et seq. (1953, as amended) for the purpose of landfill operation and ownership.

“Wasatch County Boundary Commission”, shall mean a commission, organized by the Wasatch County Commission pursuant to State law, for the purpose of reviewing annexation proposals involving Wasatch County.

“Wasatch County Fire Protection District”, shall mean that special service district created and controlled by Wasatch County pursuant to Utah Code § 17A-2-1401 et seq. (1953, as amended) for the purpose of fire prevention and suppression in Wasatch County.

“Wasatch County Recreation District”, shall mean that special service district created and controlled by Wasatch County pursuant to Utah Code § 17A-2-1301 et seq. (1953, as amended) for the purpose of providing recreation services in Wasatch County.

“Wasatch County Solid Waste District”, shall mean that special service district created and controlled by Wasatch County pursuant to Utah Code § 17A-2-1301 et seq. (1953, as amended) for the purpose of solid waste collection and disposal in Wasatch County.

All terms not specifically defined herein shall be defined according to their normal and commonly accepted meaning.

## II. PURPOSE OF AGREEMENT.

Pursuant to State law, an annexation petition may be protested by affected parties, including both the County in which the property is located and special service districts whose boundaries include part or all of the property. Economic, jurisdictional and service issues are commonly discussed in connection with annexation proposals, and may be the subject of protests by any of the affected parties.

In the Proposed Annexation, complex jurisdictional and economic issues exist which, left unresolved, may prevent the Annexation from occurring. In addition, practical issues regarding the funding and delivery of municipal-type services in the Annexation Parcel, including but not limited to water, sewer, storm drainage, recreation, solid waste disposal and fire protection are also present.

The purpose of this Agreement is to resolve the economic, jurisdictional and service issues which are reasonably foreseeable, and to agree to a process by which the Parties may solve issues which may arise in the future that are not conclusively settled by this Agreement.

### III. SCOPE OF AGREEMENT.

This Agreement is intended to resolve issues that currently exist between the Parties with respect to the Proposed Annexation. In addition, the Agreement also provides for a mechanism for resolving future issues related to the Annexation Parcel that may arise between the Parties. ~~The Agreement is limited to the Parties and the Property within the Annexation Parcel.~~

Exhibits A, B, C, and associated Maps are attached hereto or in an Exhibit Book of the same name, and are hereby incorporated herein by this reference.

Deer Crest remains bound to the terms of the Settlement Agreement, as amended. The Settlement Agreement, as amended by the parties thereto, governs various aspects of the relationship between Deer Crest and City, and, while not binding upon County, includes terms relevant to the Proposed Annexation. This Agreement neither amends nor supercedes the Settlement Agreement.

### IV. ANNEXATION PROCESS.

The annexation process is set forth in detail in Sections 10-2-401 et seq. of the Utah Code. The Parties hereby agree to cooperate in the annexation process, and to conform with the following additional procedures as part of the annexation process:

- A. In the event either Party does not accept the Annexation Petition, the Parties agree to meet in an expedited fashion to attempt to resolve unapproved portions of the Annexation Petition.
- B. If the Parties both approve of the Annexation Petition, the annexation process set forth in the applicable section of the Utah Code shall proceed.
- C. The Parties expressly agree that City shall not grant an Annexation that does not conform with the terms of this Agreement.

The Parties may, by written agreement, stipulate to additional or different steps in the annexation process, as long as the minimum requirements set forth in the Utah State Code are met.

### V. TERMS OF AGREEMENT.

**A. Economic Issues:** It is one of the express purposes of this Agreement to insure that County does not suffer adverse economic consequences as a result of the Proposed Annexation, but that County enjoys an agreed upon share of the economic benefits of the Annexation. The Parties expressly agree that the County shall remain economically "whole", regardless of the Proposed Annexation. It is expressly the intent of this Agreement that the County shall enjoy at least the same economic benefits it would have received if the Proposed Annexation did not occur, and, in the event additional revenues are created as a result of the Proposed Annexation, that the County shall receive the agreed upon share of those additional revenues. Further, it is expressly the intent of this agreement that City and County participate in revenue sharing pursuant to Article XIII Sec. 5 of the Utah Constitution and not incur a debt or obligation. To this end, the Parties have agreed upon the following general terms concerning the imposition, collection, division and disbursement of the various fees, taxes and charges that apply to the Development in the Annexation Parcel. The Parties also agree upon the following terms and procedures whereby future issues or differences regarding economic issues of the Annexation may be resolved by the Economic Review Committee.

