

County Contract No. PV9078C

District Attorney No. 19-13919

**AMENDMENT TO
STORM DRAINAGE AND FLOOD CONTROL AGREEMENT**

between

SALT LAKE COUNTY

and

SANDY CITY

THIS AMENDMENT TO THE STORM DRAINAGE AND FLOOD CONTROL AGREEMENT (“Amendment”) is made this ____ day of _____, 2020, 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 sometimes 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, in July 1981, Salt Lake County and Sandy City entered into Storm Drainage and Flood Control Agreement (“Agreement”) allowing County to use existing canals within the City for storm drainage and flood control purposes (attached hereto as Exhibit A); and

WHEREAS, Sandy City operates and maintains the Sandy Irrigation Canal (“Canal”), which is specifically referenced in the July 1981 Agreement and which traverses Sandy City and currently functions solely to collect stormwater (depicted on the attached map, incorporated as Exhibit B); and

WHEREAS, pursuant to the Agreement, County pays 25% of the City’s maintenance costs annually; and

WHEREAS, County and City desire to amend the Agreement pursuant to this Amendment to allow County to pay a lump sum in lieu of continued annual payments and thereafter terminate the 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 to amend the existing Agreement as follows:

1. In consideration for this Amendment, County shall transfer the sum of fifty thousand dollars (\$50,000.00) to City to satisfy all outstanding financial obligations arising from the Agreement.

2. The Agreement shall terminate upon receipt by City of the payment described in Paragraph 1, above.

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

SALT LAKE COUNTY

By _____
Mayor or Designee

SALT LAKE COUNTY
ADMINISTRATIVE APPROVAL:

By: _____
Scott Baird,
Public Works Department Director

SALT LAKE COUNTY
APPROVAL AS TO FORM:

By: Ryan W. Lambert 2/24/2020
Ryan W. Lambert,
Deputy District Attorney

By: _____
Kade Moncur,
Engineering Division Director



SANDY CITY CORPORATION

By: [Signature]
Mayor

ATTEST

[Signature]
City Recorder

DEPUTY

SANDY CITY
APPROVAL AS TO FORM:

By: [Signature]
City Attorney

Date: 3/12/20

EXHIBIT A
July 1981 Storm Drainage and Flood Control Agreement

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STORM DRAINAGE AND FLOOD CONTROL AGREEMENT

Sandy Canal

FILE

A STORM DRAINAGE AND FLOOD CONTROL AGREEMENT made and entered into as of the 1st day of July 1981, by and between SALT LAKE COUNTY, a body corporate and politic of the State of Utah, hereinafter called "County," and SANDY CITY, a corporation of the State of Utah, hereinafter called "City".

1. As part of its flood control program, County proposes to utilize existing canal rights-of-way, real property and improvements thereon (hereafter referred to as "Canals") in order to promote the general welfare of the citizens of County. City is willing for its canals to be used for storm drainage and flood control purposes upon the terms and conditions hereinafter set forth. For the purposes of this agreement City's canals shall include the Sandy Irrigation Canal and the Union Jordan North and South Ditches from Little Cottonwood Creek to the Jordan River. Storm drainage and flood waters as either or both terms are used in this Agreement are hereby defined to mean waters which fall and/or are artificially conveyed into the canals through curb and gutter, paving, storm drain pipelines or open channels approved by County and City to divert such storm waters into Canals. This contemplates, but is not limited to, storm runoff into said Canals from private property, subdivision development, industrial development, commercial and recreational development, and streets and roads owned or acquired by County and approved by County and City. It is understood and agreed that City shall have the right to refuse such approval for any reason and City may require of County that any water entering Canal be properly and adequately treated or stopped as soon as reasonably possible after notice and/or prevented from entering Canal when found by the City, any water user, City-County Health Department or other State, County or Federal agency to be physically harmful to animals, crops of any kind, or any other beneficial use of the water.

2. The City agrees that the County, its officers, employees and agents shall have the non-exclusive right to discharge waters into Canals under terms and conditions set forth herein. Such right, however, so far as City is concerned, being only the right to use the Canal as it now exists, and to the extent only of City's rights in said Canal. This right and power contemplates discharge and release of storm drainage or waters into Canals from

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subdivisions and other developments expressly authorized by City and County.

3. Subject to the reservations herein contained, City agrees that County may use a reasonable extent of Canal right-of-way, real property and improvements thereon which City now owns or has an interest in and is using for the conveyance of irrigation water. City further agrees that it will not prejudice the rights granted herein to County and that whenever it conveys any of said interest in its Canal property and/or right-of-way it will do so, upon proper and reasonable compensation from County, with an express reservation to County of its right to conduct storm drainage and flood waters in Canals for the period and as controlled in this Agreement.

