

RESOLUTION NO. R- 65 -2024

**A RESOLUTION OF EAGLE MOUNTAIN CITY, UTAH, APPROVING AN
INTERLOCAL COOPERATION AGREEMENT WITH MOUNTAINLAND ASSOCIATION OF
GOVERNMENTS FOR FUNDING FOR THE MID VALLEY ROAD FEASIBILITY STUDY
FROM PONY EXPRESS PARKWAY TO MOUNTAIN VIEW CORRIDOR**

PREAMBLE

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, as amended, permits local governmental units including cities, counties, inter-local agencies and political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other public entities on the basis of mutual advantage and to exercise joint cooperative action for the benefit of their respective citizens; and

WHEREAS, Mountainland Association of Governments and Eagle Mountain City desire to facilitate a feasibility study for Mid Valley Road from Pony Express Parkway to Mountain View Corridor; and

WHEREAS, the City Council of Eagle Mountain City, Utah, finds that it is in the public interest to approve an interlocal cooperation agreement with Mountainland Association of Governments for the funding for the feasibility study for Mid Valley Road from Pony Express Parkway to Mountain View Corridor, as set forth in Exhibit A.

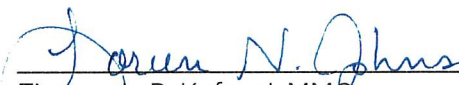
NOW, THEREFORE, be it resolved by the City Council of Eagle Mountain City, Utah:

1. The Interlocal Cooperation Agreement with Mountainland Association of Governments, attached hereto as Exhibit A, is hereby approved.
2. This Resolution shall take effect upon its first publication or posting.

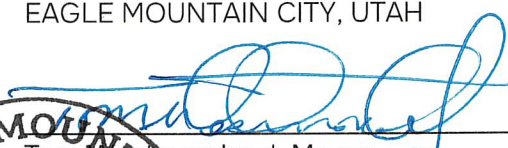
ADOPTED by the City Council of Eagle Mountain City, Utah, this 1st day of October, 2024.

EAGLE MOUNTAIN CITY, UTAH

ATTEST:

For: 
Fionnuala B. Kofoed, MMC
City Recorder




Tom Westmoreland, Mayor

CERTIFICATION

The above Resolution was adopted by the City Council of Eagle Mountain City, Utah on the 1st day of October, 2024.

Those voting yes:

Those voting no:

Those excused:

Those abstaining:

☒ Donna Burnham

☐ Donna Burnham

☐ Donna Burnham

☐ Donna Burnham

☒ Melissa Clark

☐ Melissa Clark

☐ Melissa Clark

☐ Melissa Clark

☐ Jared Gray

☐ Jared Gray

☒ Jared Gray

☐ Jared Gray

☒ Rich Wood

☐ Rich Wood

☐ Rich Wood

☐ Rich Wood

☒ Brett Wright

☐ Brett Wright

☐ Brett Wright

☐ Brett Wright



Text:


Fionnuala B. Kofoed, MMC
City Recorder

Exhibit A

INTER-LOCAL COOPERATION AGREEMENT
between
MOUNTAINLAND ASSOCIATION OF GOVERNMENTS and
EAGLE MOUNTAIN CITY

For A Project Known As

MID VALLEY ROAD – FEASIBILITY STUDY

THIS AGREEMENT, made and entered into this ____ day of October 2024, by and between **MOUNTAINLAND ASSOCIATION OF GOVERNMENTS (Program Manager)**, a political subdivision of the State of Utah, with principle offices located at 586 East 800 North, Orem UT and **EAGLE MOUNTAIN CITY (Project Sponsor)**, a political subdivision of the State of Utah, with principle offices located at 1650 East Stagecoach Run, Eagle Mountain, UT.

