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MIDVALE CITY, UTAH
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SANDY CITY, UTAH
WEST JORDAN CITY, UTAH

AMENDED AND RESTATED
TRANS-JORDAN CITIES
INTERLOCAL COOPERATION AGREEMENT
(Solid Waste Management Facilities)

December 1, 1995

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**AMENDED AND RESTATED
TRANS-JORDAN CITIES
INTERLOCAL COOPERATION AGREEMENT
(LANDFILL FACILITIES)**

This Amended and Restated Interlocal Cooperation Agreement (the "*Agreement*") is dated as of December 1, 1995, and is among:

- (1) Midvale City, Utah,
- (2) Murray City, Utah,
- (3) Sandy City, Utah, and
- (4) West Jordan City, Utah

(each a "*Member*" and collectively the "*Members*"). Each of the Members desires to contract with the other Members to form a separate legal entity to more efficiently provide governmental facilities, services and improvements for its citizens.

RECITALS

WHEREAS, the Members have previously entered into an Interlocal Agreement, dated May 22, 1968 (the "*Prior Agreement*"), relative to the operation, maintenance and control of a refuse dumping ground situated east of Bingham Canyon, in Salt Lake County (the "*Original Facilities*"); and

WHEREAS, the Original Facilities have been expanded and it may be necessary or desirable to obtain additional suitable waste management facilities for the Members and their residents (the Original Facilities as so expanded and such additional solid waste management facilities being referred to herein collectively as the "*Solid Waste Management Facilities*"); and

WHEREAS, the Members desire to enter into this Agreement to amend and restate the Original Agreement, among other things, to create a separate legal entity and political subdivision pursuant to the provisions of the Interlocal Co-operation Act (the "*Agency*") to provide for the ownership, operation, maintenance and control of the Solid Waste Management Facilities by the Agency; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and in order to amend and restate the Original Agreement as provided herein, the parties hereto do mutually covenant, promise and agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATIONS

Section 1.1. Meanings and Constructions. The terms defined in this Section, for all purposes of this Agreement and any amendments hereto, shall have the meanings herein set forth:

(a) "*Acts*" means, collectively, the Interlocal Co-operation Act and the Solid Waste Management Act.

(b) "*Agency*" means the Trans-Jordan Cities Interlocal Agency created by this Agreement pursuant to the Acts. Pursuant to the provisions of the Interlocal Co-operation Act, the Agency is deemed a political subdivision of the State.

(c) "*Agreement*" means this Amended and Restated Trans-Jordan Cities Interlocal Cooperation Agreement (Solid Waste Management Facilities), and any amendments or supplements hereto.

(d) "*Board*" means the board of directors of the Agency established pursuant to Section 3.1 hereof, consisting of the Representatives of the Members.

(e) "*Bylaws*" means the bylaws of the Agency as adopted and amended from time to time by the Board.

(f) "*Current Members*" means Midvale City, Murray City, Sandy City and West Jordan City.

(g) "*Interlocal Co-operation Act*" means the Interlocal Co-operation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended.

(h) "*Member*" means each of the Current Members and each city which becomes a Member of the Agency pursuant to Section 5.6 hereof provided that such Current Member or city, as the case may be, has not withdrawn from the Agency pursuant to Section 5.2 hereof.

(i) "*Prior Agreement*" means the Interlocal Agreement, dated May 22, 1968, among the Current Members, relative to the operation, maintenance and control of a refuse dumping ground situated east of Bingham Canyon, in Salt Lake County.

(j) "*Representative*" means the representative of each Member who has been appointed by the governing body of such Member to serve as a member of the Board or, in the absence or disability of the Representative, the Alternate Representative. "*Alternate Representative*" means the representative of each Member who has been appointed by the governing body of such Member to serve as a member of the Board in the absence or disability of the Representative.

