

MILLCREEK, UTAH
RESOLUTION NO. 23-03

A RESOLUTION OF THE MILLCREEK COUNCIL APPROVING A COOPERATIVE AGREEMENT BETWEEN UDOT AND MILLCREEK TO MAINTAIN A PEDESTRIAN SAFETY PROJECT LOCATED AT SR-171 FROM 1885 EAST TO 1940 EAST

WHEREAS, the Millcreek Council (“*Council*”) met in on January 10, 2023, to consider, among other things, approving a cooperative agreement between UDOT and Millcreek to maintain a pedestrian safety project located at SR-171 from 1885 East to 1940 East; and

WHEREAS, the Utah Local Cooperative Act (Utah Code Ann. § 11-13-101, *et seq.*) (the “*Act*”) provides that two or more entities are authorized to enter into agreements with each other for joint or cooperative action; and

WHEREAS, UDOT and Millcreek are public agencies, as contemplated in the Act, and the services contemplated are joint and cooperative actions, as contemplated in the Act; and

WHEREAS, the Council has determined that it is in the best interest of the inhabitants of Millcreek to enter into a cooperative agreement with UDOT to maintain a pedestrian safety project located at SR-171 from 1885 East to 1940 East; and

WHEREAS, a cooperative agreement has been presented to the Council for review and approval, a copy of which is attached hereto (“*Agreement*”); and

WHEREAS, the Agreement sets forth the purpose thereof, the extent of participation of the parties, and the rights, duties, and responsibilities of the parties.

NOW, THEREFORE, BE IT RESOLVED that the Agreement is approved, and that the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

This Resolution assigned No. 23-03, shall take effect immediately on passage.

PASSED AND APPROVED by the Millcreek Council this 10th day of January 2023.

MILLCREEK COUNCIL

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Catten	Yes	No
DeSirant	Yes	No
Jackson	Yes	No
Uipi	Yes	No

**COOPERATIVE AGREEMENT
BETWEEN
THE UTAH DEPARTMENT OF TRANSPORTATION AND
MILLCREEK
FOR NEW SIDEWALK CONSTRUCTION**

THIS COOPERATIVE AGREEMENT made and entered into this ____ day of _____, 2022, by and between the **UTAH DEPARTMENT OF TRANSPORTATION, (“UDOT”)**, and Millcreek, a political subdivision of the State of Utah, (“**Millcreek**”)

RECITALS

WHEREAS, in the interest of public safety, it is the desire of the parties to construct and thereafter maintain a pedestrian safety project at the location(s) described as follows: SR-171; 1885 East to 1940 East and,

WHEREAS, funds for the construction of pedestrian safety projects have been made available by the Statewide Safe Sidewalk and ADA Installation Program ; and

WHEREAS, it is the intent of UDOT that participation in the pedestrian safety project be on a 75%State, 25% local match basis; and

THIS COOPERATIVE AGREEMENT is made to set out the terms and conditions where the work shall be performed.

NOW THEREFORE, the parties agree as follows:

1. The Millcreek with its regular engineering and construction forces at the standard schedule of wages and working hours and in accordance with the terms of its agreement with such employees, or through qualified contractors with whom it has obtained contracts upon appropriate solicitation in accordance with the laws of the State of Utah, shall perform the necessary field and office engineering, furnish all materials and perform the construction work covered by this agreement.
2. In accordance with Utah Code §72-6-116, Millcreek is required to pay, as part of the total project cost, 50% of the costs that comply with Utah Administrative Code R930-8 of any utility facility relocations required within the State highway right-of-way, and the utility company is required to pay the remainder of the cost of relocation. The Millcreek will determine, as part of the design of

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the project, those utility companies with facilities that will require relocation and the cost thereof, and will execute a Utility Relocation – 50% Reimbursement Agreement with those companies prior to advertising the project for bids. Contact John Bangle, Region Two Utility and Railroad Leader at jbangle@utah.gov for assistance in preparing the Utility Reimbursement Agreement.