4. The parties agree that the County, its officers, employees and agents shall have the non-exclusive right to enter upon any City Canals for the purposes of its flood control program, cooperatively but under supervision and direction of and only with the prior written approval of City, to operate equipment for the dredging or cleaning of said Canals, or for the purpose of installing pipelines and spillways.

5. The parties agree that the COUNTY through its duly authorized representative (which representative must reliably inform himself as to the distribution of waters under flood control and other emergency conditions) shall have a set of keys to all spillway gates constructed by the COUNTY and the COUNTY shall have authority to open, close, and otherwise regulate these spillways and other critical relief points, to distribute the waters therein in times of flood and other emergency conditions, only in the event the superintendent or other authorized representative of the City is not available. Except in times of flood, the COUNTY shall not open flood control gates without specific consent of the City. COUNTY and City shall maintain lists of authorized representatives with 24-hour telephone contact numbers for use by all parties.

6. (a) In the exercise of the rights and powers described in the foregoing paragraphs, the parties agree that COUNTY shall exercise reasonable discretion and shall not do any damage to or impair City's Canals' ability to carry out, or interfere with their main purpose of conveying stockholders' water; and shall restore all City property to the condition existing before entry by COUNTY, except that the Canals may be altered when complying with the specifications agreed to in writing by City and in compliance with provisions

set forth in paragraph 7 hereinbelow. COUNTY agrees that in performing widening and deepening of said Canals, in no event shall such width or depth exceed the original depth and width of the Canals. Other than for maintenance requested in writing by City, COUNTY agrees to perform any such work on said Canals only at times other than between April 1 and October 15 of any calendar year or at such times as City can and agrees to turn the water from the canal.

(b) City also agrees that COUNTY shall have the right pursuant to its work in deepening, widening and improving Canals to place any excavation materials on the canal banks, and COUNTY AGREES to promptly dispose of same.

It is the intent of the parties hereto that whenever exercising these rights and powers COUNTY and City will work together and keep each other informed of any action which one of them might take which would materially affect the interests of the other with respect to the rights and duties set forth herein.

7. As consideration for the rights and duties described herein, COUNTY agrees to require that all persons who might discharge water into City's Canals pursuant to authority from City and COUNTY shall strictly comply with the following specifications. COUNTY will require that any water discharged into City's Canals shall be in a pipe of such size as to carry the maximum flow from the source, and said pipe shall be of such length as will project for one foot beyond the bank of the Canal at high water line, and the bottom of the pipe shall be set at two inches above the high water mark, but with a concrete spillway, at least three (3') feet in width and extending to the center of the canal. Sand traps will be installed and maintained by County, at such places when and as requested by City. No discharge facility which will discharge water into City's Canals shall be constructed by any person, under terms of this Agreement, until City has approved the facility in writing forwarded to County.

8. (a) County agrees to pay twenty-five percent (25%) of all City's clean up and maintenance operations of said City Canals. Semiannual payments will be due within forty-five (45) days of billing which will occur on or about July 1 and January 1 of each year. Invoices from City shall show actual clean up and maintenance charges for such work performed during the previous billing period including overhead. It is agreed that City will keep complete records of all expenses for said maintenance costs as defined below and that City's books and records thereof will be open to inspection and audit by

County at the end of each year to determine whether said costs are reasonable. It is agreed that only the books and records pertaining to maintenance costs defined below will be subject to review and inspection pursuant to the terms of this paragraph. These maintenance costs are subject to review annually by the parties as set forth in paragraph 12 below. It is agreed that the maintenance costs contemplated by this paragraph shall include work done annually by City to clean Canals and dispose of silt, debris, weeds, moss, garbage and like foreign matter; to strengthen the banks against normal wear and tear due to erosion, the traffic of animals or vehicles and from the surface water which is caused by snow or rainfall or other sources being conducted into Canals by County improvements and also strengthening the banks at other known weak points where overflow might occur and where potential hazards might exist, and repair of breaks in canal banks. Maintenance costs as contemplated by this paragraph, except where the rebuilding and placing of concrete linings in Canals increase the carrying capacity of said Canals at County's request, do not include rebuilding Canals, placing concrete linings therein, constructing bridges, irrigation dams, headgates or other diversions therein, solely for City's use and benefit, but it will include any maintenance of those facilities which now carry storm water on spring runoff over and under Canal or flumes and pipes over Canals. It is agreed that the maintenance costs shall include all operational costs including employees salaries, directors fees, and overhead when directly applicable to said Canal cleaning, operation and maintenance.