RECITALS:

WHEREAS, the Utah Interlocal Co-operation Act, Title 11, Chapter 13, Utah Code Annotated (1953), as amended, permits local governmental units including cities, counties, inter-local agencies and political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other public entities on the basis of mutual advantage and to exercise joint cooperative action for the benefit of their respective citizens; and

WHEREAS, the Program Manager and the Project Sponsor desire to facilitate the construction of a road project known as Mid Valley Road extension (**Extension**) which consists of extending Mid Valley Road from Pony Express Parkway eastward through Hidden Valley and into Saratoga Springs with a connection at the Mountain View Corridor. In preparation for that future project, Program Manager and Project Sponsor desire to study the feasibility of constructing the Extension (**Approved Project**); and

WHEREAS, the Program Manager and the Project Sponsor held duly noticed public meetings wherein this Agreement was considered and an Authorizing Resolution was presented for approval by the respective legislative bodies.

NOW THEREFORE, in consideration of the covenants and agreements contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, the Program Manager and the Project Sponsor hereby agree as follows:

Section 1. PURPOSES.

This Agreement has been established and entered into between the Program Manager and the Project Sponsor for the purpose of outlining the respective rights and responsibilities of the Program Manager and the Project Sponsor in the construction of the Approved Project.

Section 2. ADMINISTRATION OF AGREEMENT.

The parties hereto agree that, pursuant to Section 11-13-207, Utah Code Annotated, 1953 as amended, the Mountainland Association of Governments TIP Projects Manager shall act as the administrator responsible for the administration of this Agreement. The parties further agree that this Agreement does not anticipate nor provide for any organizational changes in the parties. The administrator agrees to keep all books and records in such form and manner as is consistent with applicable law and accounting standards and shall specify and further agrees that said books shall be open for examination by the parties hereto at all reasonable times.

Section 3. EFFECTIVE DATE; DURATION.

This Agreement shall become effective and shall enter into force within the meaning of the Interlocal Cooperation Act, upon the submission of this Agreement to, and the approval and execution hereof by the governing bodies of the Program Manager and the Project Sponsor. The term of this Agreement shall be from the date of execution hereof until the terms and obligations identified herein are completed, but in no event, longer than 3 years from the execution date.

Section 4. NO SEPARATE LEGAL ENTITY.

The Program Manager and the Project Sponsor do not contemplate nor intend to establish a separate legal or administrative entity under the terms of this Agreement.

Section 5. TERMS.

- 1) **Project Scope** – conducting a study to determine the feasibility of extending Mid Valley Road from its current easternmost point at Pony Express Parkway and into Saratoga Springs.
- 2) **Procurement** - The Project Sponsor will designate a qualified project engineer from its staff or hire a project engineer from the Project Sponsors consultant pool or the prequalified UDOT pool, who will be responsible for project delivery. The Project Sponsor shall follow Utah State Code Section 63G-6a-101 or its own procurement/purchasing policy. Different project engineers can be designated or hired for different phases of the project.
- 3) **Project Development** - The Project Sponsor will retain the services of a consultant to complete the Approved Project. The consultant shall complete the study contemplated in the Approved Project in accordance with the following standards:
 - a) The study should include a proposed alignment for the roadway based on a topographic analysis of the area, specifically the eastern portion connecting Eagle Mountain to Saratoga Springs. This alignment should be on its ability to accommodate the high traffic demand that could be expected by this roadway. Considerations should also be made to minimize cuts and fill needed for the alignment and cost estimates should be included for any alternative alignments. Additional criteria such as limiting access to the roadway, split lanes, or other alternatives that could balance a high traffic demand should be explored through this study with any applicable recommendations included.
- 4) **Project Hold** - The Program Manager has the authority to place a project on hold at any time during the project development process or withhold reimbursement of invoices during the construction process if the Program Manager deems that the Approved Project is not within the Approved Project scope or budget. The Program Manager shall notify the Project Sponsor of the hold in writing and will work with the Project Sponsor to rectify the issues promptly. If the Project Sponsor and Program Manager cannot bring the Approved Project back into scope or if additional funding is needed above what the Program Manager or the Project Sponsor can provide, the issues will be brought to the Mountainland TAC committee and MPO Board for their review, recommendations, resolutions, and approvals.
- 5) **Total Project Cost** - Both the Program Manager and Project Sponsor acknowledge that the Approved Project has been authorized by the Mountainland MPO to be funded at an amount not to exceed \$250,000 (Total Project Cost) for the direct costs of the Approved Project.
 - a) **Matching Funds** - The Project Sponsor is required to pay a match of 6.77% or \$16,925 of the Total Project Cost.

