

SALT LAKE COUNTY

WASATCH FRONT WASTE AND RECYCLING DISTRICT

RESOLUTION NO. 5100 July 12, 2016

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL AMENDING RESOLUTION 4670, ADOPTED NOVEMBER 20, 2012, UPDATING THE MEMBERSHIP OF THE DISTRICT BOARD TO REFLECT THE IMPENDING INCORPORATION OF SEVERAL NEW MUNICIPALITIES; UPDATING SERVICE AVAILABILITY; UPDATING THE PROCESS RELATED TO IMPOSING SERVICE FEES; AND MAKING OTHER TECHNICAL CHANGES.

BE IT KNOWN AND REMEMBERED:

THAT, the County Council of Salt Lake County, State of Utah, met in regular session of the Council on the 12th day of July, 2016.

WITNESS:

WHEREAS, the County Commission of Salt Lake County on January 19, 1977, established a special service district known as Salt Lake County Special Service District No. 1 ("Sanitation District") for the provision of garbage collection services in the unincorporated area of Salt Lake County; and

WHEREAS, the Salt Lake County Council on November 10, 2009, established an Administrative Control Board to govern the Sanitation District and appoint the members representing both Salt Lake County and the municipalities served by the Sanitation District; and

WHEREAS, on November 20, 2012, the County Council adopted Resolution No. 4670, attached hereto as Exhibit A, by which it delegated to the Administrative Control Board full governance of the functions and activities of the Sanitation District to the extent allowed by law; to provide that Sanitation District employees will no longer be employees of Salt Lake County, and

that Sanitation District activities, operations and administration be the sole responsibility of the Sanitation District and the Administrative Control Board; and

WHEREAS, the Salt Lake County Council has found that it is in the best interests of the citizens of Salt Lake County, the municipalities which are included in the Sanitation District boundaries, and those property owners receiving services to make the Sanitation District independent from Salt Lake County to the extent allowed by law; and

WHEREAS, the Council desires to change the composition of the Administrative Control Board to recognize the impending incorporation of, and to provide representation on, the Board for Millcreek City, Copperton Metro Township, Emigration Canyon Metro Township, Kearns Metro Township, Magna Metro Township, and White City Metro Township, all of which will be incorporated municipalities as of January 1, 2017; and

WHEREAS, the Council desires to make changes to allow for the more efficient delivery of services to the citizens of the District and to make other technical changes to conform with state law and the efficient delivery of services; and

WHEREAS, it is the intent of the Council to amend Resolution No. 4670 to make the changes as set forth herein.

RESOLUTION:

NOW, THEREFORE, BE IT RESOLVED, the County Council of Salt Lake County, Utah, hereby adopts this Resolution with the amendments herein to be effective as of January 1, 2017, governing the powers, activities and responsibilities of the Sanitation District and providing for its independence from Salt Lake County as the Wasatch Front Waste and Recycling District (“District”).

1. **INDEPENDENT DISTRICT—PRIOR RESOLUTIONS—NAME—LEGAL POWERS AND DUTIES.**

A. This Resolution updates, incorporates and supersedes any and all previous Salt Lake County Commission or Salt Lake County Council resolutions regarding the creation, powers or functions of the District and formally re-implements and re-creates the District as fully independent of Salt Lake County, especially regarding employees, administrative services and assets, to the extent allowed by law. The following Salt Lake County Resolutions are specifically incorporated into and superseded by this amended Resolution:

Resolution No. 399, January 19, 1977;

Resolution No. 1, August 1, 1977;

Resolution No. 1-96, September 30, 1996

Resolution No. 03-01, March 18, 2003;

Resolution No. 09-2, October 13, 2009;

Resolution No. 4345, November 10, 2009;

Resolution No. 4347, August 23, 2010; and

Resolution No. 4670, November 20, 2012.

B. Based on the foregoing, the effective dates of the creation and governance of the District are as follows, the District is considered created on January 19, 1977; the District's Administrative Control Board is considered created effective January 1, 2010; and the District's complete independence and separation from Salt Lake County government is considered effective January 1, 2013.

C. The District shall be named the "Wasatch Front Waste and Recycling District."

D. The District shall exercise and be subject to all the rights, powers, duties, governance and responsibilities of a special service district under the provisions of Utah Code Ann. § 17D-1-

101, *et seq.* and the Utah Constitution, Art. XI, sec. 7, and subject to those powers and limitations set out in state law.

2. DEFINITIONS.

A. "District" shall mean the Wasatch Front Waste and Recycling District and, as appropriate, shall also refer to the area served and the officers, employees and agents of the District. "Sanitation District" shall mean Salt Lake County Special District No. 1 (Sanitation).