(k) "*Solid Waste*" means all putrescible and nonputrescible materials or substances discarded or rejected as being spent, useless, worthless, or in excess to the owner's needs at the time of discard or rejection, including garbage, refuse, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition, and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted water carried materials or substances and those in gaseous form.

(l) "*Solid Waste Management Facilities*" means any facility employed by the Agency for solid waste management. Such facilities may include, without limitation, land, any rights therein and improvements thereto, one or more buildings, structures or other improvements, machinery, equipment, vehicles and other facilities incidental to the foregoing, owned, operated or used by the Agency for the collection, transportation, transfer, storage, disposal, processing, treatment, recovery and re-use of Solid Waste. Such facilities may include land held for a future use or used as a buffer from adjacent land uses.

(m) "*Solid Waste Management Act*" means the Solid Waste Management Act, Title 19, Chapter 6, Part 5, Utah Code Annotated 1953, as amended.

(n) "*State*" means the State of Utah.

Section 1.2. Interpretations. This Agreement, except where the context by clear implication herein otherwise requires, shall be construed as follows:

- (a) definitions include both singular and plural;
- (b) pronouns include both singular and plural and cover both genders; and
- (c) the captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article or Section of this Agreement.

Section 1.3. Successors. Whenever herein the Agency or any Member is named or is referred to, such provision shall be deemed to include the successors of the Agency or such Member, respectively, whether so expressed or not.

ARTICLE II

THE AGENCY

Section 2.1. Establishment. The Agency is hereby established as a separate legal entity and a political subdivision of the State by this Agreement among the Members. The Agency shall be a separate legal entity and a political subdivision of the State and not a joint venture or partnership among the Members. The name of the Agency so established is "*Trans-Jordan Cities*."

Section 2.2. Purpose. The Agency is established for the purpose of providing for the acquisition, construction, ownership, operation, maintenance and improvement of Solid Waste Management Facilities, as authorized by the Acts and provided in this Agreement.

Section 2.3. Membership. The Members of the Agency shall be Midvale City, Murray City, Sandy City and West Jordan City. Each of the Members are cities constituting municipal corporations and political subdivisions in the State.

Section 2.4. Duration. Unless dissolved and terminated as provided in Section 5.2 of this Agreement, the term of this Agreement shall be for a period of fifty (50) years commencing with the effective date of this Agreement, and for such additional terms or extensions as may be authorized by law and by all of the Members. Any amendment or supplement to this Agreement shall automatically extend the term of this Agreement for a period of fifty (50) years from the effective date of such amendment or supplement unless otherwise provided in such amendment or supplement.

Section 2.5. Powers. In furtherance of the purposes set forth in this Agreement, the Agency shall have all powers conferred upon the Agency as a separate legal entity pursuant to the Acts, including the powers set forth in Section 11-13-5.5 of the Interlocal Co-operation Act, and all powers possessed by the Members under the laws of the State of Utah with respect to solid waste management, including the powers set forth in Section 19-6-503 of the Solid Waste Management Act (except for the power to levy and collect taxes which power is expressly withheld from the Agency) which powers are hereby delegated to the Agency to be exercised on behalf of the Members as contemplated by the Acts. The powers so conferred upon and delegated to the Agency shall include, without limitation, the power to:

- (a) own, purchase, lease as lessee or lessor, acquire by eminent domain or otherwise, construct, operate, maintain and repair or cause to be constructed, operated, maintained, repaired and closed any Solid Waste Management Facilities;
- (b) provide Solid Waste Management Facilities to handle adequately Solid Waste generated or existing within or without its jurisdiction;
- (c) provide for the use of Solid Waste Management Facilities by any Member or other entity or person upon such terms and conditions and with such fees or charges as the Agency shall determine;
- (d) establish rates, fees and charges for the use of or rights to the Solid Waste Management Facilities;
- (e) provide for the insurance, including self-insurance, of any property or operations of the Agency or of its Members, directors, officers and employees, against any risk or hazard, and to indemnify its Members, directors, officers and employees against any risk or hazard;