- b) **Funding Availability** - MAG Exchange funds are distributed to the MPO generally in October each year through a cooperative agreement with UDOT. The exchange process requires that MPO federal funds be exchanged with UDOT for state funds on an annual basis. The federal funds are made available by congress, the release of funds can fluctuate yearly. MAG will not reimburse expenses on an Approved Project unless funding is made available by UDOT. This could require the Approved Project to be placed on hold by the Program Manager or that the Project Sponsor advance their own funds toward the Approved Project with reimbursement to be made by the Program Manager upon receipt of available funding from UDOT.
- c) **Reimbursement** - The Project Sponsor, if desiring reimbursement for the direct costs of the Approved Project, will provide the Program Manager with one monthly itemized invoice detailing actual costs for the Approved Project. Appropriate backup materials shall also be supplied by the Project Sponsor to the Program Manager without requiring separate inquiry. The Program Manager agrees to reimburse the Project Sponsor within 30 days of receiving acceptable itemized invoices establishing the validity of the direct costs of the Approved Project. The maximum amount of reimbursement from the Program Manager to the Project Sponsor for any fiscal year shall be the available funds actually received by the Program Manager for such fiscal year. The maximum amount of reimbursement from the Program Manager to the Project Sponsor for the entire cost of the Approved Project shall not exceed \$250,000. Any costs which exceed \$250,000 shall be the sole responsibility of the Project Sponsor. The Program Manager will review and approve monthly each itemized invoice and will reimburse the total invoice amount less the required matching funds.
- d) **Cost Overruns** - The Program Manager maintains a contingency account for cost overruns. The Project Sponsor may request additional funds above the approved Total Project Cost with supporting documentation demonstrating the need for additional funds. The Program Manager may approve up to 10% of the Total Project Cost up to a maximum of \$25,000. The MPO Board can approve higher amounts. The addition of these contingency funds would require a modification to this Agreement. If no additional funds are awarded or the Approved Project still requires additional funds, the Project Sponsor will be responsible to fund the overrun.
- e) **Surplus Funds** - Any surplus funds remaining after the completion of the Approved Project will be returned to the Program Manager to be reallocated to other projects selected through the MPO project selection process. Note that Project Manager selects and funds projects, not project sponsors. Surplus funds cannot be moved to a new project not already

approved through the MPO project selection process. Any surplus funds paid by the Project Sponsor shall be returned to the Project Sponsor.

- 6) **Liability, Ownership and Maintenance of Approved Project** - The Project Sponsor bears all liability through all stages of project development and construction. The Project Sponsor shall own and be responsible for maintenance, repair and replacement of the completed project.
- 7) **Other Expenses** - Except as otherwise expressly stated herein, all expenses not identified as a part of the Approved Project or executed prior to the Agreement shall be the sole responsibility of the Project Sponsor.
- 8) **No Third-Party Rights** - The obligations of the parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Project Sponsor and Program Manager. This Agreement is not intended to nor shall it be construed to benefit any third party.
- 9) **Recitals** - The Recitals portion of this Agreement constitutes a part of this Agreement.

Section 7. FILING OF INTERLOCAL COOPERATION AGREEMENT.

Executed copies of this Agreement shall be placed on file with the official keeper of records of the Program Manager and the Project Sponsor and shall remain on file for public inspection during the term of this Agreement.

Section 8. AMENDMENTS.