**1. Local Option Sales Tax.** The State Tax Commission is responsible for the imposition and collection of the Local Option Sales Tax within the Annexation Parcel. Initially, the Local Option Sales Tax will be collected by merchants and service providers at the point of sale. The merchants and service providers will in turn send the sales taxes collected to the State Tax Commission, which would usually pass the Local Option Sales Tax on to the City. If the City and County can reach a mutually acceptable agreement with the State Tax Commission, the State Tax Commission will pay to County the Local Option Sales Tax received from sales reported to have taken place in the Annexation Parcel at the same time and in the same manner that the State Tax Commission pays to City. If such an agreement with the State Tax Commission is not reached, the City shall annually pay to County the Local Option Sales Tax it receives from sales reported to have taken place in the Annexation Parcel. City will pay County within 60 days of receiving the annual payment from the Tax Commission. This payment has usually been received in February of each year.

City maintains a sales tax monitoring program that will permit quarterly reports on taxable sales. The primary limitation of this system is insuring the veracity of the original tax reporting from the merchant. The City will cooperate with County in seeking to have the sales correctly reported by jurisdiction. In general, if the Local Option Sales Tax is clearly generated in the Annexation Parcel, 100 percent of that revenue will be paid to Wasatch County. Given the nature of Deer Crest, however, the Parties agree that in some instances it may not be possible to accurately determine the point of sale for Local Option Sales Tax purposes. In those cases, the taxes will be distributed by formula based on sample surveys or some other mutually agreeable technique.

Disputes regarding the implementation of the foregoing terms, and the issue of developing a formula for allocating point of sale as described above, shall be submitted to the Economic Review Committee for resolution and shall follow the process described in Section V.C.2. of this Agreement.

**2. County Option Sales and Use Tax.** Pursuant to State law, County has the option

of imposing a County Option Sales and Use Tax if it meets the other requirements of the applicable statute. The Parties agree that County may impose and collect a County Option Sales and Use Tax within the Annexation Parcel. County shall receive 100 percent of the County Option Sales and Use Tax collected within the Annexation Parcel.

**3. Resort Sales Tax.** The Resort Sales Tax is a tax imposed and collected by City. State law does not allow County to impose this Tax. The Parties agree that City shall receive 100 percent of the Resort Sales Tax collected within the Annexation Parcel.

**4. Transit Tax.** The Transit Tax is a tax imposed and collected by City. This Tax is not an option for County. The Parties agree that City shall receive 100 percent of the Transit Tax collected within the Annexation Parcel.

**5. Property Taxes.** County will continue to impose and collect its normal Property Taxes against the Property located in County and will retain 100 percent of its portion of that revenue. City will impose any normal Property Taxes imposed by the City and will retain 100 percent of that revenue.

The Property Tax will be collected by the County Treasurer's Office. Following collection, the County will forward City's share to the City on the same schedule that the Property Taxes are distributed to other municipalities within the County.

**6. Building and Permit Fees.** The Parties agree that, regardless of the timing of Annexation with respect to completion of construction, permit fees and other fees relating to the design, review, approval and construction of Initial Infrastructure Improvements within the Annexation Parcel shall be imposed, collected and retained by County. City shall have no authority to approve plans or impose permit fees against the design or construction of the infrastructure improvements in the Annexation Parcel. Building permits originally issued by County shall remain under the jurisdiction of County regardless of the timing of the Annexation.

Following completion of the Annexation process, all construction other than the Initial Infrastructure Improvements described above, shall be permitted by City. Building Permits for the construction within the Annexation Parcel, other than the Infrastructure Improvements described above, shall be issued by City. Specifically, the City shall approve or deny construction of the proposed funicular transport system, the hotel structure(s) and the residential and commercial units within the Annexation Parcel unless a Building Permit for that structure or improvement has already been issued by County. City shall collect and retain all fees associated with Building Permits issued by City after Annexation.

**7. Special Service District Fees.** Various Special Districts will provide municipal-type services to the portion of the Development in the Annexation Parcel. The Special Service District providing the service will receive 100 percent of the usual assessments, fees, and taxes, unless otherwise specifically agreed to in Interlocal Agreements between the Districts involved. City and

County agree to cooperate with any involved Special Service District to assure that the Special District collects its fees.