(f) appoint, retain and employ officers, agents, independent contractors and employees to carry out its powers and functions hereunder and to fix their compensation and terms and conditions of employment;

(g) make and execute any contract relating to the Solid Waste Management Facilities with the federal or a state government or any agency thereof, with a Member or any unit of local government or with any person or entity;

(h) sue or be sued;

(i) assume, by agreement, responsibility for the collection and disposition of solid waste whether generated within or without its jurisdictional boundaries;

(j) enter into short or long-term interlocal agreements with other public entities, with public agencies as defined in Title 11, Chapter 13, Interlocal Cooperation Act, with private persons or entities, or any combination of them, to provide for or operate solid waste management facilities;

(k) levy and collect fees and charges as may be appropriate to discharge its responsibility for the acquisition, construction, operation, maintenance, and improvement of Solid Waste Management Facilities or any portion of them;

(l) accept and disburse funds derived from federal or state grants or from private sources or from moneys that may be appropriated by the State legislature for the acquisition, construction, ownership, operation, maintenance and improvement of Solid Waste Management Facilities;

(m) invest available funds as permitted by law;

(n) contract for the lease or purchase of land, facilities, and vehicles for the operation of solid waste management facilities;

(o) establish policies for the operation of solid waste management facilities, including hours of operation, character, and kind of wastes accepted at disposal sites, and other rules necessary for the safety of the operating personnel;

(p) sell or contract for the sale, pursuant to short or long-term agreements, of any usable materials, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste in a solid waste management facility, on terms in its best interests, and to pledge, assign, or otherwise convey as security for the payment of its bonds any revenues and receipts derived from the sale or contract or from the operation and ownership of a solid waste management facility or an interest in it;

(q) make and execute all contracts and other instruments necessary or convenient to the exercise of its powers, including use agreements with any or all of the Members;

(r) adopt, amend and repeal ordinances, resolutions, rules and regulations with respect to its powers and functions and not inconsistent with the provisions of the Acts or this Agreement;

(s) issue bonds, notes or other obligations pursuant to Title 11, Chapter 14, Utah Municipal Bond Act, Title 11, Chapter 27, Utah Refunding Bond Act or other applicable provisions of law for the purposes for which the Agency was created, and assign, pledge or otherwise convey as security for the payment of any such bonds, notes or other obligations, the revenues and receipts derived from or in connection with all or part of Solid Waste Management Facilities, which assignment, pledge or other conveyance may, if so determined by the Board, rank prior in right to any other obligation except taxes, or payments in lieu of taxes, if any, payable to the State of Utah or its political subdivisions;

(t) issue industrial development revenue bonds pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, to pay the costs of financing projects consisting of solid waste management facilities, as defined in Section 19-6-502, on behalf of entities that constitute the users of a solid waste management facility project within the meaning of Section 11-17-2, and agree to construct and operate or to provide for the construction and operation of a solid waste management facility project, which project shall manage the solid waste of one or more public or private entities, all pursuant to contracts and other arrangements provided for in the proceedings pursuant to which the bonds are issued. In addition to the authority to issue bonds contained in Title 11, Chapter 17, Utah Industrial Facilities and Development Act, bonds may be issued pursuant to the authority contained in this subsection to pay the costs of establishing reserves to pay principal and interest on the bonds as provided for in the proceedings pursuant to which the bonds are issued; and

(u) enter into contracts which provide for compensation to areas affected by Solid Waste Management Facilities;

(v) enter into contracts with the Members in which the Solid Waste Management Facilities are located controlling location, use, expansion, operation, maintenance and closing of the Solid Waste Management Facilities; and

(w) exercise all other powers incident to the purposes and objectives of the Agency which may be permitted by law.

