

County Contract No. PT17103C

District Attorney No. 17-08744

**INTERLOCAL COOPERATION AGREEMENT**

between

**SALT LAKE COUNTY**

and

**SANDY CITY**

for

*Emergency Repairs to Dimple Dell Road*

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THIS AGREEMENT is made this 23<sup>rd</sup> day of June, 2017, by and between SALT LAKE COUNTY, on behalf of its Engineering and Flood Control Division, a political subdivision of the State of Utah (the "County") and SANDY CITY CORPORATION, a municipal corporation of the State of Utah (the "City"). The County and City, are sometime jointly referred to as the "Parties."

**RECITALS:**

WHEREAS, the Parties are local governmental units and "public agencies" that are therefore authorized by the Utah Interlocal Cooperation Act, Section 11-13-101, *et seq.*, Utah Code Annotated (the "Interlocal Act"), to enter into agreements with each other for joint and cooperative action to make the most efficient use of their powers on a basis of mutual advantage; and

WHEREAS, Dimple Dell Road ("Road") runs through areas of City and unincorporated County, and is currently in need of emergency repair as a result of a pipe and road failure at Dry Creek Crossing, approximately 10093 South Dimple Dell Road; and

WHEREAS, County and City each own and maintain a one-half interest in Road from approximately Dimple Dell Lane to Mount Jordan Road; and

WHEREAS, County and City desire to perform emergency repairs on this stretch of the Road; and

WHEREAS, County and City desire to enter into this agreement to set forth the obligations and responsibilities of each party in this effort.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein and the above recitals which are incorporated by reference, the sufficiency of such consideration is hereby acknowledged, the Parties hereby agree as follows:

### 1. SCOPE OF WORK.

A. City will perform all work as set forth in Exhibit A ("Work"), attached hereto and incorporated by reference. City agrees to perform all aspects of the Work in good faith and shall protect County's interests throughout the completion of the Work in the same manner as it protects its own interests. County agrees to inspect the Work at its own expense as necessary.

B. City and County agree to coordinate with each other during the construction and administration of the Work.

C. *License.* County hereby grants the City a license, for the duration of this Agreement, to enter upon, access, and use County property as is reasonably necessary to complete the Work including staging and storage. This license expires upon the expiration of this Agreement.

### 2. POST-CONSTRUCTION.

A. *Ownership and Maintenance of Improvements.* This Agreement does not transfer any property interests or maintenance responsibilities to any Parties. All property interests in and maintenance responsibilities over the road will remain as established prior to the execution of this Agreement.

### 3. FUNDING.

A. *City Contribution.* City shall contribute the actual cost of all equipment and labor performed in the completion of the work. The Parties agree that the City shall only be responsible for its specified share of the actual cost of completion of the Work.

B. *County Contribution.* County shall contribute the actual cost of all materials used in the completion of the Work. The County's not-to-exceed contribution to this project shall be Two Hundred Thousand Dollars (\$200,000.00). The Parties anticipate that the actual cost of this project shall be significantly lower than the not-to-exceed value, and agree that the County shall only be responsible for its specified share the actual cost of completion of the Work.

C. *Billing.* Upon completion of the Work, City shall submit an invoice to County detailing the County's total share of the actual cost of the work. County agrees to pay the undisputed invoice within sixty (60) days of receipt. City recognizes that the County has a separate agreement with the Greater Salt Lake Municipal Services District ("MSD"), which entity controls all funding for the County's portion of this project, which may cause a delay in the transfer of funds. City agrees that the County shall not be responsible for any delay in the payment of County's portion caused by the MSD.

D. **Audit.** The County shall have the right to audit all cost records and accounts of the City pertaining to the construction of the project. Should this audit disclose that the City has been underpaid, it shall be reimbursed by the County upon submission of additional billing to cover the underpayment. Should this audit disclose that the City has been overpaid, it shall reimburse the County in the amount of the overpayment. For purpose of audit, the City is required to keep and maintain its records of work covered herein for a minimum of three (3) years after final payment is received from the County.

4. **TERM.** This Agreement shall take effect upon execution and terminate upon the performance by the Parties of all the obligations described herein. In no event shall the duration of this Agreement exceed two (2) years from the date of execution, unless amended.

5. **LIABILITY.** The City and County are governmental entities under the Utah Governmental Immunity Act, Utah Code Ann. § 63G-7-101. Consistent with the terms of the Act, and as provided herein, it is mutually agreed that each party is responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officers or employees. Neither party waives any defenses otherwise available under the Act nor does any party waive any limits of liability currently provided by the Act.