**8. Impact Fees.** City will collect Impact Fees for its facilities that serve the Annexation Parcel, and County will collect Impact Fees for its facilities that serve development annexed to Park City. Impact Fees are normally imposed at the time of issuance of Building Permits. To the extent City issues the Building Permits for construction of residential and commercial buildings within the Annexation Parcel, City agrees to cooperate with County to assure that the County collects its share of Impact Fees. In the event both County and City desire to impose Impact Fees for the same category of impact, the Parties shall meet together and mutually agree upon fair and reasonable fees and the distribution thereof. The Parties shall thereafter meet with the Developer to explain the imposition and division of Impact Fees.

**9. Transient Room and Restaurant Taxes .** Transient Room and Restaurant Taxes are imposed and collected by Counties. County may impose and collect a Transient Room Tax and/or a Restaurant Tax in the Annexation Parcel. City agrees to cooperate with County to insure that room rentals are correctly allocated to the jurisdiction in which the rental occurs. In some instances it may not be possible to accurately determine the jurisdiction in which the room rental occurs. In those cases, the taxes will be distributed by formula based on sample surveys or some other technique agreeable to the Parties.

**10. Other Fees and Charges.** Other fees and charges normally imposed by either City or County that are not specifically referred to herein shall be imposed and collected in the usual manner by the jurisdiction imposing the fee or charge.

**B. Infrastructure Issues:**

**1. City Notification.** The City shall be provided with a copy of any written agreements entered into between County and Developer that affect the Annexation Parcel within fifteen (15) days of execution of this Agreement.

**2. Rights-of-Way.** The Parties agree that Wasatch County will require the dedication to the Home Owners Association, of a fifty (50) foot right of way on all streets in the in the Annexation Parcel as shown on Exhibit "B", except additional right of way may be required by County where localized widening takes place, as shown on Exhibit "B". The approved Final Plat showing rights-of-way is attached hereto as Exhibit "A". Upon completion by Developer of Initial Improvements and a certification of final acceptance issued by County, all roads within the Annexation Parcel shall be transferred to the HOA, to be owned in common by the property owners.

All roads within the Annexation Parcel shall remain private, under the ownership and control of the Home Owner's Association, as set forth in the Covenants, Conditions and Restrictions, a copy of which is attached hereto as Exhibit "C", and incorporated herein by this reference. Existing agreements between Developer, the Home Owner's Association and County regarding public access.

trails and similar issues shall remain valid and enforceable, and shall not be affected by this Agreement.

**3. Road Widths:** The Parties agree that a road standard providing for a reduced road width and standard profile, as shown on Exhibit "D", shall apply to and be required for the portions of road shown on Exhibit "D". County shall be solely responsible for inspection of roads and related construction in the Annexation Parcel.

City may monitor the construction of those roads which are to meet the reduced road width standard, to ensure that the terms of this Agreement are enforced. However, County shall be responsible for management, inspection and control over the construction as described above. In the event City believes that construction of reduced standard roads is not being completed in conformance with this Agreement, City shall immediately notify County and Developer of the alleged deficiency, and the Parties shall attempt to resolve the issue.

Following completion of roads and related improvements within the Annexation Parcel, and prior to final acceptance of the same, County agrees to meet with City to review completed construction for compliance with the terms of this Agreement. The Parties agree to cooperate in resolving any discrepancies between completed construction and the terms of this Agreement, subject to the waiver provision contained in this Section.

Following final acceptance of the roads and related improvements, the roads within the Annexation Parcel shall be turned over to the Home Owner's Association for management and control, subject to the agreements then in place with County and City. City shall thereafter treat the roads in the Annexation Parcel the same as private roads in other developments within City.

**4. Other Road Issues.** With the exception of the reduced road widths and profiles set forth above and shown on Exhibit "D", all other Wasatch County Standards shall apply to the initial design and construction of roads and related improvements within the Annexation Parcel. The Home Owners Association shall be allowed to contract with City or County for road maintenance services for the private roads in the Annexation Parcel.

