

RESOLUTION NO. _____, 2019

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL APPROVING
EXECUTION OF A COOPERATIVE AGREEMENT WITH MILLCREEK FOR
PUBLIC WORKS SERVICES.

W I T N E S S E T H

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, the CITY desires to obtain public services as described in the attached Agreement; and

WHEREAS, the COUNTY, through its Public Works Operations Division, is willing to provide the CITY with said services; and

THEREFORE, the Parties desire to enter into the attached Agreement whereby their respective responsibilities concerning these services are specified.

R E S O L U T I O N

NOW, THEREFORE, IT IS HEREBY RESOLVED by the County Council of Salt Lake County that the attached Cooperation Agreement is approved; and the Mayor is authorized to execute said agreement, a copy of which is attached as Exhibit 1 and by this reference made a part of this Resolution.

APPROVED and ADOPTED this _____ day of October 2019.

SALT LAKE COUNTY COUNCIL

By: _____
Richard Snelgrove, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

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VOTING

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Ghorbani	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Snelgrove voting	_____
Council Member Winder Newton voting	_____

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

APPROVED AS TO FORM:

Deputy District Attorney

EXHIBIT 1

**COOPERATIVE AGREEMENT BETWEEN
MILLCREEK AND SALT LAKE COUNTY
FOR THE PUBLIC WORKS SERVICES.**

Contract No. _____
District Attorney No. 19-13973

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
SALT LAKE COUNTY
AND
MILLCREEK
FOR
PUBLIC WORKS SERVICES**

THIS AGREEMENT ("*Agreement*") is dated this ____ day of _____, 2019, made pursuant to the Utah Interlocal Cooperation Act, by and between SALT LAKE COUNTY ("COUNTY"), on behalf of its Public Works Operations Division, a body corporate and politic of the state of Utah, and the MILLCREEK ("CITY"), a municipal corporation created under the laws of the State of Utah. The COUNTY and CITY may be referred to jointly as the "Parties."

WITNESSETH:

WHEREAS, the Parties are local governmental units and are therefore authorized under the Utah Interlocal Cooperation Act, Section 11-13-101, et seq., U.C.A. 1953, as amended, to enter into agreements with each other which enable them to make the most efficient use of their powers; and

WHEREAS, the CITY desires to obtain public services as described in Exhibit A, attached hereto; and

WHEREAS, the COUNTY, through its Public Works Operations Division, is willing to provide the CITY with said services; and

THEREFORE, the Parties desire to enter into this Agreement whereby their respective responsibilities concerning these services are specified.

AGREEMENT

In consideration of the mutual covenants and promises set forth herein, the Parties agree as follows:

1. SCOPE OF SERVICES.

1.1 The COUNTY, through its Public Works Department, Operations Division, will provide to CITY the services described in Exhibit A, attached hereto and incorporated into this Agreement. Said services shall be performed to the same standards and in the same manner as those performed within unincorporated Salt Lake County.

2. TERM.

2.1 The term of this Agreement shall be one year, beginning on July 1, 2019 and ending June 30, 2020.

2.2 This Agreement may be extended for additional one year terms by means of a writing signed by both Parties that includes updates for Exhibit A. The Parties shall confer, at least 60 days prior to the end of the Agreement's term, to review the Agreement and Exhibit A and negotiate any changes thereto.

3. CONSIDERATION.

3.1 The cost of the services provided under this Agreement are set forth in Exhibit A, attached hereto and incorporated by reference. Unless otherwise provided by law or elsewhere in this Agreement, providing services under this Agreement or payment for said services shall not create any additional interest or obligation to either Party.

3.2 COUNTY shall send CITY a monthly invoice for the full cost of the services rendered during the preceding month. CITY agrees to pay the full amount of the invoice to COUNTY within thirty (30) days following receipt of each invoice.

4. LIABILITY. 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.

5. INDEMNIFICATION. The Parties agree to indemnify and hold each other, 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 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 either Party, its officers, agents, and employees.

6. REQUIRED INSURANCE POLICIES. Each Party to this Agreement shall maintain insurance or self-insurance coverage sufficient to meet their obligations hereunder and consistent with applicable law.

7. TERMINATION. This agreement may be terminated (with or without cause) by either party upon at least 180 days prior written notice to the other party. Payment shall be made for all work performed prior to the effective date of termination.