B. "County" shall mean Salt Lake County, Utah, including its various departments, divisions, agencies, and employees.

C. "Board" shall mean the Administrative Control Board of the District.

D. "Garbage" shall mean all waste, trash and other objects or substances ordinarily or usually discarded by persons at private residential (as distinguished from commercial, manufacturing or industrial) property or dwelling units, excluding sewage and animal or human body wastes. The term includes any manner of rubbish, junk, rubble, offal, refuse, and trash, as such words are commonly defined.

E. "Recyclable" and "Reusable" materials shall mean all discarded materials by person at private residential (as distinguished from commercial, manufacturing or industrial) property or dwelling units, excluding garbage. The term includes any manner of paper, cardboard, plastic, glass, metals, trees, and lawn and shrub trimmings.

F. "Property Unit" shall mean a residential, single family dwelling, each separate dwelling of a duplex, triplex or fourplex and each separate apartment house or complex, up to and including four apartments, and including upstairs, basement, garage or detached apartment or housing unit; and shall exclude commercial, manufacturing or industrial property used for those purposes. Any exceptions are defined in section 4. D and E of this resolution.

G. "Person" shall mean and include individuals, companies, firms, corporations, associations or combinations thereof.

**3. ADMINISTRATIVE CONTROL BOARD—GENERAL POWERS—
APPOINTMENT—BYLAWS.**

A. The District shall be governed by an Administrative Control Board ("Board") for the governance of the District, appointed as specified in Utah Code Title § 17D, Chapter 1, Part 3, initially consisting of nine members as follows. The County Council shall appoint up to two elected officials, unless applicable state law requires otherwise. One municipal elected official shall be appointed from each municipality located in whole or in part within the District whose citizens receive basic services from the District, each appointed by the legislative body of the respective municipality. Appointments shall be made in writing and filed with the Clerk of the Board. The Clerk of the Board shall administer oaths of office to board members and maintain records of those oaths.

B. The Salt Lake County Council hereby delegates to the Board, to the extent authorized by statute, the legal authority to exercise any right, power, or authority that the Salt Lake County Council possesses with respect to the governance of the District. The Board may make rules and regulations governing the administration, management and operations of the District's garbage and recycling collections, transportation and processing services. The Salt Lake County Council retains only those legal powers and duties specifically set out in state statute as retained by the County.

C. The qualifications, terms of office, specific Board member powers and responsibilities shall be as provided by state law and the provisions of this Resolution. The Board shall adopt rules and regulations governing its internal activities and rules of procedure, including

quorum requirements, the appointment of a chair and a vice chair, meeting locations and times, meeting procedures and electronic meetings, and such other matters as necessary to the efficient conduct of its activities.

D. The Board shall have and exercise all governing authority regarding the operations of the District and shall adopt such rules, regulations and policies as are necessary, from time to time, to most efficiently manage the District and its operations.

E. The Board shall be responsible to provide for the fiscal and budgetary management of the District, by the appropriate adoption of necessary rules, regulations and policies approved by the Board. The Board is further responsible for adopting the District's annual budget.

F. The Director of the District shall serve as the executive director to the Board and in that capacity shall prepare and provide notice of the Board meeting agendas, ensure compliance with the Open Meetings Act, attend all Board meetings in a non-voting capacity, and shall appoint competent staff to serve as clerk to the Board and to the District.

G. The Board shall make recommendations, as may be necessary from time to time to Salt Lake County and to any municipality which receives District services, regarding the adoption of county and city ordinances which govern and direct garbage and recycling collections and processing services within the municipality or the unincorporated portions of Salt Lake County.

4. SERVICES.

A. The District shall provide garbage and recycling collection, transportation and processing services for all persons owning property units within the geographic boundaries of the District and may provide services outside the geographic boundaries of the District with the consent of the Board and the entity that otherwise would provide those services, as reflected in a written contract or other authorization. The Board shall adopt necessary rules, regulations and policies regarding specific services. The District may provide services regarding garbage collection,

transportation and processing, recycling, temporary trailer services, area clean-up, green waste , and other related services as are currently provided or which may be provided in the future, pursuant to the rules, regulations and policies adopted by the Board.

B. The Board may adopt rules, regulations and policies, as appears appropriate, regarding the establishment of collection routes, the frequency of garbage and recycling pick-up services, standards for containers, location requirements for containers, regulations regarding entry into private roads or other private property and such other specific requirements and procedures as appears necessary.