**5. Water Service.** Wasatch County has previously formed the Jordanelle Special Service District ("JSSD"), a Special Service District, organized and existing under the laws of the State of Utah, for the purpose, among other things, of providing water service to properties within its boundaries. The Annexation Parcel is located within the boundaries of the Jordanelle Special Service District. Water service to all development within the Annexation Parcel shall be provided by JSSD, or such other similar entity created for that purpose by Wasatch County. City shall have no obligation or right to provide water service to any development within the Annexation Parcel. City shall have no authority over the water system operated by the JSSD, City shall notify JSSD and provide an opportunity to comment prior to imposing any regulation, restriction or requirement upon the Deer Crest development within the Annexation Parcel which would significantly affect the operation of the water system by JSSD.

Decisions regarding the operation of the JSSD and provision of water service to the Annexation Parcel shall be made solely by Wasatch County and/or its political subdivisions.

The obligation of Wasatch County, or any of its political subdivisions, to deliver water to the Annexation Parcel is limited to the number of units approved by Wasatch County. JSSD shall have no obligation pursuant to this Agreement, to deliver additional water to the Annexation Parcel, or to development proposed by Developer that is outside the Annexation Parcel.

Financing for JSSD for the purpose of constructing water improvements to service the Annexation Parcel relies in part on assessments to be made against Equivalent Residential Units approved by Wasatch County and agreed to by Developer. Reduction in number of ERU's approved by Wasatch County within the Development may jeopardize financing of water improvements. City therefore agrees not to reduce the number of County-approved ERUs within the Annexation Parcel unless expressly agreed to in writing by County except pursuant to the Settlement Agreement.

JSSD shall have sole authority to control the design, construction, operation and maintenance of the water lines and appurtenant facilities which service the Annexation Parcel. Ownership of the water lines servicing the Annexation Parcel shall remain with JSSD, and City shall have no ownership interest in the water lines and appurtenant facilities pursuant to this Agreement.

JSSD shall have the right to collect all legally imposed fees relating to the delivery of water, finance improvements to the water system, to set rates, and in all respects to control the operation and maintenance of the water system.

The Parties expressly acknowledge and agree that the Annexation Parcel is located at or near the boundary line between the Provo River Basin and the Weber River Basin. JSSD intends to service the Annexation Parcel with water which is from the Provo River Basin.

**6. Wastewater Collection and Treatment Service:** Wasatch County has previously formed the Jordanelle Special Service District ("JSSD"). The Annexation Parcel is located within the boundaries of the Jordanelle Special Service District. Wastewater collection and treatment service to all development within the Annexation Parcel shall be provided by JSSD, or such other similar entity created for that purpose by Wasatch County. City shall have no obligation or right to provide wastewater collection or treatment service to any development within the Annexation Parcel, unless otherwise agreed to in writing by the Parties.

Decisions regarding the operation of the JSSD and provision of wastewater collection and treatment service to the Annexation Parcel shall be made solely by Wasatch County and/or its political subdivisions. Notwithstanding the foregoing, Wasatch County agrees to meet or exceed State standards regarding wastewater collection and treatment.

The obligation of Wasatch County, or any of its political subdivisions, to deliver wastewater collection and treatment service to the Annexation Parcel or to Park City, is limited to number of units approved by Wasatch County. JSSD shall have no obligation pursuant to this Agreement, to

deliver wastewater collection and treatment services to City or Annexation Parcel, or to development proposed by Developer which is outside the Annexation Parcel.

Financing for JSSD for the purpose of constructing sewer improvements to service the Annexation Parcel relies in part on assessments to be made against Equivalent Residential Units approved by Wasatch County and agreed to by Developer. Reduction in number of ERU's approved by Wasatch County within the Development may jeopardize financing of sewer improvements. City therefore agrees not to take any action which might cause a reduction in the number of approved ERUs within the Annexation Parcel unless expressly agreed to in writing by County except pursuant to the Settlement Agreement.

Subject to applicable State standards, JSSD shall have sole authority to control the design, construction and operation of the wastewater collection and treatment system and appurtenant facilities which service the Annexation Parcel. Ownership of the wastewater system servicing the Annexation Parcel shall remain with JSSD, and City shall have no ownership interest therein pursuant to this Agreement.

JSSD shall have the sole right to collect all applicable fees relating to the delivery of wastewater collection and treatment service, to finance improvements to the wastewater system, to set rates, and in all respects to control the operation and maintenance of the wastewater collection system.