3. All construction work performed by the Millcreek or its contractor shall conform to UDOT's standards. Millcreek's construction may conform to local standards if they are equal to or greater than UDOT standards.
4. All construction performed under this agreement shall conform to Federal ADA standards.
5. The Millcreek shall submit plans for the work covered by this agreement to UDOT's Region Two Sidewalk Coordinator for review and approval. Upon approval of the plans, and before commencing any construction within the highway right-of-way, Millcreek or its contractor shall obtain a Highway Right-of-Way Encroachment Permit from the Region Two Encroachment and Permits Officer.
6. Millcreek participation can be through financial contribution, preliminary or construction engineering costs, donated labor or equipment, etc. Supporting documentation will be required to verify all costs.
7. The total estimated cost of the pedestrian safety project including **District's** participation is as follows:

UDOT Funds (Allocated Amount)	\$194,100.00
Millcreek's Match	\$ 64,700.00
 TOTAL PROJECT	 \$258,800.00

8. Upon approval of the pedestrian safety project plans and satisfactory evidence that the project is ready to proceed, and upon request of Millcreek, UDOT will deliver to Millcreek a lump sum amount of, \$145,575.00, 75% of UDOT's funds for the construction of the facilities covered by this Cooperative Agreement. Upon completion of construction and final inspection and approval by UDOT, the remaining 25% of UDOT's funds, \$48,525.00, will be delivered to Millcreek bringing the total UDOT funds to \$194,100.00. This amount is the maximum sum of UDOT's contribution. If the project should overrun the estimated project amount contained herein, Millcreek's match shall be revised to cover the additional amount. If the project is completed for an amount less

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than the estimated cost, the amounts in this paragraph will be adjusted proportionally and Millcreek will refund any overpaid amounts to UDOT.

9. Millcreek will furnish to UDOT a statement upon completion of the project for which the grant was made certifying the amount of State funds expended, verification of Millcreek's participation amounts and certification that the project was completed in accordance with the standards and specifications adopted for the project by this Cooperative Agreement.
10. UDOT shall have the right to audit all cost records and accounts of Millcreek pertaining to this project. Should the audit disclose that Millcreek expenditures for the project are less than the grant; all unexpended funds shall be refunded promptly to UDOT. For purpose of audit, Millcreek is required to keep and maintain its records of work covered herein for a minimum of 3 years after completion of the project.
11. If for any reason, Millcreek has not commenced construction of the project within a 2 year time period from UDOT approval of the safety project, Millcreek will relinquish the grant allocation or refund the funds already paid to Millcreek for the project upon request from UDOT, and this Cooperative Agreement shall be terminated. Upon commencement of the construction, Millcreek agrees to complete the construction in an expeditious manner and in a reasonable timeframe. Should UDOT determine that the work is not proceeding in an expeditious manner and upon 30 days written notice, it may withdraw the grant and require Millcreek to refund any portion of the grant funds not expended for approved items at the time of withdrawal, and terminate this Cooperative Agreement.
12. Upon completion of the work covered by this Cooperative Agreement, Millcreek shall, either directly or by ordinance, cause any sidewalks covered by this Cooperative Agreement to be maintained, renewed and/or repaired to perpetuate a secure and non-hazardous pedestrian facility. The maintenance is to include snow removal.
13. UDOT and Millcreek are both governmental entities subject to the Governmental Immunity Act. Each party agrees to indemnify, defend and save harmless the other party from any and all damages, claims, suits, costs, attorney's fees and actions arising from or related to its actions or omissions or the acts or omissions of its officers, agents, or employees in connection with the performance and/or subject matter of this Cooperative Agreement. It is expressly agreed between the parties that the obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, provided the Act applies to the action or omission giving rise to the protections of this paragraph. This paragraph shall not be construed as a waiver of the protections

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of the Governmental Immunity Act by the parties. The indemnification in this paragraph shall survive the expiration or termination of this Cooperative Agreement.

14. If Millcreek modifies its project and the modification affects the work, Millcreek will notify UDOT. In the event there are changes in the scope of the work, extra work, or changes in the planned work that require a modification of this Cooperative Agreement, such modification must be approved in writing by the parties prior to the start of work on the changes or additions.
15. Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of this Cooperative Agreement at the request of the other party.
16. The failure of either party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either party to exercise any rights or remedies provided in this Cooperative Agreement, or by law, will not release either party from any obligations arising under this Cooperative Agreement.
17. This Cooperative Agreement does not create any type of agency relationship, joint venture or partnership between the parties.
18. Each party represents that it has the authority to enter into this Cooperative Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by its duly authorized officers as of the day and year first above written.

MILLCREEK

ATTEST:

By _____
Mayor, Jeff Silvestrini

By _____
City Recorder, Elyse Sullivan

Date _____

Date _____

By _____
Approved to form, John Brems

(IMPRESS SEAL)

Date _____

UTAH DEPARTMENT OF TRANSPORTATION

RECOMMENDED FOR APPROVAL:

APPROVED:

Project Manager, Kevon Ogden

Region Director, Robert Stewart

Date _____

Date _____

Comptroller's Office

Date _____