ARTICLE III

GOVERNANCE AND FINANCES

Section 3.1. Governance; Board. (a) The Agency shall be governed by, and all legislative authority of the Agency shall be vested in and exercised by, the Board. The membership of the Board shall consist of the Representatives of all the Members. There

shall be one Representative for each Member, who shall be appointed by vote of the governing body of the Member. The term of each Representative shall begin when he or she is appointed and shall continue until his or her successor is appointed. Each Representative shall have one vote on the Board, subject to the provisions of Section 3.3(c) hereof.

(b) Any Member may appoint one or more persons to serve as the Alternate Representative. The term of the Alternate Representative shall be the same as the term of the Representative. The Alternate Representative may attend any meeting of the Board and may vote as the Representative in the absence of the Representative from that Member or if there is a vacancy in the position of Representative from that Member. A person serving as Alternate Representative shall serve until his or her term expires and thereafter until the successor is appointed.

(c) All appointments of Representatives and Alternate Representatives shall be by resolution of the governing body of the appointing Member, a certified copy of which shall be filed with the Secretary of the Agency. Representatives and Alternate Representatives shall receive no compensation for their service in this capacity but may be reimbursed by the Agency for reasonable and necessary expenses incurred in performance of their duties.

(d) The Board shall elect one Representative to serve as Chairman and another Representative to serve as Vice-Chairman. The Chairman shall preside at all meetings of the Board. The Vice-Chairman shall preside over meetings of the Board in the Chairman's absence. The Board shall elect other persons, who need not be Representatives, to the positions of Secretary and Treasurer and may elect other persons, who need not be Representatives, to such other offices as the Board shall determine. The duties, terms of office, and manner of selection of the officers shall be prescribed in the Bylaws. The Board may provide that any officer of the Agency who is not a Representative may be compensated for service in such capacity.

(e) The Board shall determine the general policy of the Agency, shall approve the annual budget, shall make all appropriations (which may include appropriations made at any time in addition to those made in any annual appropriation document), shall determine the admission of additional Members, shall approve all contracts, shall establish rates and impose charges on Members for use of the Facilities, shall adopt any ordinances or resolutions providing for the issuance of bonds, notes or other obligations of the Agency, shall adopt the Bylaws, rules and regulations of the Agency, and shall exercise such powers of the Agency and perform such duties as may be prescribed in the Acts, this Agreement or the Bylaws.

(f) Except as a greater majority is otherwise provided in this Agreement or the Bylaws, actions required by law or by this Agreement to be taken by the Board shall be taken by an affirmative vote of a majority of the Representatives entitled to vote at the time of such vote.

(g) Upon the written request of any Representative, any matter with respect to the Agency shall be placed on the agenda of the Board.

Section 3.2. Budget; Authority Vested in Board. (a) The budget of the Agency shall be established and maintained in accordance with law by the Board. The budget shall provide for all expenditures of the Agency. The Board is empowered to obtain such fiscal and accounting services as it deems necessary in formulating, adopting, and administering the Agency's budget. Periodic audits will also be conducted as directed by the Board. The Agency shall operate on a fiscal year basis as determined by the Board.

(b) At least 30 days prior to the approval by the Board of each budget, the Board shall provide a copy of the proposed budget to each Member for its review and comment.

Section 3.3. Fees and Charges. (a) The Board is empowered to establish and to revise from time to time a schedule of rates and charges that is fair, equal and uniform.

(b) The Members agree to pay the fees and charges due to the Agency in accordance with the schedule of rates and charges established by the Board.

(c) Each Member shall be responsible to provide its share of any other funds required by the Board and to determine the manner in which said funds are raised; *however*, the Board may provide for a direct method of raising required revenues for the Agency from the users of the Solid Waste Management Facilities.

(d) All fees and charges by the Agency are due and payable by a Member within 30 days after presentation of the statement of such fees and charges to such Member. Any amount not paid within such 30-day period shall bear interest at a rate established by the Board. If such amount is not paid by such Member within 60 days after such amount is due, the Representative (including the Alternate Representative) shall lose his or her voting privilege until such amount, together with interest thereon, has been paid or arrangements acceptable to the Board for such payment have been made.

