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*Attorneys for Plaintiff*

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**IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, STATE OF UTAH**

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SALT LAKE CITY CORPORATION, a  
political subdivision existing under the laws  
of the State of Utah,

Plaintiff,

v.

UTAH INLAND PORT AUTHORITY, a  
political subdivision existing under the laws  
of the State of Utah; DEREK MILLER, Chair  
of the Board, in his official capacity; and  
GARY R. HERBERT, Governor of the State  
of Utah, in his official capacity,

Defendants.

**COMPLAINT  
(Tier 2)**

Case No. 190902057

Judge Su Chon

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Plaintiff Salt Lake City Corporation ("Plaintiff") hereby complains against the Utah Inland Port Authority, Derek Miller, and Gary R. Herbert, and alleges as follows:

**PARTIES**

1. Plaintiff Salt Lake City Corporation is a political subdivision, duly organized and existing under the laws of the State of Utah.

2. Defendant the Utah Inland Port Authority is a political subdivision created pursuant to the Utah Inland Port Authority Act.

3. Defendant Derek Miller is the Chair of the Board of Utah Inland Port Authority Act, acting in his official capacity.

4. Defendant Gary R. Herbert is the Governor of the State of Utah, acting in his official capacity.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to Utah Code § 78A-5-102(1).

6. Venue properly lies in this Court pursuant to Utah Code § 78B-3-307.

### **FACTUAL ALLEGATIONS**

#### **A. The State Decides to Relocate the Utah State Prison to the Northwest Quadrant.**

7. In 2015, a decision was made by the State of Utah to relocate the Utah State Prison from its current location in Salt Lake County to an area within Salt Lake City referred to by the City as the Northwest Quadrant.

8. The Northwest Quadrant is approximately 28,000 acres of largely undeveloped land that lies to the west of the Salt Lake City International Airport and to the north and south of Interstate 80 (“I-80”).

9. Pursuant to the State’s decision to relocate the prison to the Northwest Quadrant, the State’s Division of Facilities Construction and Management (“DFCM”) approached the City to negotiate an agreement with the City regarding municipal services necessary for the construction of the new prison, including the construction and maintenance of streets and the supply of water and sewer to this currently unserved area of the City.

10. The City and DFCM executed an agreement in which DFCM agreed to construct all primary roads necessary to access the prison, and the water and sewer pipelines necessary to connect to the City's water and sewer networks and the City will provide all necessary services, including water, sewer, street lighting, road maintenance and police and fire protection.

11. Due to the location of the new prison site, the State's construction costs are high and costs to relocate the prison will likely exceed \$860 million.

**B. The City Executes Development Agreements with Property Owners to Facilitate Development of the Northwest Quadrant.**

12. In 2015 and 2016, property owners in the Northwest Quadrant north of I-80 began discussions with the City about developing currently undeveloped property in the Northwest Quadrant.

13. Specifically, Kennecott Utah Copper, LLC and NWQ, LLC (collectively, the "Northern Property Owners") own approximately 4,316 acres of property in the Northwest Quadrant and approached the City with the concept of developing an inland port on a portion of undeveloped land they currently own in the Northwest Quadrant.

14. The Northern Property Owners intend to construct a railyard facility which will facilitate transportation of goods from coast-to-coast and transfer goods from trains to trucks.

15. On January 9, 2018, the Redevelopment Agency of Salt Lake City ("RDA") created the Northwest Quadrant Community Reinvestment Project Area ("Northwest Quadrant CRA") that includes the Northern Property Owners' properties.

16. On January 31, 2018, the City and Northern Property Owners executed development agreements in order to facilitate the Northern Property Owners' intentions to develop their properties, including development of the inland port.

17. The Northern Property Owners' properties are within the City's M-2 zone.

18. The development agreements provide the Northern Property Owners vested rights in the City's existing land use ordinances as of the date of the agreements.

19. They also provide standard assurances that the City will supply water and sewer services, if the Northern Property Owners construct pipelines that connect their properties to the existing infrastructure and deed those pipelines to the City.

20. The development agreements also create a process in which the RDA committed to a process by which the Northern Property Owners may seek tax increment reimbursement for certain construction-related projects on their properties.

21. On February 20, 2018, the City Council adopted amendments to the M-2 zone, titled Global Trade Port in Manufacturing Zones Amendments, which are intended to further facilitate the development of an inland port.