C. The Salt Lake County Council specifically empowers and encourages the Board to adopt the necessary rules, regulations and policies regarding recycling, green waste processing, and other waste management systems and practices calculated to protect the Salt Lake County environment, appropriately process recyclable materials, and reduce reliance on the Salt Lake County landfill.

D. Services may be provided to planned unit developments, condominiums, commercial and industrial properties upon request and pursuant to rules regulations and policies as adopted by the Board.

E. Services may also be provided to facilities owned and operated by municipalities located within or outside the District, at the request of the municipal governing body and as approved by the Board.

5. AREA.

A. The District shall include and provide services to all of the geographic territory and areas of Salt Lake County which were not located within an incorporated municipality when the District was created, excepting areas that subsequently have withdrawn or in the future may withdraw from the District pursuant to the requirements of applicable state law, and including any

incorporated areas that may annex into the District, also pursuant to applicable law. Services shall also be provided in portions of incorporated municipalities which are, pursuant to state statute, retained within District boundaries. An accurate representation of all District boundaries shall be available as a map maintained by the District.

B. District boundaries may be enlarged or reduced pursuant to the provisions of state statute, based upon the Board's statutory authority to approve such changes.

6. **FEE PAYMENTS—COLLECTIONS—ABATEMENTS.**

A. The District shall support garbage collection, transportation and disposal services and the functions related thereto by imposing annual or other periodic service charges or fees upon those who receive the services. The annual service charge amount and other provisions regarding fees and their collection may be altered or changed from time to time as may be in the best interest of the public and the District, as the management and operations of the District may require, and as provided in rules, regulations and policies adopted by the Board. The District provides "basic services" that all District residents are expected to receive as follows: curbside waste and recycling, area cleanup, curbside Christmas tree collection, central collection for glass and leaves, and landfill vouchers. The District also provides "subscription services," such as curbside glass collection, for which only voluntarily subscribing customers are charged and also imposes administrative fees, late/delinquent fees, non-residential fees and rental cans/trailer fees that are not fees for basic services (collectively "subscription and other fees"). The Board may establish subscription and other fees from time-to-time in accordance with applicable requirements of state law, but otherwise in the discretion of the Board. Basic service charges shall be set by the Board and, depending upon timing, public hearings regarding service charges may be held in conjunction with the adoption of the District's annual budget or as otherwise approved by the Board, all as required by applicable state law. An increase in a basic service charge will not be effective until it has been authorized by a

majority of the governing bodies that have representation on the Board as reflected in letters, minutes, or other written confirmation of the approval.

B. There is hereby levied and imposed upon the owners of all property units serviced in accordance with the provisions of this Resolution, an annual service charge for each such property unit. The owner or owners of the property units serviced pursuant to this Resolution are responsible for payment of the service charges levied and imposed by the District. If any property unit is located on an established and designated garbage collection route, the property owner of that property unit is lawfully required to pay the annual service charge without regard to whether such owner uses or avails himself of the services of the District.

C. The District shall arrange for billing of the annual service charge either through providing such services internally or by contract with third parties or as otherwise provided for by law. Past due fees shall be collected consistent with and pursuant to applicable laws.

D. Persons subject to the District's annual service fee who meet the criteria for Indigent or Hardship deferral or abatement of property taxes due, established by Utah Code 59-2-1107 to 1109 or pursuant to criteria adopted by Salt Lake County under Utah Code 59-2-1347, shall be granted a fee reduction of the annual service fee and/or a deferral of such payment in the same manner and pursuant to the same policies applying to the collection of property taxes. A person requesting reduction or deferral shall file an application with Salt Lake County as provided for general property tax relief, and such applicants shall qualify for annual service fee relief by the same standards that are applicable to general property taxes and in accordance to any rules, regulations or policies adopted by the Board.

E. Persons subject to the District's annual fee may notify the District of any errors in billing. The District will review any reports and determine if any abatement or reduction of future

fees is appropriate based on the District's error. All abatements or reductions will be processed by the District and approved by the Board.

7. FISCAL PROCEDURES—BUDGET.

A. The Board shall be responsible for the direction and oversight of the fiscal management of the District and shall adopt rules, regulations and policies governing fiscal, accounting, auditing and budgeting matters. The District shall comply with all applicable state statutes, including Fiscal Procedures for Local Districts, Utah Code Ann. § 17B-1-601, *et seq.*

B. The District's initial fiscal year shall be January 1 to December 31. The Board may make any adjustment in the fiscal year as determined by the Board to be in the best interest of the District and its customers and as allowed by applicable state law. The District, under the direction of the Board, shall adopt an annual budget and see to it that an annual independent audit is performed, as provided by state statute.