8. 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 COUNTY: Salt Lake County Public Works Operation
Division Director
604 West 6960 South
Midvale, Utah 84047

If to the CITY: _____

9. 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 COUNTY acts as an independent contractor, and is not an employee or agent of the CITY.

10. FORCE MAJEURE. Neither 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.

11. NO OBLIGATIONS TO THIRD PARTIES. The parties agree that their obligations under this Agreement are solely to each other. This Agreement shall not confer any rights to third parties.

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

13. 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.

14. 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.

15. NO OFFICER OR EMPLOYEE INTEREST. It is understood and agreed that no officer or employee of COUNTY has or shall have any pecuniary interest, direct or indirect, in

this Agreement or the proceeds thereof. No officer or employee of CITY or any member of their families shall serve on a County Board or Committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises CITY's operations, or authorizes funding or payment to CITY.

16. INTERLOCAL COOPERATION ACT. 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 a joint board of the public works directors of the CITY and the COUNTY, or their designees. 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.

17. NON-FUNDING. The Parties acknowledge that funds are not presently available for the performance of this contract beyond the end of their respective fiscal years, which is December 31st for the COUNTY. Each Party's obligation beyond that date is contingent upon funds being appropriated for payment due for services. If no funds or insufficient funds are appropriated and budgeted in any fiscal year, or if there is a reduction in appropriations due to insufficient revenue, resulting in insufficient funds for payments due or about to become due under this contract, then this contract shall create no obligation on the COUNTY as to such fiscal year (or any succeeding fiscal year), but instead shall terminate and become null and void on the first day of the fiscal year for which funds were not budgeted and appropriated or in the event of reduction in appropriation, on the last day before the reduction becomes effective (except as to those portions of payments herein then agreed upon for which funds are appropriated and budgeted). Said termination shall not be construed as a breach of or default under this contract and said termination shall be without penalty, additional payment, or other charges of any kind whatsoever to the parties, and no right or action or damages or other relief shall accrue to the benefit of the other Party as to this contract, or any portion thereof, which may so terminate and become null and void.

18. DEFAULT. If either party defaults in the performance of the contract or any of its covenants, terms, conditions, or provision, the payment of all costs and expenses, excluding attorney's fees, which may arise or accrue from enforcing the contract or from pursuing any remedy provided thereunder shall be adjudicated per state law.

19. 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.

IN WITNESS WHEREOF, the Parties have subscribed their names hereon and caused this agreement to be duly executed as of the date first mentioned above.

SALT LAKE COUNTY

By: _____
Mayor or Designee

Date: _____

MILLCREEK

By:  _____
Mayor or Designee

Date: Sept. 9, 2019

SALT LAKE COUNTY
ADMINISTRATIVE APPROVAL:

By: _____
Scott Baird,
Department Director

Date: _____

By: _____
Kevyn Smeltzer,
Division Director

Date: _____

ATTEST

By:  _____
City Recorder

MILLCREEK
APPROVAL AS TO FORM:

By:  _____
City Attorney

APPROVAL AS TO FORM:
SALT LAKE COUNTY

By: _____
Ryan W. Lambert,
Deputy District Attorney

EXHIBIT A

Scope of Services

Exhibit A
Millcreek City
PW Services
July 1, 2019 - June 30, 2020

Estimated cost of Services		
Snow removal	\$	600,000
Salt	\$	150,000
General road maintenance	\$	934,000
Street light maintenance	\$	113,000
Traffic signal maintenance	\$	66,000
Overlay and chip seal	\$	1,106,244
Concrete maintenance	\$	440,000
Pavement management	\$	30,000
Sign fabrication and maintenance	\$	98,000
Road striping, crosswalks and legends	\$	43,000
School zone warning flashers	\$	9,000
Landscape maintenance and weed control	\$	10,000
Community events support	\$	4,000
Sweeping	\$	141,000
Storm drain maintenance	\$	243,000
Radar speed signs	\$	10,000
Administration	\$	761,000
 Subcontracted Services		
Slurry seal	\$	220,000
Total	\$	4,978,244

Overlay and chip seal (approx. sf)

Overlay	257,500	sf
Chip seal	436,000	sf

Sweeping

approx.days)	73 days
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Vactoring

approx.days)	73 days
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Subcontracted Services (approx. sf)

Slurry seal	1,100,000	sf
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Day time plow routes	17.50
Approx. total manhours	39,000
Cost of services	\$ 5,147,497