**C. The City and State Discuss Adoption of Legislation to Support the Mutual Goal of Developing and Constructing an Inland Port.**

22. On February 1, 2018, Speaker of the House of Representatives Greg Hughes called a meeting with Salt Lake County ("County"), the City, property owners in the City's Northwest Quadrant, and other state legislators to announce that he intended to pursue legislation to govern and support the development of an inland port in the Northwest Quadrant.

23. On February 6, 2018, the Salt Lake City Council ("City Council") held a meeting to discuss Speaker Hughes' intent to pursue an inland port bill.

24. Speaker Hughes, Representative Francis Gibson, and Senator Jerry Stevenson attended the City Council meeting.

25. At the City Council meeting, the Council told the legislators that they supported the vision of developing an inland port in the Northwest Quadrant and that the City had already taken steps to facilitate the Northern Property Owners' development of their land for that purpose.

26. The City Council also told the legislators that they would support legislation that further facilitated economic development of the Northwest Quadrant and the mutual goal of developing an inland port, but only if the City retained authority to regulate land use and other core municipal functions.

27. Just under a week after this City Council meeting, representatives from the City, including the Mayor and the City Council Chair, met with Representative Francis Gibson and Senator Jerry Stevenson, to discuss the potential of an inland port bill.

28. The City again made clear that it supported the goal of developing an inland port in the Northwest Quadrant provided the legislation did not remove the City's land use authority or other core municipal functions.

29. Three days after this meeting, the Mayor, Council Chair and other City representatives met with Speaker Hughes, Representative Gibson, and Senator Stevenson to further discuss the proposed inland port bill.

30. The State representatives all stated they believed an inland port bill was necessary to provide certainty to property owners in the Northwest Quadrant and to ensure that all governmental stakeholders participated equally in the investment necessary to develop an inland port in the Northwest Quadrant.

31. The meeting concluded with Speaker Hughes and Senator Stevenson asking counsel for the Legislature and counsel for the City to work together on proposed language for an inland port bill.

32. Four days after that meeting, counsel for the City sent counsel for the Legislature an email outlining the City's proposed concepts for an inland port bill.

33. The City proposed a map of properties in the Northwest Quadrant that would be subject to the terms of the legislation, called "jurisdictional land".

34. The City proposed a board that would be composed of seven members, three members from the State of Utah, three from the City, and one from the County.

35. The proposed board would have specific tasks and duties with respect to the jurisdictional land, including being an administrative land use appeal authority for any of the City's land use decisions made with respect to property in the jurisdictional land.

36. The City emphasized the board's function as an administrative land use appeal must be subject to the standard of review, set forth in State statutes and City ordinances that govern all other City land use administrative appeals.

37. The following day representatives from the City, the State, and the Northern Property Owners met and discussed the terms proposed by the City.

**D. The State Proposes S.B. 234 that Usurps the City's Land Use Authority in the Northwest Quadrant and Interferes with Municipal Appropriation Authority.**

38. On February 26, 2018, the first version of S.B. 234, the Utah Inland Port Authority Act ("UIPA"), was released to the public.

39. The bill created an Inland Port Authority, referred to hereinafter as the "Authority."

40. The bill provided the Authority exclusive jurisdiction to exercise certain powers and duties with respect to approximately 22,000 acres of property in the Northwest Quadrant, all within the City's geographic boundaries, which it referred to as the jurisdictional land.

41. The bill proposed a nine member board to govern, manage and conduct the business affairs of the Authority, which would consist of four members appointed by the State, three members appointed by the City, and one member appointed by the County. (Referred to hereinafter as the "Board").

42. Among the powers and duties delegated to the Authority, through the Board, was the right to hear appeals from the City's administrative land use decisions for property located in the jurisdictional land.

43. The Board's review of City decisions was not subject to existing State law and City ordinances, which require a review of the correctness of the land use authority's decision under the applicable City ordinance.

44. Rather, the bill proposed a new standard that gives the Board the right to overturn the City's land use decision if the decision does not meet the Authority's "strategies, policies and objectives" for the Northwest Quadrant.

45. This initial bill also proposed the Board act as the appeal authority for any of the City's legislative land use decisions and that the Board may overturn the City's legislative land use decisions under this same new standard.

46. It also proposed allowing the Board to make a land use decision on behalf of the City, if the Board determined the City had unreasonably delayed the land use decision in a manner that substantially impeded, interfered with or impaired the development of the jurisdictional land.

47. Finally, the bill proposed the Authority receive 5% of the total annual amount of tax increment generated from the City's Northwest Quadrant CRA and any other project area the City's RDA subsequently created in the Northwest Quadrant.

