

INTERLOCAL AGREEMENT BETWEEN CACHE COUNTY AND WEBER COUNTY FOR SERVICES IN THE POWDER MOUNTAIN AREA

This agreement is made and entered into pursuant to Title 11, Chapter 13 of the Utah Code, the Interlocal Cooperation Act, by and between Weber County and Cache County, each of which is a political subdivision of the State of Utah.

WHEREAS, the Interlocal Cooperation Act permits local governments to make the most efficient use of their powers by enabling them to cooperate with other governmental units; and

WHEREAS, the Powder Mountain resort, together with its associated developments, is largely located in Weber County, but some of it is located in Cache County; and

WHEREAS, Weber County and Cache County acknowledge Powder Mountain and its associated developments as a world class ski resort area that straddles both counties in a way that brings significant benefit to both counties, not only through increased tax revenues but also by supporting recreation and employment; and

WHEREAS, the two counties desire to facilitate the orderly, efficient, cohesive development of the Powder Mountain area by preventing the resort and its associated developers from being subject to two separate sets of ordinances, processes, and standards; and

WHEREAS, in this agreement, the property described and depicted in Exhibit A, which is owned by Powder Mountain and its associated developments and is located in Cache County, is referred to as “the Development”; and

WHEREAS, Cache County reviewed the Powder Mountain Master Plan conditional use permit from October 2024 through December 2025 and concluded its extensive review with the issuance of an approval and documentation supporting the master planned development of the area within the Development by issuing the Cache County Powder Mountain Master Plan conditional use permit (MPCUP) and Cache County declares that the conditions of the MPCUP are met in full following the execution of this agreement; and

WHEREAS, for the foreseeable future, the Development will continue to be accessed solely through Weber County, and because of this the two counties agree that it would be inefficient and ineffective for services requiring physical presence to be provided by Cache County; and

WHEREAS, the purpose of this agreement is for Cache County to delegate to Weber County the authority to provide certain services for the Development, expressly including the processing of all land use applications that are consistent with and remain in compliance with the MPCUP for properties located within Cache County; provided, however, that if a land use application requests a zone change from the approved MPCUP, Weber County agrees to consult with and receive approval from the Cache County Administration regarding the requested change

prior to processing the zone change for property located within Cache County as set forth in this agreement; and

WHEREAS, the two counties have entered into previous interlocal agreements covering smaller portions of the Development, but they now desire to amend, replace, and supersede those previous agreements by incorporating those portions of the Development into this agreement, together with the rest of the Development; and

WHEREAS, the two counties have determined that it is mutually advantageous to each county to enter into this agreement, due to the public benefits served by increased efficiency, lower costs, and economic development; and

NOW THEREFORE, in consideration of the promises stated below, and pursuant to the provisions of the Interlocal Cooperation Act, the parties hereby agree as follows:

I. AREA COVERED BY THIS AGREEMENT

1. The Development is more particularly described and depicted in Exhibit A.
2. This agreement covers the entire Development, including those areas that were the subject of the following interlocal agreements between the two counties:
 - a. A 2013 Interlocal Agreement, recorded on May 28, 2013, as Entry #2637681 in the Weber County Recorder's Office.
 - b. A 2015 First Amendment to Interlocal Agreement, recorded on June 2, 2015, as Entry #2738797 in the Weber County Recorder's Office.
3. The area covered by this agreement may be expanded without the need for an amended agreement. The parties hereby delegate authority to their administrators for this agreement (listed in a later section) to add additional property subject to this agreement, as follows:
 - a. If Powder Mountain or one of its affiliates acquires additional property in Cache County that it seeks to develop, and if that property is adjacent to property that is already subject to this agreement, then the two counties' administrators for this agreement may incorporate the additional property into this agreement. Both administrators must agree to take the action; if either county, in its discretion, declines to approve the addition, the property shall not be added. Adding the property shall be accomplished by both administrators signing a document that describes the additional property and states that it is being incorporated into this agreement, and then by ensuring that the document gets recorded to all parcels subject to this agreement.
 - b. The two counties do not intend for the administrators' actions in adding property subject to this agreement to constitute a legislative decision or legislative act; rather, the two counties express their current intent, through this agreement, to add

qualified property to the agreement in the future as described above, and their intent is that the administrators' actions described above be characterized as administrative acts in furtherance of the intent of this agreement.

- c. The addition of property to this agreement shall not increase the total density approved under the MPCUP. Property added to this agreement may use or receive an allocation of density already approved under the MPCUP. Any increase or other change to the total approved density must be approved by both counties through a written amendment to this agreement signed by both parties. Cache County shall be solely responsible for following required processes to grant the additional density, including amending any other agreements, permits, or approvals. Cache County's signature on an amendment to this agreement represents that it has followed all required land use laws and that Weber County is authorized to approve the additional density.