8. PERSONNEL—TRANSITION PROCESS—MERIT SYSTEM.

A. The initial employees of the District, beginning on January 1, 2013, shall be those former employees of Salt Lake County, in its Sanitation Division, who choose to transition their employment from the County to the District in accordance with this section. All employees of Salt Lake County's Sanitation Division, being employed and in good standing on December 31, 2012, shall be reduced in force from Salt Lake County employment, in accordance with the personnel policies and procedures of Salt Lake County. Those employees shall be offered equivalent employment status with the District beginning at 12:01 a.m., January 1, 2013. Employment shall be offered by the District to the employees at the same level of salaries and benefits, the same seniority, and working in the same job description as they had as Salt Lake County employees. The District shall maintain these employees' status, employment, job description and seniority until July

1, 2013, with the exception of any change in status resulting from bona fide personnel or disciplinary action. Any Salt Lake County employee choosing not to accept employment with the District shall be accorded the procedures and protections of the County reduction-in-force personnel policy.

B. The District, through rules, regulations and policies adopted by the Board, shall operate under a merit system, based on the requirements and provisions of Utah Code Ann. 17B-1-801, *et seq.* Provisions regarding employment status, salary and benefits, hiring process, discipline, and all other matters related to District employment status and a merit system shall be based on personnel policies adopted by the Board in accordance with recommendations made by the District director.

C. The executive staff of the District shall include a District Director and a fiscal manager. The District Director shall be appointed and retained by a majority vote of the Board. Excepting the District Director, the executive staff shall be merit employees until their status is affirmatively changed by the Board's direction. The District Director shall serve as the executive director to the Board and as the manager and administrator of all district services, administration, and operations.

9. TRANSFER OF BUILDINGS, ASSETS, LIABILITIES AND FUNDS.

The transfer of assets, liabilities and funds from Salt Lake County to the District shall be in accordance with the provisions and timelines set out in Exhibit A attached to Resolution No. 4670. The transfer of oversight and responsibility for real estate and buildings, including the repayment of a bond for the construction of the District's administrative offices, as well as contracts, leases or other transfers regarding other buildings or interests in real estate shall be arranged and approved in accordance with appropriate interlocal agreements between Salt Lake County and the District.

10. ADMINISTRATIVE SERVICES.

The District shall arrange for the provision of its administrative and support services, including purchasing, human resources, risk management, legal, information services and similar services as needed and either through providing such services internally or by contract with third parties or with Salt Lake County.

11. MISCELLANEOUS PROVISIONS.

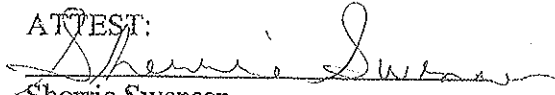
A. The provisions of this Resolution shall be applied and interpreted to grant the greatest flexibility and autonomy to the Board, regarding the management and operations of the District, as is permitted by state law. This Resolution should, therefore, be interpreted and applied in such a way as will maximize the flexibility and autonomy of the Board and the independence of the District.

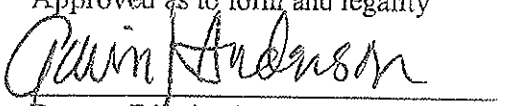
B. If any provision, section or paragraph of this Resolution is found by a court of competent jurisdiction to be unlawful or unconstitutional, such finding shall not affect the other provisions and sections hereof.

C. Salt Lake County Council, through this Resolution, directs and requests that the County Mayor and all county officers, employees and agencies cooperate and work towards the quick and effective accomplishment of the ends of this Resolution, that is the independence and autonomy of the District, and do all that is lawfully within their power to effect the goals of this Resolution.

APPROVED AND ADOPTED in Salt Lake City, Salt Lake County, Utah this 12th day
of July, 2016.

By: 
Max Burdick, Council Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

Approved as to form and legality

Deputy District Attorney
Date: 12 MAY 2016

VOTING:

- | | |
|---------------------------------|--------------|
| Council Member Bradley voting | <u>"Aye"</u> |
| Council Member Bradshaw voting | <u>"Aye"</u> |
| Council Member Burdick voting | <u>"Aye"</u> |
| Council Member DeBry voting | <u>"Aye"</u> |
| Council Member Granato voting | <u>"Aye"</u> |
| Council Member Jensen voting | <u>"Aye"</u> |
| Council Member Newton voting | <u>"Aye"</u> |
| Council Member Snelgrove voting | <u>"Aye"</u> |
| Council Member Wilson voting | <u>"Aye"</u> |