**E. The City's Response to S.B. 234 and the 1<sup>st</sup> Substitute Bill.**

48. On February 28, 2018, the Salt Lake City Council held a special session to discuss the draft bill.

49. During the special session the Council expressed its concern that contrary to the City and State's discussions the proposed bill effectively usurped the City's land use authority and interfered with municipal funds.

50. The City Council indicated it continued to support passing legislation to facilitate development of an inland port in the Northwest Quadrant, but significant amendments were necessary for the City to support this bill.

51. Specifically, the City Council indicated that any proposed revisions to the bill must respect local authority.

52. After the City Council special session, Senator Stevenson proposed and the Senate accepted the first substitute to S.B. 234 ("1<sup>st</sup> Substitute bill").

53. The 1<sup>st</sup> Substitute bill reduced the boundaries of the jurisdictional land and made amendments to the Authority's land use authority.

54. It removed the Board's power to act as the appeal authority for legislative land use decisions and added a requirement for the City to consider the Authority's input on legislative land use decisions.



55. The 1<sup>st</sup> Substitute bill also removed the Board’s right to make land use decisions on behalf of the City, if it determined the City had unreasonably delayed the land use decision.

56. The 1<sup>st</sup> Substitute bill did not include any amendments to the standard of review for appeals from administrative land use decisions.

57. The Authority’s right to take 5% of the City’s tax increment in existing and new project areas also remained.

**F. City Representatives Testify Against the 1<sup>st</sup> Substitute Bill.**

58. On March 2, 2018, the Senate Committee held a hearing on the 1<sup>st</sup> Substitute bill.

59. The Mayor, Council Chair, City Planning Director Nick Norris and Senior City Attorney Katie Lewis each testified against the bill.

60. The Mayor testified that under the 1<sup>st</sup> Substitute bill, “an unelected and unaccountable Board would have the right to override the City’s administrative land use decisions—not based on fair and equitable standards, but instead based on the Board’s opinion that the City’s land use decision does not achieve the Board’s goals for developing an inland port.”

61. The Mayor further testified that this appeal authority “usurps a core municipal function and gives an unaccountable Board the right to supersede the City’s ordinances if it has a different opinion about how the northwest quadrant should be developed. Such unprecedented authority has far-reaching unintended consequences, not just for the City, but for other municipalities in the state and is an overreach into local authority.”

62. The Mayor also testified against the taking of 5% of the RDA’s tax increment because it was an interference with City budgetary authority because the Authority could take the money “for any purpose the Board decides is consistent with its goals for developing the northwest

quadrant—with no budgetary oversight from the elected officials that represent that area. The increment can also be used for broader purposes than the RDA can use the money under state law. This is another overreach into local authority.”

63. Council Chair Mendenhall also testified that while the City seeks a true partnership with the State and other stakeholders on the development of an inland port in the Northwest Quadrant, S.B. 234 as drafted was problematic because it was an unprecedented encroachment on core municipal functions that could have impacts on municipalities across the State.

64. Planning Director Nick Norris testified that Section 11-58-404 was problematic because it is an override of local land use authority, establishes a different standard of review than any other appeals in the City, and adversely affects the due process rights of appealing parties.

65. Senior City Attorney Katie Lewis testified that S.B. 234 usurps the City’s core municipal authority by: (1) fundamentally changing the administrative land use appeal process; (2) taking tax increment for broader purposes than allowed under Utah law and without the City Council’s budgetary authority; and (3) creates a board without equal City representation even though the entire jurisdictional lands are within City boundaries.

**G. The 2<sup>nd</sup> Substitute to S.B. 234 is Introduced.**

66. Three days after the hearing, the Senate passed a second substitute to S.B. 234. (“2<sup>nd</sup> Substitute bill”).

67. The 2<sup>nd</sup> Substitute bill increased the boundaries of the jurisdictional land and reduced the Authority’s right to take tax increment from City created CRAs from 5% to 2%.

68. The 2<sup>nd</sup> Substitute bill did not include revisions to the Board’s right to hear and overturn the City’s administrative land use decisions.

69. On receiving the 2<sup>nd</sup> Substitute bill, the City worked with House Representative Patrice Arent to propose an amendment to the 2<sup>nd</sup> Substitute that would include language stating any land use appeals to the Board is subject to the State laws and City ordinances that apply to all other appeals from the City's administrative land use decisions.