(b) County agrees to meet with City after October 15 and November 1 of each year and patrol said Canals and concurrently determine what debris or sand removal and repair and other maintenance work is required, which work will be performed by County at its sole expense with its own equipment and employees on a schedule, but prior to April 1 of the following year. City may elect to drain its canals at some other time during the year in which case the patrol and maintenance activity will be completed as mutually agreed by the parties at the time the canals are patrolled. If City desires to have County do other work on the Canals solely for City's benefit, County agrees to provide its men and equipment to do the work requested at cost.

9. As consideration for the rights and powers granted to County as set forth hereinabove, County agrees to perform and/or have contracts let for the improvements listed on attached Exhibit "A".

10. In consideration of City's providing its Canal facilities for storm drainage and flood control waters, County agrees, to the maximum extent authorized by law, to indemnify, save harmless and defend City, its agents and employees from all claims, mechanics liens, damages, demands, actions, costs and charges arising out of any and all operations by or on behalf of County hereunder including, but not limited to, any damage caused by the introduction of any of the storm drainage or other authorized drainage, including damage arising from the harmful contents of such waters, which are artificially diverted into Canals through curb and gutter, paving, storm drain pipelines or other channels approved by County, irrespective of whether City may have approved or not, or by reason of the escape, or release by City or County or others, of storm drainage or flood waters from City's Canals..

11. The primary responsibility for maintenance of Canals shall be that of the City, and where facilities to relieve Canal from storm water have been provided by County, County agrees to operate the spillways or other relief outlets on said facilities to control flood waters and storm drainage in Canals as necessary with County protecting and indemnifying City as set forth in Article 10 hereof. It is agreed that title to any pipelines and spillways installed by County shall remain the property of County and shall be maintained solely by County, however, City may use any of said County facilities in controlling flow of its irrigation water.

12. The parties hereto further agree that storm drainage and flood control conditions change annually and that the expanding growth of County through the construction of subdivision and other public works will influence terms as set forth herein. Because of these considerations, the parties hereto agree to review this contract annually and agree that this contract shall continue automatically from year to year except as modified by mutual written consent. The parties further agree that the contract will continue in full force and effect until County provides its own storm drainage and flood control facilities and County no longer uses City's Canals for storm drainage and for flood control waters as defined in paragraph 1 above, or for a period of fifty years, provided that either party shall have the right to terminate this agreement upon 365 days prior written notice. County will notify City, in writing, when County no longer is going to use City Canals at which time this Agreement will terminate.

13. Should any United States Government or State laws or regulations be enacted concerning the handling or treatment or otherwise regarding said storm drainage and flood control waters, County agrees at its sole expense to comply with the requirements thereof and to hold City harmless from any loss, cost or expenses in connection therewith.

14. All notices provided for herein or pertaining to this agreement shall be in writing and shall be deemed to have been given to the addressee at the time when mailed at a United States Post Office, enclosed in registered or certified, postpaid envelope addressed to County at Salt Lake County Flood Control Division, 2033 South State Street, Salt Lake City, Utah 84115, and to Sandy City at 800 East 100 North, Sandy, Utah 84070.

15. This Agreement is binding upon the parties hereto, their assigns and successors, and supersedes all earlier agreements between the parties pertaining to the same subject matter.

16. This Agreement sets forth the entire understanding, intent and agreement of the parties hereto with respect to the subject matter contained herein and there are no other representations or warranties either written or oral which shall be binding on the parties hereto except those contained herein. Any modifications of this Agreement must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have subscribed their names
hereon and caused this agreement to be duly executed on this 18th
day of January, 1982.