The Parties expressly acknowledge and agree that the Annexation Parcel is located at or near the boundary line between the Provo River Basin and the Weber River Basin. JSSD intends to service the Annexation Parcel with water which is from Provo River Basin. JSSD shall have no obligation pursuant to this Agreement to deliver wastewater services to the Weber River Basin.

County shall retain complete administrative control over the JSSD. County may, in its sole discretion, delegate authority to an Administrative Control Board pursuant to Utah Law. County may, at its sole discretion, alter, amend or otherwise change the form of the District without interference from City, as long as level of service is not diminished. County may, at its sole discretion, enter into other agreements or arrangements for wastewater collection and/or treatment, including but not limited to the following: entering into contracts with third parties for wastewater collection and/or treatment services, construction of additional or replacement facilities, etc.

**7. Water Quality (storm drainage).** County shall be responsible to insure that storm drainage improvements are constructed and maintained according to approved plans. A copy of the approved storm drainage plan is attached hereto as Exhibit "E" and incorporated herein by this reference. County shall remain solely responsible for enforcement and control of the storm drainage system in the Annexation Parcel, subject to the Homeowner's Association responsibilities set forth in agreements between County and the Homeowner's Association. The County may, at its sole discretion, organize and form a special service district, or other similar entity, to provide storm drainage services to the Annexation Parcel.



County agrees to coordinate with City, who will issue the building permits for buildings in the Annexation Parcel once annexation occurs. City agrees to building envelopes and storm drainage plans approved by County.

**8. Engineering Control and Inspection.** Construction of all Infrastructure Improvements within the Annexation Parcel as shown on the Approved Plans shall be permitted, inspected and approved by County. Infrastructure shall be designed, constructed and maintained according to Approved Plans and Wasatch County Design and Construction Standards unless specifically agreed to otherwise herein. City shall have no authority to permit, inspect, impose fees, or otherwise control the design and construction of the Initial Infrastructure within the Annexation Parcel, unless otherwise agreed to herein. City has the authority to monitor construction of Infrastructure where this Agreement provides for a design or construction standard different from Wasatch County Standards, to ensure that the Infrastructure complies with the terms of this Agreement.

Unless otherwise specifically agreed to herein, County shall have the sole authority to impose, collect and distribute Engineering Review Fees, Inspection Fees, and Other Fees associated with the design, review, inspection and approval of Infrastructure Improvements in the Annexation Parcel.

**9. Fire Protection:**

a) **Fire flow standards.** County shall provide fire-flow water and facilities for all development within the Annexation Parcel. County shall be solely responsible for design approval, inspection, maintenance, and construction management of all fire protection infrastructure with the exception of sprinkling systems associated with buildings in the Annexation Parcel. City shall have reasonable access to inspection and maintenance records to verify compliance with County standards. Unless otherwise agreed to herein, County ordinances, policies and procedures regarding the provision of fire flow water shall govern in the Annexation Parcel.

Notwithstanding anything to the contrary contained herein, County shall be responsible for providing for temporary fire protection until completion of the final fire protection system. County has agreed with Developer regarding temporary fire protection as shown in Exhibit "F", attached hereto and incorporated herein by this reference.

b) **Fire fighting service.** County, through the Wasatch County Fire Protection Special Service District, or such other entity formed for that purpose, shall provide firefighting personnel and equipment to service the Annexation Parcel. Except as specifically agreed to herein, County, through its Fire Protection Special Service District, shall provide fire fighting service to the Annexation Parcel at a level of service which is comparable to the existing level of service provided by the Park City Fire Department to similarly situated properties in Park City with respect to response times, staffing and suppression equipment. The fire control and prevention plan and temporary fire standards are set forth in Exhibit "F" attached hereto and incorporated herein by this

reference. Plans for the Public Safety Building are set forth in Exhibit "G".

Unless otherwise specifically agreed herein, City agrees that County ordinances, policies and resolutions shall govern the provision of fire protection service to the Annexation Parcel.

County shall have sole authority to impose, collect and disburse all fees, assessments and charges related to the provision of fire protection service in the Annexation Parcel unless otherwise agreed to in writing.

County may, at its discretion, enter into a mutual aid agreement with the Park City Fire Department for joint provision of fire suppression services in the Annexation Parcel. A copy of any such mutual aid agreement shall be forwarded to City for reference purposes.