II. PREVIOUS INTERLOCAL AGREEMENTS AMENDED AND SUPERSEDED

1. The previous interlocal agreements described in section I above are hereby amended and superseded by this agreement. The parties intend that this agreement fully replaces and supersedes those agreements, such that they have no further independent effect or validity.

III. SERVICES PROVIDED BY WEBER COUNTY

1. Cache County authorizes Weber County to provide, and Weber County agrees to provide, the following services to the Development, subject to the provisions of this agreement and pursuant to all applicable laws and Weber County ordinances:
 - a. Land use authority.
 - i. Weber County shall act as the land use authority for the Development, including but not limited to subdivision review and approval, site plan approval, and any other land use oversight or permitting required for construction and development within the Development.
 - ii. Cache County affirms that construction may proceed on any portion of the Development without further subdivision in Cache County, and Weber County shall allow construction to proceed on that portion before going through a subdivision process. However, that portion must be subdivided before any part of it may be conveyed.
 - iii. In the event a land use application seeks to change the zone of the Development or to make a Major Change to the MPCUP as defined in that document, then the two counties' administrators for this agreement shall confer and may incorporate the requested change if it is an administrative

item. In the event it is a legislative action, that request shall be taken to Cache County for consideration and action.

- iv. All development agreements related to development and construction activities approved prior to the Effective Date of this agreement in Cache County shall be honored by Weber County, as applicable. Weber County shall apply to the Development the uses and standards of the approved MPCUP. If a standard is not addressed in the aforementioned documents, the DRR-1 Zone that applies to the Powder Mountain area in Weber County shall be applied.
- b. Building permits and inspections.
 - i. Weber County shall provide all Building Division services including but not limited to reviewing all plans, issuing building permits, and conducting inspections for and on the Development.
- c. Engineering.
 - i. Weber County shall provide Engineering Division services during the development review and approval process, including reviewing private stormwater infrastructure plans.
- d. Business licensing.
 - i. Weber County shall provide business licensing services to the Development.
- e. Surveying.
 - i. Weber County shall provide surveying services, as part of the subdivision review and approval process. All platting and development-related survey work shall be approved by Weber County.
- f. Installation, maintenance, and ownership of infrastructure.
 - i. There is no public infrastructure in the Development. All infrastructure shall be installed and maintained at the sole cost of the Development and shall remain in private ownership, including, but not limited to, roads and storm water infrastructure. Water, sewer, and fire infrastructure remain under the purview of the respective entities that have legal authority to provide those services.

g. Addressing.

- i. Weber County shall have authority to assign and approve addresses for all property within the Development. Weber County may develop and use an addressing grid or other system as necessary to provide consistent addressing throughout the Development. Weber County shall provide Cache County with addressing information for property located in Cache County as addresses are assigned or changed. Cache County shall recognize and use the addresses assigned by Weber County.

h. Access to Records.

- i. Cache County shall provide Weber County employees, without charge, electronic access to Cache County records reasonably necessary for Weber County to perform services under this agreement, including applicable Recorder, Surveyor, and Assessor records.
- ii. Where available, Cache County shall provide direct electronic access or an automatic login that allows Weber County employees to obtain these records without traveling to Cache County. If direct electronic access is not available, Cache County shall provide requested records electronically as soon as reasonably practicable and in a manner that does not unnecessarily delay Weber County's review or processing of an application.

i. Recording.

- i. Any plat that includes property located in both Weber County and Cache County shall be recorded in both counties. Powder Mountain shall be responsible for submitting the approved plat for recording in each county and paying all applicable recording fees.
- ii. Weber County's approval of a plat shall constitute the required land use, subdivision, and survey approval for the portion of the plat located in Cache County. Upon receipt of a plat approved by Weber County that satisfies all legal requirements for recording, Cache County shall accept and promptly record the plat. Cache County shall not require additional land use, subdivision, or survey review or approval, or require any edit, modification, or change to a Weber County-approved plat, provided the plat satisfies all legal requirements for recording.
- iii. Powder Mountain shall be responsible for paying Cache County any recording fee allowed by applicable law.
- iv. Cache County shall not charge a fee for a service for which a fee has already been paid to Weber County as part of the land use review and

approval process and shall not impose a duplicate fee for a service performed by Weber County under this agreement.

