

RESOLUTION No. 09-01-2010

**A RESOLUTION OF THE SANTAQUIN CITY COUNCIL AUTHORIZING THE
EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT
BETWEEN SANTAQUIN CITY AND UTAH COUNTY REGARDING A
SANTAQUIN MAIN STREET HIGHWAY PROJECT**

WHEREAS, the City of Santaquin and Utah County desire to coordinate efforts regarding the design and construction of certain improvements to Santaquin City Main Street, in order to improve the delivery time of the service and reduce taxpayer costs; and

WHEREAS, the Utah Interlocal Cooperation Act, Utah Code Ann. § 11-13-1 et seq., authorizes political subdivisions of the state to enter into agreements in order to cooperate in providing services; and

WHEREAS, Santaquin and the County desire now to enter into an Interlocal Cooperation Agreement titled "Interlocal Cooperation Agreement between Utah County and Santaquin city for a highway Project known as 'Santaquin Main Street' in Santaquin City, Utah" to provide such cooperative services;

**NOW THEREFORE, BE IT RESOLVED BY THE SANTAQUIN CITY
COUNCIL THAT:**

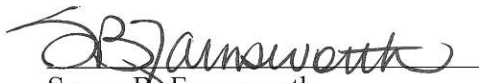
1. The Santaquin City Council approves and authorizes the Mayor to execute the Interlocal Cooperation Agreement between Utah County and Santaquin city for a Highway Project known as 'Santaquin Main Street' in Santaquin City, Utah, a copy of which is attached hereto as Exhibit A and incorporated herein.

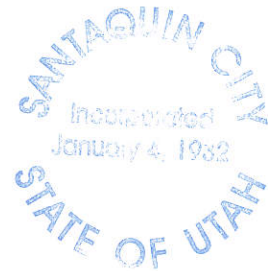
2. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED this 1st day of September, 2010.


James E. DeGraffenried, Mayor

ATTEST:


Susan B. Farnsworth
Santaquin City Recorder



INTERLOCAL COOPERATION AGREEMENT

between

UTAH COUNTY AND SANTAQUIN CITY

For

A Highway Project Known as "Santaquin Main Street" in Santaquin City, Utah

THIS AGREEMENT, made and entered into this 14th day of September, 2010, by and between UTAH COUNTY, a political subdivision of the State of Utah, with principle offices located at 100 East Center Street, Suite 2300, Provo, Utah 84606 ("County") and SANTAQUIN CITY, a political subdivision of the State of Utah, with principle offices located at 45 West 100 South, Santaquin, Utah, 84655 ("City").

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 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 City and the County desire to facilitate a construction project known as the Santaquin Main Street in Santaquin, Utah ("Highway"). The construction project will consist of signalization and intersection improvements at 400 East and U.S. Highway 6 and includes the realignment of a fifth leg into the intersection to improve traffic flow and safety; and

WHEREAS, the City has already commenced preliminary design work and has expended funds for the Highway; and

WHEREAS, pursuant to Utah Code Ann. § 59-12-1903, the County has adopted Ordinance No. 2008-26 to enact a sales and use tax ("Part 19 Tax") of 0.25% upon the transactions described in Utah Code Ann. § 59-12-103(1) subject to the exemptions provided under Utah Code Ann. § 59-12-1903(2)(a); and

WHEREAS, pursuant to Ordinance No. 2008-26 and Section 59-12-1903, the Part 19 Tax is to be collected by the Utah State Tax Commission (the "Commission") and transferred as follows: (i) 0.10% to UDOT for deposit into the County of the Second Class State Highway Projects Fund for new construction, major renovations, and improvements to state highways within the County ("State Roads Portion"); (ii) 0.05% to UDOT for deposit into the Local Transportation Corridor Preservation Fund for acquisitions of real property or interest in real property for highway corridor; and (iii) 0.10%, as determined by the County's governing body,

deposited with the County directly to be expended for state highway designated under Section 72-4-1 of the Code, or a local highway of regional significance ("Regional Roads Portion"); and

WHEREAS, the County bonded against the revenues of the Part 19 Tax so as to make those revenues immediately available for highway projects throughout Utah County, Utah; and

WHEREAS, the Mountainland Metropolitan Planning Organization Regional Planning Committee determined that the Highway should receive a portion of the revenues of the Part 19 Tax not to exceed \$720,000 from the State Roads Portion and \$1,660,000 from the Regional Roads Portion for the direct costs of the Highway; and

WHEREAS, pursuant to Utah Code Ann. § 59-12-1503, the County enacted a sales and use tax ("Part 15 tax") of 0.25% upon the transactions described in Utah Code Ann. § 59-12-103(1) and subject to the exemptions provided under Utah Code Ann. § 59-12-1503(1)(b); and

WHEREAS, the County bonded against the revenues of the Part 15 Tax so as to make those revenues immediately available for highway projects throughout Utah County, Utah; and

WHEREAS, the Mountainland Metropolitan Planning Organization Regional Planning Committee determined that the Highway should receive a portion of the revenues of the Part 15 Tax not to exceed \$1,000,000 for the direct costs of the Highway; and

WHEREAS, the City and the County 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 City and County hereby agree as follows:

Section 1. PURPOSES.

This Agreement has been established and entered into between the County and the City for the purpose of outlining the respective rights and responsibilities of the City and the County in the construction of the Highway.