Following annexation, the Park City Fire Marshall shall have authority to conduct inspections within the Annexation Parcel. City shall notify Wasatch County Fire Protection District and provide an opportunity to comment prior to imposing any regulation, restriction or requirement upon the Deer Crest development within the Annexation Parcel which would affect the operation of the Wasatch County Fire Protection District.

**10. Police Protection.** County shall be responsible for providing police protection through the Wasatch County Sheriff's Office, to the Annexation Parcel, until annexation occurs. Following Annexation, primary responsibility for law enforcement within the Annexation Parcel shall immediately be transferred to the Park City Police Department. Residual jurisdiction of the Wasatch County Sheriff, if any, in the portions of Wasatch County annexed into Park City shall be governed by Utah law. Jurisdiction regarding prosecution of felonies that occur in the Annexation Parcel shall be governed by Utah law.

**11. Emergency Medical Service.** County shall provide emergency medical service to the Annexation Parcel through the Wasatch County Fire Protection District or such other entity created or organized by Wasatch County for that purpose. Upon completion and occupation of any residential or commercial building in the Annexation Parcel, the level of emergency medical service provided by Wasatch County pursuant to this Agreement shall meet or exceed the level of service currently required by State Law. County may, at its sole discretion, enter into mutual aid agreements with the Park City Fire Department, or another similar entity, for provision of Emergency Medical Service. In the event such a mutual aid agreement is entered into with respect to the Annexation Parcel, County agrees to immediately forward a copy of the signed agreement to City, and to notify City of any subsequent changes in that agreement.

**12. Public Safety Building:** County agrees to design, construct, operate and maintain a Public Safety Building as generally shown in Exhibit "H". The Public Safety Building will be located in the Jordanelle Basin area of Wasatch, at or near the Mayflower Intersection and will service all areas in the Jordanelle Basin, including the Annexation Parcel. The Public Safety Building will house firefighters, EMTs, law enforcement personnel and other emergency service

personnel, as determined by County.

County shall have sole authority regarding design, construction, operation, maintenance and financing of the Public Safety Building and related improvements. Unless otherwise agreed to in writing by the Parties, County agrees to equip and man the Public Safety Building in a manner that provides emergency response times to the Annexation Parcel that are comparable to current Park City Fire Department response times.

**13. Other Governmental Services:**

a) Solid Waste Collection and Disposal Service: County, through the Wasatch County Solid Waste District and the Wasatch/Duchesne Bluebench Landfill District, or such other entity formed by Wasatch County for this purpose, shall provide solid waste collection and disposal services to the Annexation Parcel.

County shall have sole control over the management and operation of the Wasatch County Solid Waste District and other related districts, and shall have the exclusive right to impose and collect all fees, assessments, fines, penalties and charges with respect to the collection and disposal of solid waste in the Annexation Parcel.

City shall have no obligation or right to provide solid waste collection and disposal service to the Annexation Parcel, unless otherwise agreed to by the Parties.

b) Health Department: The City and County desire that the Heber City/Wasatch County Health Department cooperate with the Summit County Health Department in the inspection of businesses and facilities in the Annexation Parcel. The City and County agree to facilitate any agreement or understanding between the Heber City/Wasatch County Health Department and Summit County Health Department necessary to assure cooperation and regulation of businesses and facilities in the Annexation Parcel.

**14. Other Agreements between Developer and Wasatch County.** City hereby expressly agrees that all other agreements between Developer and County, as set forth in the Covenants, Conditions and Restrictions, and other relevant documents which shall be provided to City prior to execution of this Agreement, shall remain in full force and effect.

**C. Other Issues**

**1. Administrative Control over Districts.** Wasatch County shall retain complete administrative control over the JSSD and other Districts created by Wasatch County. County may, in its sole discretion, delegate authority to Administrative Control Board pursuant to Utah Law. The County may, in its sole discretion, alter, amend or otherwise change the form of the District as long as terms of this Agreement are not violated. The Parties agree to cooperate if the need to form additional districts should arise.