- j. Public Notices to Cache County Residents
 - i. For land use applications concerning MPCUP property located in Cache County that require public notice under Utah State law or Weber County ordinance, the Weber County Planning Division shall provide notice to Cache County Development Services a minimum of two weeks in advance of the date on which the public meeting is scheduled to occur. For a public hearing, Weber County shall contact Cache County three weeks in advance, to allow time to send physical notices to surrounding properties. The notice to Cache County shall include the date, time and place of the public meeting.
 - ii. Cache County shall be solely responsible for providing notice to Cache County Residents, including posting the notice through Cache County's website, public notice platforms, or other mechanisms Cache County customarily uses. Weber County's delivery of notice to Cache County shall fully satisfy Weber County's obligation under this subsection III.1.j.
 - iii. This subsection III.1.j. is intended to facilitate compliance with state laws and county ordinances requiring public notice. The parties acknowledge that fulfilling statutory public notice requirements is a shared obligation; Weber County shall timely deliver accurate meeting and hearing details to Cache County, and Cache County shall execute the localized posting and mailing of those notices to Cache County residents in accordance with State law. If either party complies with the law but fails to comply with an added requirement in this subsection III.1.j., it will not constitute a material breach of this agreement or a forfeiture of an application approval; instead, the parties will work together to determine the appropriate action.
 - iv. Unless otherwise provided by state law, failure to follow the notice requirements of this subsection III.1.j. shall not invalidate any action taken by Weber County pursuant to this agreement, nor shall it create a cause of action or provide standing for any person to challenge the validity of any action taken pursuant to this agreement.
- 2. Weber County shall have no responsibility for services not listed in this agreement. However, without amending this agreement, the two counties may mutually consent to Weber County providing additional services.
- 3. Weber County shall provide the listed services at a level that is roughly equivalent to the level of service that is provided for similarly situated unincorporated areas of Weber County, subject to the following:

- a. Weber County retains the same discretion regarding the provision of its services in the Development as it has regarding such services in unincorporated areas of Weber County. Just as Weber County may choose, at times, not to perform certain services in unincorporated areas of Weber County, or to perform other higher priority services first, the County may make those same decisions for the listed services in the Development;
 - b. Weber County may make adjustments to the level of service based on objectively different conditions.
4. At the request of Cache County, and not more than once each calendar quarter, Weber County shall report to the designated Cache County representative/department the number of development approvals given since the previous report, along with any other information that the parties agree should be reported. The report must include the number of equivalent density units approved. As a condition of approval for the MPCUP, the developer is required to report the number of equivalent unit densities for each subdivision and development plan application as well as the cumulative number of density units previously approved/platted. The total density equivalent units approved as part of the Cache County Master Plan is 977.75 units as broken down into specific use types and calculations based on square-footage per Chapter 17.14 Resort Recreation (RR) Zone of the Cache County Code. The MPCUP is attached as Exhibit B.
5. Cache County shall not have any veto power over Weber County's decisions related to the services provided pursuant to this agreement.
6. Cache County shall have no obligation to pay Weber County for services provided under this agreement. However, the parties intend that Weber County shall not be required to subsidize these services. Therefore, Powder Mountain shall be responsible for paying all fees established by Weber County that reasonably reflect the actual time, cost and resources required for services provided under this agreement. Weber County may review and adjust the applicable fees from time to time as it deems necessary. Weber County shall have no obligation to accept new applications or to give final approval to existing applications already in process, involving property in Cache County, until the fee structure is established by agreement with Powder Mountain and recorded in Weber County.

IV. PERIOD OF AGREEMENT

1. This agreement shall become effective upon (a) its approval and execution by each party; and (b) the filing of an executed copy of this agreement with the keeper of records of each party.
2. Unless sooner terminated as provided for herein, this agreement shall be in effect through December 31, 2046.

3. Termination.

- a. Either party may terminate this agreement at any time, for any reason, by giving twelve months advance written notice before the termination takes effect.
- b. By mutual agreement, the parties may choose to modify or waive specific portions of this agreement during the time between the date of notice and the date the termination becomes effective. The parties' administrators for this agreement have the administrative authority to make the modifications or waivers described in this paragraph.

V. EQUIPMENT AND LABOR

Weber County shall furnish all necessary labor, supervision, and equipment reasonably necessary to provide the services specified herein.

VI. APPEAL PROCEDURE

Appeals of Weber County's decisions related to the services provided pursuant to this agreement shall be handled through Weber County's appeal process, following Weber County's ordinances and state law.

VII. EMPLOYMENT STATUS

For the purpose of performing all the services pursuant to this agreement, Weber County employees shall continue to be considered Weber County employees and not employees of Cache County.

