

COTTONWOOD HEIGHTS

RESOLUTION NO. 2015-67

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH SALT LAKE COUNTY FOR STREET PAVING (CREEK ROAD / HIGHLAND DRIVE INTERSECTION)

WHEREAS, UTAH CODE ANN. § 11-13-101, *et seq.* (the “*Interlocal Cooperation Act*”) provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

WHEREAS, the city of Cottonwood Heights (the “*City*”) and Salt Lake County (the “*County*”) are public agencies for purposes of the Interlocal Cooperation Act; and

WHEREAS, the intersection (the “*Intersection*”) of Creek Road and Highland Drive lies at the boundary between the City and the unincorporated portion of the County, and each of such entities is responsible for repairs and maintenance to its portion of the Intersection; and

WHEREAS, the City and the County desire to pave the Intersection; and

WHEREAS, the City and the County have determined that it will be in their best interests for such paving work (the “*Work*”) to be performed by a common contractor, with the parties sharing the cost; and

WHEREAS, pursuant to the authority granted in the Interlocal Cooperation Act, the City and the County desire to enter into an interlocal agreement (the “*Agreement*”) whereunder the Work will be performed on a cost-sharing basis as provided therein; and

WHEREAS, the city council (the “*Council*”) of the City met in regular session on 27 October 2015 to consider, among other things, approving the City’s entry into the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, the city attorney of the City has approved the form of the Agreement as required by *Utah Code Ann.* §11-13-202.5(3); and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the City’s residents to approve the City’s entry into the Agreement as proposed in order to make efficient use of the City’s resources;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Agreement with the County is hereby approved, and that the City’s mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2015-67, shall take effect immediately upon passage.

PASSED AND APPROVED this 27th day of October 2015.

COTTONWOOD HEIGHTS CITY COUNCIL



By *Kelvin H. Cullimore, Jr.*
Kelvyn H. Cullimore, Jr., Mayor

Linda W. Dunlavy
Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 27th day of October 2015.

RECORDED this 27 day of October 2015.

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY

and

COTTONWOOD HEIGHTS CITY

Paving of Intersection of Creek Road and Highland Drive

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2015, by and between Salt Lake County, a body corporate and politic of the State of Utah (the “County”); and the city of Cottonwood Heights, a municipal corporation of the State of Utah (the “City”). The County and the City are sometimes referred to collectively as the “Parties” and either may be referred to individually as a “Party,” all as governed by the context in which such words are used.

R E C I T A L S:

WHEREAS, the County and the City are public agencies as defined by Chapter 11-13, UTAH CODE ANN. (2015) (the “Interlocal Act”). Section 11-13-202 of the Interlocal Act provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative action; and

WHEREAS, the intersection of Creek Road and Highland Drive lies at the border of Cottonwood Heights City and unincorporated Salt Lake County; and

WHEREAS, the County and the City desire to pave the intersection of Creek Road and Highland Drive; and

WHEREAS, the City has selected a qualified contractor (the “Contractor”) on a fair and open basis to perform the work; and

WHEREAS, the City and the County desire to enter into a cost-sharing interlocal agreement to fund the work, and which sets forth the rights, obligations and responsibilities for each Party;

A G R E E M E N T:

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereafter set forth, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

1. Paving of Intersection. The City shall enter into a contract with the Contractor to perform the work necessary to pave the intersection of Creek Road and Highland Drive, further described in Exhibit “A,” attached hereto and incorporated by this reference. The City further

agrees to administer and oversee all aspects of the Contractor's contract, including making all payments to the Contractor, and inspection and acceptance of the completed work.

2. Cost-Share. The County shall pay the City a portion of the cost to complete the work described in Exhibit "A." The total amount to be paid by the County under this Agreement shall equal 50% of the City's actual costs to complete the work, but shall in no event exceed \$23,000. Payments to the City shall be due thirty (30) days after the County receives an invoice from the City for work performed by the Contractor.

3. Coordination. The City shall keep the County abreast of substantive communications and activities related to the work described in Exhibit "A." Following completion of the repairs, the County shall be invited to participate in the final inspection of the work.

4. Liability and Indemnification. The City and the County are governmental entities under the Utah Governmental Immunity Act, UTAH CODE ANN. § 63G-7-101 to -904 (2015). 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.

5. 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. To the extent that this Agreement requires administration other than as set forth herein, it shall be administered by the mayors of the City and the County. No real or personal property shall be acquired jointly by the Parties as a result of this Agreement. To the extent that a Party acquires, holds or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such Party shall do so in the same manner that it deals with other property of such Party.

6. 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:

If to Salt Lake County: County Mayor
2001 South State, N2-100
Salt Lake City, Utah 84190

with a copy to: Salt Lake County District Attorney
2001 South State, S3-600
Salt Lake City, Utah 84190

If to the City: Cottonwood Heights
1265 East Fort Union Boulevard, Suite 250
Cottonwood Heights, Utah 84047

with a copy to: Wm. Shane Topham
Callister Nebeker & McCullough
10 East South Temple, 9th Floor
Salt Lake City, Utah 84133

7. Amendments. This Agreement may be amended, changed, modified or altered only by an instrument in writing which shall be (a) approved by the governing bodies of the County and City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of any amendment, change, modification or alteration of this Agreement by the appropriate person or persons for the County and the City, respectively, (b) executed by a duly authorized official of each of the Parties, (c) submitted to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the execution by each respective attorney, and (d) filed with the keeper of the records of each Party.

8. Term of Agreement. This Agreement shall take effect immediately upon the completion of the following: (a) the approval of the Agreement by the governing bodies of the County and the City, including the adoption of any necessary resolutions or ordinances by the County and the City authorizing the execution of this Agreement by the appropriate person or persons for the County and the City, respectively, (b) the execution of this Agreement by a duly authorized official of each of the Parties, (c) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the approval of each respective attorney, and (d) the filing of a copy of this Agreement with the keeper of records of each Party. This Agreement shall expire on December 31, 2015.

9. Termination. This Agreement may be terminated, with or without cause, by either Party upon at least thirty (30) days prior written notice to the other Party. Payment shall be made for all work performed and expenses incurred prior to termination.

10. Counterparts. This Agreement may be executed in counterparts by the City and the County.

11. Governing Law. This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.

12. Resolution of Claims and Disputes. In any action brought to enforce the terms of this Agreement, the Parties agree that the appropriate venue shall be the Third Judicial District Court in and for Salt Lake County, Utah.

13. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party or agents for either Party that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified, or altered except in writing, and signed by the Parties.

14. Severability. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or paragraphs herein contained, shall not affect the remaining portions hereof, or any part thereof.

IN WITNESS WHEREOF, the Parties have subscribed their names and seals the day and year first above written.

SALT LAKE COUNTY

By _____
Mayor Ben McAdams or Designee

Approval as to Form:

Adam Miller
Deputy District Attorney
Date: _____

COTTONWOOD HEIGHTS, a Utah municipality

ATTEST:

By: _____
Linda W. Dunlavy, Recorder

By _____
Kelvyn H. Cullimore, Jr., Mayor

Approval as to Form:

Wm. Shane Topham, City Attorney
Date: October 21, 2015

EXHIBIT A : CREEK ROAD & HIGHLAND DRIVE OVERLAY

Construction Description

- Reconstruct existing utility manholes and valve boxes to grade
- Rotomill existing roadway pavement, 2-inch thick
- Furnish, place and compact 1/2" warm mix asphalt surface course, 2-inch thick, over indicated project extents



1 inch = 20 feet

Legend

- Overlay Extent
- City Boundary