**H. The 4<sup>th</sup> Substitute Bill that Usurps the City's Administrative Land Use Authority and Interferes with City Monies.**

70. Two days after introduction of the 2<sup>nd</sup> Substitute bill and one day before the end of the legislative session, Representative Gibson introduced a fourth substitute to S.B. 234. ("4<sup>th</sup> Substitute bill").

71. The 4<sup>th</sup> Substitute bill was significantly different than the 2<sup>nd</sup> Substitute bill.

72. It increased the Authority's jurisdictional lands beyond the City's boundaries and included lands in West Valley and Magna, for a total of over 22,000 acres.

73. It also altered the composition of the Authority board, increasing its size to eleven members, and reducing the City representation on the board to two seats and eliminating the Mayor's seat.

74. The 4<sup>th</sup> Substitute made no amendments to the Board's ability to overturn City administrative land use appeals on the newly created standard, effectively usurping the City's administrative land use authority in the Northwest Quadrant.

75. The 4<sup>th</sup> Substitute bill also gave the Authority the right to create its own project areas (analogous to a redevelopment agency's right to create a project area) and gave the Authority

the right to take up to 100% of the growth related property tax increment within those project areas.<sup>1</sup>

76. The 4<sup>th</sup> Substitute bill permits the Authority to use these monies for a variety of purposes, including to pay principal and interest on bonds issued by the Authority, to cover the costs of installing publicly owned infrastructure and improvements outside Salt Lake City limits, and to cover the Authority's administrative costs.

**I. The Rushed Passage of the 4<sup>th</sup> Substitute Bill.**

77. The 4<sup>th</sup> Substitute Bill was introduced at 10:00 p.m. one day before the end of the legislative session.

78. Representative Gibson and Representative Winder spoke in favor of the bill.

79. Representative Sandra Hollins spoke in opposition expressing concern for the health and safety of residents living near the Inland Port area.

80. No other representatives spoke for or against the bill.

81. A vote of the House was conducted and the 4<sup>th</sup> Substitute bill was passed out of the House on a 61 to 11 vote in less than 13 minutes.

82. The 4<sup>th</sup> Substitute bill was presented on the Senate floor 10 minutes later.

83. Senator Stevenson spoke regarding the bill and received questions from Senator Lyle Hillyard and Senator Luz Escamilla who were both concerned about the ramifications of the newly added language in the 4<sup>th</sup> Substitute bill.

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<sup>1</sup> Since the 4<sup>th</sup> Substitute bill provides no limit on the size of an Authority project area, a project area could consist of the entire jurisdictional land.

84. A vote of the Senate was conducted and the 4<sup>th</sup> Substitute bill was passed by the Senate on a 20 to 6 vote in less than 6 minutes.

85. Essentially, in less than an hour from Representative Gibson's introduction of the 4<sup>th</sup> Substitute bill to the House floor, which was substantively different than the 2<sup>nd</sup> Substitute, the bill passed both the House and Senate and was ready for the Governor's signature.

**J. The City Requests the Governor Veto the 4<sup>th</sup> Substitute Bill.**

86. On March 8, 2018, the Mayor and Council Chair met with Governor Gary Herbert to request he veto the 4<sup>th</sup> Substitute bill.

87. After the meeting, the Mayor sent the Governor a letter again requesting that he veto the bill and reiterating that the City had worked closely with Senator Stevenson throughout the legislative session and would accept the 2<sup>nd</sup> Substitute bill with four changes. A copy of the Letter from Mayor Biskupski to Governor Herbert dated March 12, 2018 is attached as Exhibit A.

88. Specifically, the City stated the 2<sup>nd</sup> Substitute bill would be acceptable with the following four amendments: (a) the administrative land use appeals are subject to the same state laws and City ordinances that apply to all other administrative land use decisions; (2) the City gives 2% of its tax increment from existing project areas to the Authority; (3) the size of the jurisdictional land is reduced; and (4) the City has equal seats on the board as the State.

89. The Mayor had another meeting with the Governor the day after the letter was sent and again requested that he veto the bill.

**K. The Utah League of Cities and Towns and the School District also Request the Governor Veto the Bill.**

90. The Utah League of Cities and Towns and the Salt Lake City School District also sent messages to Governor Herbert requesting he veto the bill.

91. The Utah League of Cities and Towns, speaking on behalf of the 247 municipalities it represents, requested the Governor veto the 4<sup>th</sup> Substitute bill because it violates two core principles of local control, land use authority and local property tax.