VIII. INDEMNIFICATION AND LIABILITY

Each party retains all protections provided by the Governmental Immunity Act of Utah, and none of the provisions of that act is waived by either party. This agreement does not create any indemnification obligation for either party.

IX. MISCELLANEOUS

1. Amendments. Except as otherwise stated herein, this agreement may only be amended by a written amendment approved and signed by all parties in the manner provided by law.
2. Authorization. The individuals signing this agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully enabled to sign this agreement on behalf of the parties.

3. Filing of Agreement. An executed counterpart of this agreement shall be promptly filed with the keeper of the records of each of the parties.
4. Governing Law. This agreement shall be governed by and construed in accordance with the applicable laws of the United States and the State of Utah.
5. No Third Party Beneficiaries. This agreement is not intended to benefit any party or person not named as a party specifically herein, or which does not later become a signatory hereto as provided herein.
6. Additional Interlocal Cooperation Act Provisions
 - a. This agreement establishes a cooperative undertaking, but not a joint venture, between the parties. Except as specifically provided in this agreement, neither party shall serve as the legal representative or agent of the other party for any purpose; neither party shall have power to assume or create, in writing or otherwise, any obligation or responsibility of any kind, express or implied, in the name of or on behalf of the other party; and neither party shall have any obligation with respect to the other party's debts or other liabilities.
 - b. This agreement does not create an interlocal entity, and the parties do not intend to acquire any joint property as a result of entering into this agreement.
 - c. Each party will be responsible for maintaining its own financial budget for its participation in this agreement. There will be no joint budget.
 - d. Each party to this agreement shall determine whether a resolution of approval by the legislative body of the party is necessary under Utah Code Section 11-13-202.5. If not, this agreement may be approved and executed as an executive function and the adoption of a resolution of approval is not required. Otherwise, the party shall approve this agreement through the adoption of a resolution.
 - e. In accordance with the provisions of Utah Code Section 11-13-202.5(3), this agreement shall be submitted to the attorney authorized to represent each party for review as to proper form and compliance with applicable law before this agreement may take effect.
 - f. To comply with Utah Code Sections 11-13-206 and 11-13-207, Cache County appoints its Development Services Director as its administrator for all matters relating to its participation in this agreement. Weber County appoints its Community Development Director as its administrator for all matters relating to its participation in this agreement. A party may change the designation of its administrator by providing written notice to the other party. To the extent that any joint administration of this agreement becomes necessary, the parties' administrators named above, or their designees or successors, shall constitute a joint board for this purpose, and each party shall have an equal vote in any

decision. However, unless otherwise specified in this agreement, each party shall have full authority to act on its own, without coordination with the other party, in fulfilling its own independent obligations under this agreement.

- g. Promptly after execution of this agreement by the parties, each party shall publish notice regarding this agreement pursuant to Utah Code Section 11-13-219.
 - h. Promptly after execution of this agreement by the parties, each party shall file a duly executed copy of this agreement with that party's keeper of records, pursuant to Utah Code Section 11-13-209.
7. Severability. If any provision of this agreement is held to be invalid or unenforceable by a court of proper jurisdiction, the remaining provisions shall remain in full force and effect, unless the invalidation of the provision materially alters this agreement. If the invalidation of the provision materially alters the agreement, the parties shall negotiate in good faith to modify the agreement to match, as closely as possible, the original intent of the parties.
8. Assignment. Neither party may assign or transfer its rights or obligations under this agreement without the prior written consent of the other party.
9. Notice. All formal notices, requests, and other communications pursuant to this agreement shall be made in writing and delivered to the administrator named above by email, by certified mail with return receipt requested, or by hand delivery. Initially, the following contact information shall be used, but either party may change the contact information for notice by giving written notice of the change to the other party.

For Weber County:

Sean Wilkinson
Community Development Director
2380 Washington Blvd., Ste. 250
Ogden, UT 84401
swilkinson@webercountyutah.gov

For Cache County:

Brian Abbott
Development Services Director
179 N Main St Ste 305
Logan UT 84321
brian.abbott@cachecounty.gov

10. Entire Agreement. This agreement shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof.

11. Counterparts. This agreement may be executed in multiple counterparts, all of which together shall constitute a single instrument.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this agreement.

CACHE COUNTY

BY: _____ DATED: _____
Printed Name:
Title:

Approved: _____
County Attorney

WEBER COUNTY

BY: _____ DATED: _____
Gage Froerer
County Commission Chair

Attest: _____ DATED: _____
Ricky Hatch, CPA
Weber County Clerk/Auditor

Approved: _____
Deputy County Attorney