Section 2. 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 County and the City. 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 2 years from the execution date.

Section 3. NO SEPARATE LEGAL ENTITY.

The County and the City do not contemplate nor intend to establish a separate legal or administrative entity under the terms of this Agreement. The County will be the administrator of this Agreement.

Section 4. TERMS.

1. **Design and Construction:** The City will obtain the necessary right-of-way ("ROW"), design, bid out and manage the construction of the Highway so as to meet or exceed City highway standards. Prior to construction of the Highway or the relevant phase of construction, City will provide a copy of the design work to County for its review and comment. County shall comment, if deemed appropriate, within 30 days of receiving the design work from City.
2. **Ownership and Maintenance of Highway:** Except for those portions of the Highway that are included in U.S. Highway 6, the City shall own and be responsible for maintenance, repair and replacement of the Highway. The parties understand and agree that the County will not have any responsibility for maintenance, repair and replacement of the Highway.
3. **Reimbursement to City for ROW, Design, and Construction Costs (Part 19 Tax):** Both City and County acknowledge that this Highway has been determined by the Mountainland Metropolitan Planning Organization Regional Planning Committee to receive a portion of the revenues of the Part 19 Tax not to exceed \$720,000 from the State Roads Portion and \$1,660,000 from the Regional Roads Portion for the direct costs of the Highway. City, if desiring reimbursement for the direct costs of the Highway, must provide itemized invoices to County detailing actual costs for ROW acquisition, design and construction of the Highway, not to exceed \$720,000 from the State Roads Portion and \$1,660,000 from the Regional Roads Portion of the Part 19 Tax.

County agrees to reimburse City within 30 days of receiving acceptable itemized invoices establishing the validity of the direct costs of the Highway. The maximum amount of reimbursement from County to City shall not exceed \$720,000 from the State Roads Portion and \$1,660,000 from the Regional Roads Portion of the Part 19 Tax. Any costs which exceed \$720,000 from the State Roads Portion and \$1,660,000 from the Regional Roads Portion of the Part 19 Tax shall be the City's sole responsibility. If the costs of the Highway are less than \$720,000 from the State Roads Portion and/or \$1,660,000 from the Regional Roads Portion of the Part 19 Tax, then County shall retain those non-utilized funds. The use of City equipment and/or City employee time for the Highway shall not be reimbursable.

4. **Reimbursement to City for ROW, Design, and Construction Costs (Part 15 Tax):** Both City and County acknowledge that this Highway has been determined by the Mountainland Metropolitan Planning Organization Regional Planning Committee to receive a portion of the revenues of the Part 15 Tax not to exceed \$1,000,000 for the direct costs of the Highway. City, if desiring reimbursement for the direct costs of the Highway, must provide itemized invoices to County detailing actual costs for ROW acquisition, design and construction of the Highway, not

to exceed \$1,000,000 from the Part 15 Tax.

County agrees to reimburse City within 30 days of receiving acceptable itemized invoices establishing the validity of the direct costs of the Highway. The maximum amount of reimbursement from County to City shall not exceed \$1,000,000 from the Part 15 Tax. Any costs which exceed \$1,000,000 from the Part 15 Tax shall be the City's sole responsibility. If the costs of the Highway are less than \$1,000,000 from the Part 15 Tax, then County shall retain those non-utilized funds. The use of City equipment and/or City employee time for the Highway shall not be reimbursable.

5. **Inspection of Highway:** County and its designees, upon reasonable notice reserves the right to enter upon the Highway to inspect the same to verify compliance with this Agreement.

6. **Other Expenses:** Except as otherwise expressly stated herein, all expenses for the construction of the Highway shall be the sole responsibility of the City.

7. **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 City and the County. This Agreement is not intended to nor shall it be construed to benefit any third party.

8. **Recitals:** The Recitals portion of this Agreement constitutes a part of this Agreement.

Section 5. FILING OF INTERLOCAL COOPERATION AGREEMENT.

Executed copies of this Agreement shall be placed on file with the official keeper of records of the County and the City, and shall remain on file for public inspection during the term of this Agreement.

Section 6. AMENDMENTS.

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.

Section 7. 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 8. 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 9. INDEMNIFICATION.

The City shall indemnify and hold County 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 Highway or any part thereof. The City shall further indemnify and hold County harmless from and against any and all claims arising from any breach or default in the performance of any obligation on City's part to be performed under the terms of this Agreement, or arising from any act or negligence of City, or any of City'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 City and the County 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.* City's obligations under this provision shall survive the expiration or other termination of this Agreement.

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

DATED this 14th day of September, 2010.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH



STEVE WHITE, Chair

ATTEST:
BRYAN E. THOMPSON
Utah County Clerk/Auditor

By: Ronnie Carson
Deputy Utah County Clerk/Auditor

REVIEWED AS TO FORM AND COMPATIBILITY WITH APPLICABLE LAW:

JEFFERY R. BUHMAN
Utah County Attorney

By: Robert J. [Signature]
Deputy Utah County Attorney

DATED this 8th day of October, 2010.



SANTAQUIN CITY

James E. DeGraffenried
JAMES DEGRAFFENRIED, Mayor

ATTEST:
SUSAN FARNSWORTH
City Recorder

By: Susan Farnsworth

REVIEWED AS TO FORM AND
COMPATIBILITY WITH APPLICABLE
LAW:

By: [Signature]
Attorney for City