6. **INDEMNIFICATION.** Each Party agrees to indemnify and hold the other Party, their agents, officers, and employees from and against any and all actions, claims, lawsuits, proceedings, liability, damages, losses and expenses (including attorney's fees and costs), that directly or indirectly result from the performance of this Agreement, but only to the extent the same are caused by any negligent or wrongful act or omission of the indemnifying Party, its officers, agents, and employees.

7. **REQUIRED INSURANCE POLICIES.** Parties shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

8. **TERMINATION.** This agreement may be terminated (with or without cause) by either party upon at least ninety (90) days prior written notice to the other parties. Payment shall be made for all work performed prior to termination.

9. **NOTICES.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing, and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage pre-paid, and certified and addressed as follows:

City: Sandy City Corporation  
ATTN: Director, Department of Public Works  
9150 South 150 East  
Sandy, Utah 84070

County: Salt Lake County  
ATTN: Director, Division of Flood Control & Engineering  
2001 South State Street, N3-120  
Salt Lake City, Utah 84190

10. **AGENCY.** No agent, employee or servant of the City or County is or shall be deemed to be an employee, agent, or servant of the other Party. None of the benefits provided by each party to its employees including, but not limited to, worker's compensation insurance, health insurance, and unemployment insurance, are available to the employees, agents, or servants of the other party. City and County shall each be solely and entirely responsible for its own acts and for the acts of its own agents, employees, and servants during the performance of this Agreement. The City acts as an independent contractor, and is not an employee or agent of the County in the performance of this Agreement.

11. **FORCE MAJEURE.** No party shall be liable for any excess costs if the failure to perform arises from causes beyond the control and without the fault or negligence of that part, including but not limited to acts of God, fires, floods, strikes, or unusually severe weather. If such condition continues for a period in excess of 60 days, City or County shall have the right to terminate this Agreement without liability or penalty effective upon written notice to the other party.

12. **NO OBLIGATIONS TO THIRD PARTIES.** The Parties agree that the Parties' obligations under this Agreement are solely to each other. This Agreement shall not confer any rights to third parties.

13. **GOVERNING LAW.** The laws of the State of Utah govern all matters arising out of this Agreement.

14. **COUNTERPARTS.** This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

15. **COUNTY ETHICAL STANDARDS.** The City represents that it has not: (a) provided an illegal gift or payoff to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statutes or Salt Lake County's Ethics Code, Chapter 2.07, Salt Lake County Code of Ordinances, 2001; or (d) knowingly influenced, and hereby promises that it will not

knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statutes or Salt Lake County ordinances.

16. **INTERLOCAL COOPERATION ACT REQUIREMENTS.** In satisfaction of the requirements of the Interlocal Act, and in connection with this Agreement, the Parties agree as follows:

A. This Agreement shall be approved by each Party pursuant to Section 11-13-202.5 of the Interlocal Act;

B. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Section 11-13-202.5 of the Interlocal Act;

C. A duly executed original counterpart of this Agreement shall be filed with keeper of records of each Party, pursuant to Section 11-13-209 of the Interlocal Act;

D. Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs; and

E. No separate legal entity is created by the terms of this Agreement.

17. **ENTIRE AGREEMENT AND AMENDMENT.** This agreement constitutes the entire agreement between the Parties, and no other promises or understandings, express or implied, shall be binding upon the Parties. No amendment to this agreement shall be effective unless made in writing and signed by the parties.

SANDY CITY APPROVALS  
Department MACB  
Risk Mgt. CAP  
Budget BK  
Legal Form DA  
Purchasing Compliance EL

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first written above.

SALT LAKE COUNTY  
By: Erin Hvalk  
Mayor or Designee

SALT LAKE COUNTY  
ADMINISTRATIVE APPROVAL:  
By: Kade Moncur  
Kade Moncur,  
Division Director  
Date: 6/14/2017

SALT LAKE COUNTY  
APPROVAL AS TO FORM:  
By: Angela Lane  
Angela Lane,  
Deputy District Attorney  
Date: 06/13/17

SANDY CITY CORPORATION  
By: Tom John  
Mayor

ATTEST  
Molly J. ...  
City Recorder

SANDY CITY  
APPROVAL AS TO FORM:  
By: Daniel ...  
City Attorney  
Date: 8/8/17