2. **Dispute Resolution.** The Parties have, by this Agreement, attempted to identify and resolve all issues regarding the Annexed portion of the Proposed Annexation. Notwithstanding that effort, however, the Parties acknowledge that there are issues which are known, but which cannot be resolved at the present time, as well as issues that are not known at the present time. In an effort to anticipate those issues and to provide for a resolution process, the Parties agree to the creation of, an Economic Review Committee, and a Municipal Services Review Committee

**Economic Review Committee:**

Members: The membership of the Economic Review Committee shall initially be as follows:

Wasatch County members

1. County Commissioner or designee *County Manager*
2. County Auditor or designee
3. County Treasurer or designee

Park City members

1. Council Member designated by the City Council
2. Finance Manager or designee
3. City Manager or designee

The Parties shall have the right, at their sole discretion, to replace members of the Economic Review Committee appointed by that Party. Notwithstanding the foregoing, the Parties agree to continue to staff the Economic Review Committee with those persons who, in the opinion of that Party, will be most effective in resolving economic issues regarding the Annexed portion of the Proposed Annexation in a mutually satisfactory manner.

**Duties:** The Economic Review Committee shall meet at least annually, and at such other times as necessary to accomplish its duties under this Agreement. The Economic Review Committee shall:

Review on at least an annual basis, the imposition, collection, division and distribution of all taxes, fees, assessments or other charges imposed by County or City on the Annexed portion of the Proposed Development.

Review and prepare a written report of the types and amounts of all taxes, fees, assessments or other charges so imposed, and the collection and distribution of those charges among the Parties.

Review and render a decision, within a reasonable time, all issues regarding the economic terms of this Agreement upon which the Parties have a dispute.

Perform such other duties as assigned by written agreement of the Parties.

The Parties may, by written agreement, assign additional duties to the Economic Review Committee from time to time. However, the Parties agree to maintain the focus of the Economic Review Committee as described in this Agreement, and to avoid adding additional duties that will jeopardize the ability of the Economic Review Committee to effectively discharge its primary purpose.

**Process:** The members of the Economic Review Committee shall meet as soon as practicable following execution of this Agreement to adopt policies and procedures necessary to effectively carry out the provisions of this Agreement.

**Municipal Services Review Committee:**

**Members:** The membership of the Municipal Services Review Committee shall initially be as follows:

**Wasatch County members**

1. County Commissioner or designee
2. Head of Engineering Department or designee
3. Jordanelle Special Service District Manager or designee

**Park City members**

1. ~~City Manager~~ or designee
2. ~~City Engineer~~ or designee
3. Community Development Director or designee

The Parties shall have the right, at their sole discretion, to replace members of the Municipal Services Review Committee appointed by that Party. Notwithstanding the foregoing, the Parties agree to continue to staff the Municipal Services Review Committee with those persons who, in the opinion of that Party, will be most effective in resolving municipal service issues regarding the Proposed Annexation in a mutually satisfactory manner.

**Duties:** The Municipal Services Review Committee shall meet at least annually, and at such other times as necessary to accomplish its duties under this Agreement. The Municipal Services Review Committee shall:

Review on at least an annual basis, the design, construction, inspection, maintenance, fees, charges and other issues relating to the provision of municipal services in the Annexed portion of the Proposed Development.

Review and prepare a written report regarding the design, construction, inspection, maintenance, fees, charges and other issues relating to the provision of municipal services in the Annexed portion of the Proposed Development.

Review and render a decision, within a reasonable time, all issues regarding the municipal service-related terms of this Agreement upon which the Parties have a dispute.

Perform such other duties as assigned by written agreement of the Parties.

The Parties may, by written agreement, assign additional duties to the Municipal Services Review Committee from time to time. However, the Parties agree to maintain the focus of the Municipal Services Review Committee as described in this Agreement, and to avoid adding additional duties that will jeopardize the ability of the Municipal Services Review Committee to effectively discharge its primary purpose.

Process: The members of the Municipal Services Review Committee shall meet as soon as practicable following execution of this Agreement to adopt policies and procedures necessary to effectively carry out the provisions of this Agreement.

### **3. Amendment of Settlement Agreement Between City and Deer Crest.**

This Agreement is contingent upon execution of an Amendment to the Settlement Agreement between Park City and Deer Crest.

## **VI. GENERAL TERMS AND CONDITIONS.**

**A. Applicability of Special Service District Policies and Procedures.** City acknowledges and agrees that County, through its special service districts or otherwise, has or shall adopt policies and procedures governing the design, financing, construction and operation of infrastructure in the Annexation Parcel, including the water, sewer, and utilities.