Section 3.4. Payment of In-lieu Fee. Responsive to Section 11-13-6(7) of the Interlocal Co-operation Act, the price of any product of the service or benefit to the consumer allocated to any buyer except the Members shall include the amount necessary to provide for the payments of the in-lieu fee provided for in Section 11-13-25 of the Interlocal Co-operation Act, if applicable.

ARTICLE IV

GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 4.1. Members are Cities; No Violation of Laws, etc. Each Member represents and warrants that it is a city constituting a municipal corporation and political subdivision of the State and is authorized to enter into this Agreement and to carry out its obligations hereunder and that the execution and delivery of this Agreement will not violate under any law, order, regulation, order or rule to which such Member is subject or give rise to a default under any contract or other agreement to which such Member is a party.

Section 4.2. No Litigation. Each Member represents and warrants that there is no litigation or legal or governmental action, proceeding, inquiry or investigation pending or threatened by governmental authorities or others or to which such Member is a party or to which any of its property is subject which, if determined adversely to the Member, would individually or in the aggregate affect the validity or the enforceability of this Agreement with respect to the Member, or otherwise materially adversely affect the ability of the Member to comply with its obligations under this Agreement.

ARTICLE V

GENERAL PROVISIONS CONCERNING THIS AGREEMENT AND THE AGENCY

Section 5.1. Effective Date. (a) This Agreement shall be in full force and effect and be legally binding upon a Member only after its execution and approval by written resolution duly adopted by the governing body of such Member. This Agreement shall be in full force and effect and be legally binding upon all the Members upon its execution by all of the Members.

(b) Within thirty days after execution of this Agreement by a Member it shall make its appointments to the Board. Within sixty days of the effective date of this Agreement, the Board shall meet and as soon as may be practicable shall elect the officers of the Agency and adopt such Bylaws as may be appropriate.

(c) Each of the parties hereto hereby ratify and confirm the membership in the Agency of each other party to this Agreement and hereby waive any defect in the admission or to the membership in the Agency of any other party to this Agreement.

Section 5.2. Withdrawal, Termination and Dissolution. (a) Any Member may withdraw as a Member of the Agency at any time without the consent of the Board of Directors, provided that the withdrawing Member shall remain obligated (i) as provided in Section 3.3 hereof, (ii) under the terms and conditions of any outstanding use agreement between the withdrawing Member and the Agency, and (iii) for any liabilities imposed by law. No Member may withdraw from the Agency while and so long as any bonds, notes or other obligations of the Agency are outstanding, except as permitted by the resolution or other documents authorizing the issuance of such bonds, notes or other obligations.

(b) Any Member may withdraw pursuant to paragraph (a) of this Section only upon filing with the Secretary of the Board no less than 180 days before the intended effective date of withdrawal a certified copy of a resolution of the Member determining so to withdraw.

(c) Upon withdrawal of any Member, all amounts theretofore paid or contributed by such Member shall be and remain the property of the Agency and no part thereof shall be refunded to the withdrawing Member. After the effective date of the withdrawal of any Member, the Board composed of the remaining Representatives shall continue to have and assume all of the rights, duties and obligations herein provided for.

(d) The Agency shall be dissolved and terminated (i) upon the withdrawal of one or more Members so as to reduce the number of Members to one, or (ii) upon the filing with the Secretary of the Agency of certified copies of resolutions of all or substantially all of the Members determining to dissolve and terminate the Agency. As used in this paragraph (d), the term "substantially all of the Members" means all of the Members except one.

(e) Notwithstanding the provisions of paragraph (c), as long as any bonds, notes or other obligations of the Agency are outstanding and unpaid, the Agency shall not dissolve and terminate.