92. The letter states that the 4<sup>th</sup> Substitute bill impacts approximately 27% of the total land within the geographic boundaries of Salt Lake City.

93. The letter points out that the 4<sup>th</sup> Substitute bill permits the Authority to redirect approximately \$360 million in new municipal property tax revenue from the City and approximately \$581 million in new municipal property tax revenue from the Salt Lake City School District.

94. Despite this severe loss of tax revenue, the City will still be responsible to provide municipal services such as water, sewer, street lighting, roads and sidewalk construction, maintenance and snow removal, and police and fire protection to the Northwest Quadrant.

95. As such, the 4<sup>th</sup> Substitute bill will require the tax payers of the remaining 73% of the City to subsidize municipal services for the jurisdictional land.

96. The letter urged the Governor to veto the bill in light of the significant constitutional and policy issues raised.

97. The Salt Lake City School District urged the Governor to veto the bill, noting that the school district is the fifth poorest school district in the state, and the potential loss of revenue would be of great detriment to students and teachers.

**L. The Governor Signs the Bill but Acknowledges its Problems.**

98. On March 16, 2018, the Governor signed the 4<sup>th</sup> Substitute bill, but included a letter to Speaker Hughes and Senate President Niederhauser stating he will call the legislature into a special session to “modify and improve the bill.”

99. Governor Herbert specifically stated that the City’s four concerns should be addressed to correct the bill.

100. SB 234 became law on May 8, 2018, was codified as Utah Code 11-58-101, *et seq.*

101. In July of 2018, the Governor called a special session to amend the bill which was enacted as HB 2001, and is codified as Utah Code 11-58-101, *et seq.* (as amended, and referred to hereinafter as the “Utah Inland Port Authority Act” or “UIPAA”)

**M. The Practical Effects of UIPAA on the City and its Residents.**

102. The jurisdictional land is approximately 31 square miles of largely undeveloped land.

103. If this were another city in Utah, it would be one of the ten largest cities in the State and larger than such cities as Draper, Ogden, Sandy and South Jordan.

104. Development of the jurisdictional land will create an enormous additional demand on municipal services, including sewer and water services, fire and police protection, and street lighting and maintenance.

105. Rather than assisting the City in meeting this enormous additional demand on its services, the UIPAA permits the Authority to redirect up to 100% of the tax increment from the jurisdictional lands for the next twenty-five years.

106. Without these monies, City tax payers will be required to subsidize municipal services for the jurisdictional land.

107. The UIPAA also removes core land use decisions from the purview of elected City officials.

108. Between 2017-2018, after following the required public process, including master planning, Planning Commission review and recommendations, and public hearings, the City adopted many different zoning regulations, including overlay districts in the jurisdictional land.

109. The City, as a result of the State Legislature’s mandate, while maintaining its concerns about the constitutionality of UIPAA, adopted an Inland Port Overlay Zone.

110. After passage of UIPAA, the Authority may reverse a City decision, if it determines the proposed development is consistent with its “policies, and objectives,” regardless of whether the use is permitted under the City’s zoning ordinance and regardless of whether the negative health or environmental impacts to people living in close proximity to the development are sufficiently mitigated.

111. The Authority is not elected by the residents of Salt Lake City and is not accountable to the very people these land use decisions affect the most.

**FIRST CAUSE OF ACTION**  
**(Declaratory Judgment - Violation of Utah Const. Art VI, § 28)**  
**—The Removal of Administrative Land Use Authority—**

112. Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if fully set forth herein.

113. UIPAA creates an Authority that hears all appeals from City administrative land use decisions for property in the Northwest Quadrant.



114. The Authority is not limited to reviewing the City's decisions for correctness with applicable City ordinances.

115. Rather, Section 403 states the Authority may overrule a City administrative land use decision on the grounds the City's decision does not meet the Authority's "policies and objectives" for the Northwest Quadrant.

116. Article VI, Section 28 of the Utah Constitution states:

The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.

117. The Authority is a special commission within the meaning of Article VI, Section 28 of the Utah Constitution.

118. Utah Code §§ 11-58-401 to 403 delegates to the Authority the power to make, supervise, interfere with and/or perform a municipal function in violation of Article VI, Section 28.

119. The City contends that awarding a plenary power to make land use decision to an Authority that is not elected by and accountable to local residents violates Article VI, Section 28 of the Utah Constitution.