**B. Disputes and Attorney's Fees.** In the event of a dispute regarding the interpretation or application, or defaults on any of the terms of this Agreement, the parties agree to attempt, in good faith, to resolve the dispute through the following administrative process:

In the event the parties are unable to resolve the dispute through the above-described process, either party may then pursue any available remedy in law or in equity. The prevailing party in such dispute shall be entitled to recover reasonable costs and attorneys fees incurred in enforcing the terms of this Agreement.

**C. Waiver.** Except as specifically provided herein to the contrary, waiver by either County or City of any breach of any condition or provision of this Agreement shall be limited to the particular instance and shall not operate or be deemed to waive any future breach or breaches of said condition

or provision; the failure of either County or City to insist, in any one instance or more, upon the performance of any of the conditions or provisions of this Agreement or the exercise any right or privilege herein conferred, shall not be construed as thereafter waiving any such condition, provision, right or privilege, but the same shall continue and remain in full force and effect.

**D. Notice.** Except as may be herein otherwise provided, all notice required or permitted herein, shall be deemed to have been properly given when sent by certified United States mail, addressed to the party at the addresses attached on a separate page; the date of such service shall be the date on which the notice is deposited in the United States Post Office; all notices shall be sufficient within the terms of the Agreement when signed by any one or more of the notifying parties or their agents and mailed to any one or more of the opposite parties; personal delivery of such written notice shall have the same effect as notice given by mail; the attached addresses may be changed for the purposes of this Agreement by notification of the opposite party in writing.

**E. Definitions.** Whenever used, the singular number shall include the plural, the plural the singular, and the use of gender shall include all genders;

**F. Assignment.** Neither party may assign its rights or obligations under this Agreement to any third party, except that County may assign rights or obligations to political subdivisions of Wasatch County, and City may assign rights or obligations to political subdivisions of Park City, as necessary to accomplish the purposes of this Agreement. In the event of such assignment, the covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto. Either party shall give prompt written notice of any such assignment to the other.

**G. Severability.** The provisions of this Agreement are severable. If any of the provisions of this Agreement are determined by appropriate legal authority to be invalid or unenforceable for whatever reason, the remainder of the provisions shall remain in full force and effect.

**H. Recordation.** Either party may record this Agreement, or a summary thereof, in the Wasatch County Recorder's office, and/or the Summit County Recorder's Office, for the purpose of providing notice of rights and obligations, including financial obligations such as special service district assessments to all subsequent purchasers or interest holders of properties included in the Annexation Parcel.

**I. Governing law.** The Parties agree that except as specifically provided herein, prior to completion of the annexation as set forth in the Utah Code, Wasatch County ordinances shall apply in the Annexation Parcel. Following completion of the annexation into Park City, and except as specifically provided herein, Park City ordinances shall govern in the portion of Wasatch County annexed into Park City pursuant to this Agreement. Unless otherwise specifically provided herein, and notwithstanding any other agreement to the contrary, Wasatch County ordinances shall govern in all areas of Wasatch County not annexed into Park City, and Park City ordinances shall govern in all areas of Park City.

J. **Amendments.** The provisions of this Agreement may be modified by written agreement signed by the Parties.

K. **Term.** This Agreement shall remain in full force and effect for twenty (20) years from the date hereof, and shall be renewed automatically for successive fifteen (15) year terms after the expiration of the initial term, unless written notice of the desire not to renew is mailed by either Party to the other Party at least two (2) years prior to the expiration of the then current term.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement the day and year written above.

**WASATCH COUNTY**

  
\_\_\_\_\_  
LaRen Provost, Commission Chairman

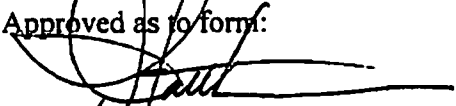
**JORDANELLE SPECIAL SERVICES DISTRICT**

  
\_\_\_\_\_  
LaRen Provost, Board Chairman

Attest:

  
\_\_\_\_\_  
Brent R. Titcomb, County Clerk

Approved as to form:

  
\_\_\_\_\_  
Dan Matthews, Wasatch County Attorney

**PARK CITY MUNICIPAL CORPORATION**

  
\_\_\_\_\_  
Bradley A. O'Leary, Mayor

Attest:

  
\_\_\_\_\_  
Janet M. Scott, City Recorder

Approved as to form:

  
\_\_\_\_\_  
Jodi Hoffman, City Attorney