SALT LAKE COUNTY

Stewart

Board of County Commissioners

ATTEST:

W. Sterling Evans
W. Sterling Evans
Salt Lake County Clerk

ATTEST:

Shirley G. B. [Signature]
CITY RECORDER

Approved as to form

Michael E. Burton
CITY ATTORNEY

[Signature]
COUNTY DIRECTOR OF FLOOD CONTROL

SANDY

CITY

By Laurance P. Smith

"APPROVED AS TO FORM"

By Kevin F. Smith
Dir. Salt Lake County Attorney

Exhibit A

SANDY CITY

As consideration for the rights and powers granted to County as set forth herein, County agrees to perform and/or have contracts let for the following improvements:

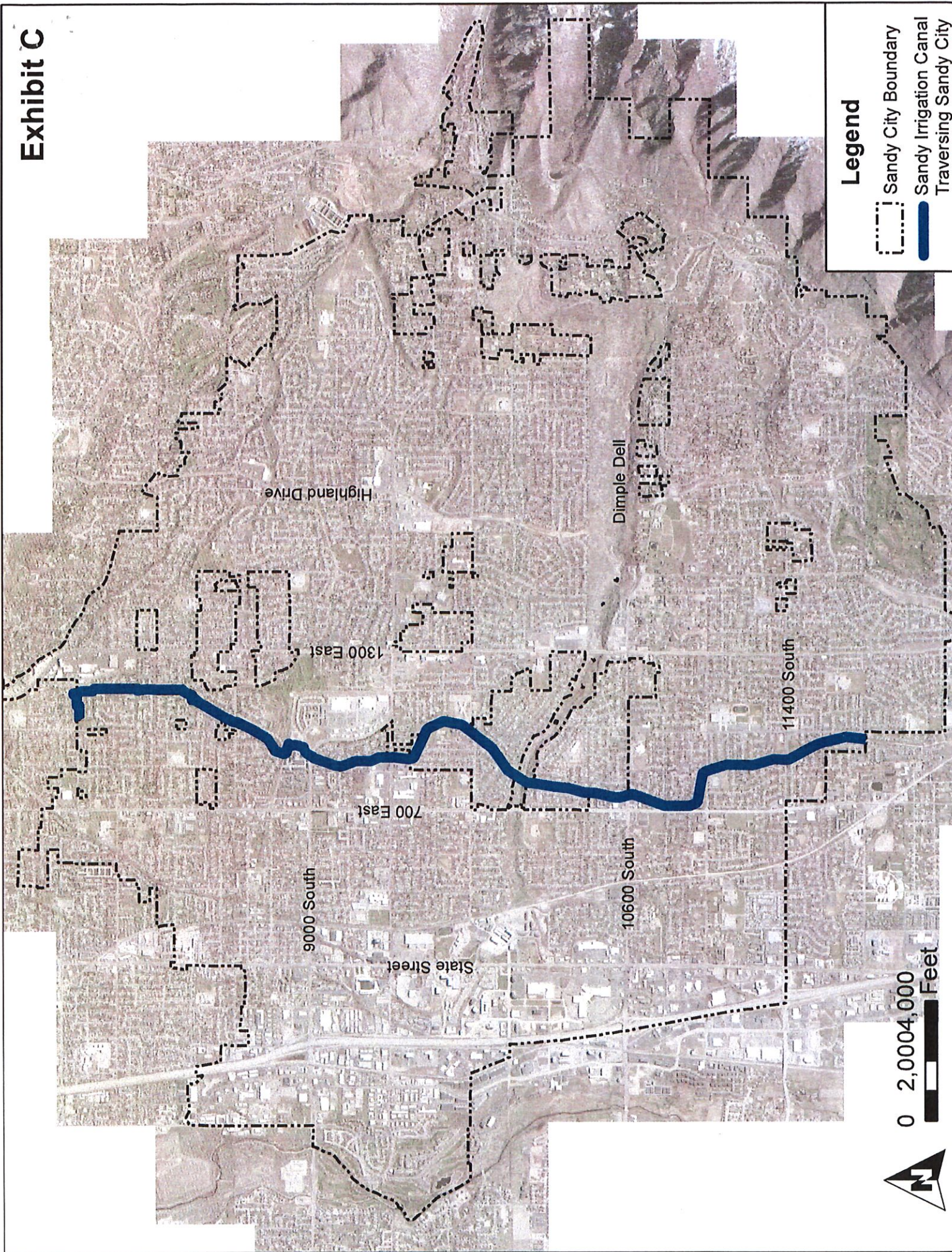
a) Construct an overflow connection from Sandy Irrigation Canal at approximately 9000 South to the existing stormdrain at 9000 South and East Jordan Canal.

b) Construct storm drains and spillways to relieve canals of storm water as required.



It is agreed that County will be responsible to pay all costs of said foregoing improvements and rights-of-way. County shall proceed and perform its agreements contained herein as to improvements to be constructed as rapidly as flood control funds are available.

EXHIBIT B
Map of Sandy Irrigation Canal

Exhibit C



Legend

-  Sandy City Boundary
-  Sandy Irrigation Canal Traversing Sandy City