(f) Promptly upon any Member withdrawing from the Agency, or upon action having been taken to dissolve and terminate the Agency, that fact shall be certified by the Secretary of the Board to each of the Members.

Section 5.3. Disposition of Assets. Upon termination of this Agreement, title to all assets of the Agency upon its dissolution shall revert to the Members in proportion to their payment of fees and charges for use of the Solid Waste Management Facilities for the ten fiscal years immediately preceding such termination; provided, however, that the Board shall provide for the retention of assets or moneys sufficient, in the Board's sole judgment, to provide for the payment of any unsatisfied liabilities of the Agency. The Board is hereby authorized to take such actions as shall be necessary to effectuate the termination of the Agency and to dispose of the property of the Agency.

Section 5.4. Continuing Responsibility for Kennecott Indemnification. Each Member hereby agrees to pay its proportionate share of any liability of the Agency pursuant to the indemnification agreement dated December 14, 1993, to Kennecott Utah Copper Corporation, a Delaware corporation. The undertaking of each Member contained in the next preceding sentence shall, with respect to each Member, survive the withdrawal by such Member from the Agency or the dissolution and termination of the Agency.

Section 5.5. Nonprofit Status. The Agency shall be a nonprofit entity. Any net earnings of the Agency (other than those required to retire indebtedness of the Agency or to implement any program undertaken by it) will not inure to the benefit of any private person.

Section 5.6. Qualification and Admission of Members. (a) Any city in the State may be accepted into the Agency as a Member upon satisfaction of the requirements of this Section.

(b) The city council of a city that seeks to be accepted as a Member shall adopt and file with the Agency a resolution agreeing to membership in the Agency and accepting the terms and conditions of this Agreement. Thereafter, the Board shall consider the proposed membership and determine whether to accept or decline such request for membership. A city shall be accepted into the Agency as a Member upon a two-thirds favorable vote of the Board at a meeting thereof.

Section 5.13. Amendments to this Agreement. This Agreement may be amended only upon the approval of such amendment by a written resolution duly adopted by the governing body of each of the Members. No amendment shall be made which would in any way materially prejudice the rights of any parties to whom the Agency owes money.

Section 5.14. Governing Law; Determination. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Responsive to Section 11-13-12 of the Act, it is hereby determined that the provision by the Agency of the services and facilities authorized by this Agreement is authorized under applicable laws of the State of Utah.

DATE: December 5, 1995

MURRAY CITY

(Name of City)

By: 

Mayor

[SEAL]

ATTEST AND COUNTERSIGN:

By: 

City Recorder



Approved as to proper form and compatibility with the laws of the State of Utah, and duly authorized, executed and delivered by the Member.


Attorney for the City

DATE: December 5, 1995

DATE: January 5 1996
~~December~~, 1995



[SEAL]

Sandy City
(Name of City)
By: Tom DeLuna
Mayor

ATTEST AND COUNTERSIGN:

By: Quinn A. Culley
City Recorder

Approved as to proper form and compatibility with the laws of the State of Utah, and duly authorized, executed and delivered by the Member.

[Signature]
Attorney for the City

DATE: January 5
~~December~~, 1995

DATE: December 12th, 1995

Midvale City
(Name of City)

By: J. Donald Foulkes
Mayor

[SEAL]

ATTEST AND COUNTERSIGN:

By: Christeen G. Pratt
City Recorder

Approved as to proper form and compatibility with the laws of the State of Utah, and duly authorized, executed and delivered by the Member.

Martin S. G.
Attorney for the City

DATE: December 12, 1995

DATE: December 19, 1995



[SEAL]

CITY OF WEST JORDAN
(Name of City)

By: [Signature]
Mayor

ATTEST AND COUNTERSIGN:

By: Reri L. Anderson
City Recorder

Approved as to proper form and compatibility with the laws of the State of Utah, and duly authorized, executed and delivered by the Member.

[Signature]
Attorney for the City

DATE: December 22, 1995