- 1) **Amending this Agreement** - This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be: (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, and (c) filed in the official records of each party.
- 2) **Change Orders** - Changes can occur throughout a project. Changes that are outside the scope outlined in this contract must be amended as stated above. Minor changes and adjustments that fall within the original project scope can be addressed with a change order. A change order does not require amending this agreement. A change order is defined as that additional effort necessary by reason of changed conditions which are reasonably unforeseen by the Project

Sponsor. The Project Sponsor shall create the change order and keep records of them. Any additional costs incurred can be covered by the construction contingency or by added local funding and should be addressed in the change order. If additional costs are more than the construction contingency and available local funds, the Project Sponsor shall contact the Program Manager to review funding options.

Section 9. EXTRA WORK

Extra work shall be undertaken only when previously authorized in writing by the Program Manager and is defined as additional work which is neither shown nor defined in this Agreement. Extra work includes additional improvements adjacent to the Approved Project or in other locations that the Project Sponsor desires to complete as a package of projects. Extra work can be for utility projects, facilities that tie into the Approved Project, project betterments, or other work desired by the Project Sponsor. No costs incurred by extra work can be billed to the Approved Project. Any invoices submitted by the Project Sponsor shall clearly detail costs incurred by the Approved Project and list separately costs incurred by the extra work. This agreement shall be referenced in this agreement as an Exhibit.

Section 10. SEVERABILITY.

If any term or provision of this Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law, which would render any of the terms of this Agreement unenforceable.

Section 11. GOVERNING LAW.

All questions with respect to the construction of this Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

Section 12. INDEMNIFICATION.

The Project Sponsor shall indemnify and hold the Program Manager harmless from any

and all claims of liability for any injury or damage to any person or property whatsoever occurring in, on or about the Approved Project or any part thereof. The Project Sponsor shall further indemnify and hold the Program Manager harmless from and against any and all claims arising from any breach or default in the performance of any obligation on the Project Sponsor's part to be performed under the terms of this Agreement, or arising from any act or negligence of the Project Sponsor, or any of the Project Sponsor's agents, employees, contractors, subcontractors, or invitees and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Both the Project Sponsor and Program Manager agree that the terms of this Agreement are subject to, and not a waiver of, the protections, immunities and liability limits of the Governmental Immunity Act, U.C.A. 63G-1-101, et. seq. The Project Sponsor's obligations under this provision shall survive the expiration or other termination of this Agreement.

Section 13. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement, after resolutions duly and lawfully passed, on the dates listed below:

Mountainland Association of Governments

Authorized and passed on this 14th day of November, 2024,

Mountainland Association of Governments

DocuSigned by:

Michelle Carroll

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Michelle Carroll, Executive Director

ATTEST:

Signed by:

April Crane

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April Crane, Director of Finance and Operations

DocuSigned by:

LaNiece Davenport

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LaNiece Davenport, Planning Director

DocuSigned by:

Robert Allen

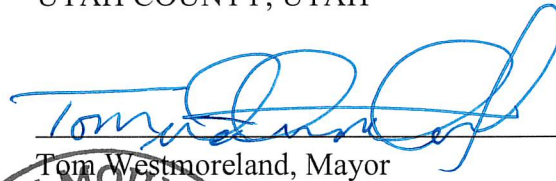
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Bob Allen, Program Manager

EAGLE MOUNTAIN CITY

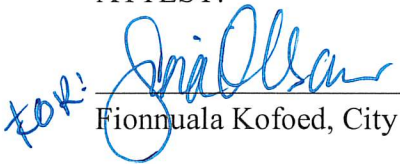
Authorized and passed on this 1st day of October, 2024.

EAGLE MOUNTAIN CITY
UTAH COUNTY, UTAH


Tom Westmoreland, Mayor



ATTEST:


Fionnuala Kofoed, City Recorder

REVIEWED AS TO FORM AND
COMPATIBILITY WITH APPLICABLE
LAW:

By: 
Marcus Draper, City Attorney