120. Defendants contend it does not.

121. Thus, a controversy exists between the parties concerning the constitutionality of Utah Code §§ 11-58-401 to 403.

122. The City is entitled to judgment pursuant to Utah Code Ann. § 78B-6-401 et seq. and Rule 57 of the Utah Rules of Civil Procedure declaring that these provisions violate Article VI, Section 28 of the Utah Constitution.

**SECOND CAUSE OF ACTION**  
**(Declaratory Judgment - Violation of Utah Const. Art VI, § 28)**  
**—The Taking of Property Tax Increment—**

123. Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if fully set forth herein.

124. Utah Code § 11-58-501 to 601 permits the Authority to create project areas within the jurisdictional land and to take up to 100% of the tax increment from those project areas for up to 25 years.

125. Article VI, Section 28 of the Utah Constitution states:

The Legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.

126. The Authority is a special commission within the meaning of Article VI, Section 28 of the Utah Constitution.

127. Section § 11-58-501 to 601 of UIPAA delegates to the Authority the power to make, supervise, interfere with municipal improvement, money, property or effects and/or the performance of municipal functions in violation of Article VI, Section 28.

128. The City contends that awarding a plenary power to take these municipal monies violates Article VI, Section 28 of the Utah Constitution.

129. Defendants contend it does not.

130. Thus, a controversy exists between the parties concerning the constitutionality of Utah Code §§ 11-58-501 to 601.

131. The City is entitled to judgment pursuant to Utah Code Ann. § 78B-6-401 et seq. and Rule 57 of the Utah Rules of Civil Procedure declaring that these provisions violate Article VI, Section 28 of the Utah Constitution.

**THIRD CAUSE OF ACTION**  
**(Declaratory Judgment - Violation of Utah Const. Art XI, § 5)**  
**—Creation of Cities or Towns by Special Law—**

132. Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if fully set forth herein.

133. UIPAA creates an Authority to perform all functions with respect to property on the jurisdictional land that was previously performed by the City, including taxing, bonding and land use decisions.

134. Article XI, § 5 prohibits the Legislature from creating Cities or Towns by special law.

135. The City contends UIPAA effectively creates a city or town by special law in violation of Article XI, section 5 of the Utah Constitution.

136. Defendants contends it does not.

137. Thus, a controversy exists between the parties concerning the constitutionality of UIPAA.

138. The City is entitled to judgment pursuant to Utah Code Ann. § 78B-6-401 et seq. and Rule 57 of the Utah Rules of Civil Procedure declaring that these provisions violate Article XI, Section 5 of the Utah Constitution.

**FOURTH CAUSE OF ACTION**  
**(Declaratory Judgment - Violation of Utah Const. Art XI, § 8)**  
**—Creation of Authority Not Authorized—**

139. Plaintiff incorporates by reference the allegations contained in all preceding paragraphs as if fully set forth herein.

140. Article XI, Section 8 permits “[t]he Legislature to provide for the establishment of political subdivisions of the State, or other governmental entities, in addition to counties, cities, towns, school districts, and special service districts, to provide services and facilities as provided by statute.”

141. The City contends UIPAA does not provide for the provision of services or facilities to the jurisdictional land and is not authorized by Article XI, section 8 of the Utah Constitution.

142. Defendants contend to the contrary.

143. Thus, a controversy exists between the parties concerning the constitutionality of UIPAA.

144. The City is entitled to judgment pursuant to Utah Code Ann. § 78B-6-401 et seq. and Rule 57 of the Utah Rules of Civil Procedure declaring that these provisions violate Article XI, Section 8 of the Utah Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, the City prays for relief against Defendants as follows:

A. A Declaratory Judgment finding the power delegated to the Authority to reverse municipal land use decisions violates Article VI, Section 28 of the Utah Constitution;

B. A Declaratory Judgment finding the power delegated to the Authority to create project areas within the jurisdictional land and to take up to 100% of the tax increment from those project areas violates Article VI, Section 28 of the Utah Constitution;

C. A Declaratory Judgment finding UIPAA creates a City or Town by special law and violates Article VI, Section 28 of the Utah Constitution;

D. A Declaratory Judgment finding UIPAA does not provide for the provision of services or facilities to the jurisdictional land and is not authorized by Article XI, section 8 of the Utah Constitution,

E. Preliminary and/or permanent injunctive relief as the Court deems necessary to prohibit Defendants from engaging in any activity in violation of the Utah Constitution,

F. An award of attorney fees and costs; and

G. Such other relief as the Court deems just and equitable.

DATED this 11<sup>th</sup> day of March, 2018.

                  /s/          Catherine L. Brabson                    
*Attorney for Plaintiff*