

AGREEMENT NO. 1997-550

RESOLUTION # 97-33
EAGLE MOUNTAIN ROAD AGREEMENT

THIS AGREEMENT is made on the 30 day of SEPTEMBER 1997, by and between Utah County, a body corporate and politic of the State of Utah, hereinafter referred to as "UTAH COUNTY" and the Town of Eagle Mountain, hereinafter referred to as "Eagle Mountain."

WHEREAS, Eagle Mountain is located within the geographical boundaries of Utah County, Utah; and

WHEREAS, Eagle Mountain has roads located within its geographical boundaries for which it has a legal duty to maintain, hereinafter referred to as the "Roads," and for which it received road funds from the State of Utah, hereinafter referred to as the "Road Funds";

WHEREAS, Eagle Mountain desires to pay and assign all Road Funds to UTAH COUNTY to compensate UTAH COUNTY for expenses incurred in performing pothole patching, sign installation, sign maintenance, snow removal, chip sealing, base restoration, minor reconstruction services and weed control on the Town Roads, said services hereinafter referred to as the "Road Services;" and

WHEREAS, UTAH COUNTY is willing to perform the Road Services on a cost basis with its own equipment and personnel in consideration of the payment and assignment to UTAH COUNTY of the Road Funds of Eagle Mountain, and in accordance with the terms and provisions of this Agreement; and

WHEREAS, the Interlocal Co-operation Act (U.C.A. Section 11-13-1, et. Seq., 1953, as amended) allows public agencies to enter into agreements for joint or co-operative action; and

WHEREAS, the parties desire to enter into this Interlocal Agreement; and

WHEREAS, the parties have each adopted resolutions authorizing this Agreement.

NOW, THEREFORE, in consideration of the benefits to be received, of the payments to

be made, and the covenants and agreements herein contained, the parties hereto agree as follows:

1. Road services at Utah County expense will terminate August 31, 1997.
2. The parties agree that Utah County road services rendered through August 31, 1997 were completed at the expense of Utah County.
3. The parties agree that Eagle Mountain will administer bonds and road improvements made by contractors in the town.
4. Eagle Mountain shall pay UTAH COUNTY the balance of the Road Funds received by Eagle Mountain in the calendar year 1997, in the amount of \$7,005.00 by December 31, 1997, which funds will result in a total credit balance of \$14,010.00.
5. UTAH COUNTY agrees to hold the \$14,010.00 total balance of Road Funds in trust for use on Eagle Mountain roads pursuant to the terms of this Agreement.
6. Eagle Mountain agrees to pay all additional Road Funds received from the State to UTAH COUNTY as soon as the funds are received from the State.
7. UTAH COUNTY agrees to perform the Road Services on Eagle Mountain's roads in accordance with the terms and provisions contained herein.
8. The parties agree that the Road Services will be provided by UTAH COUNTY to Eagle Mountain at UTAH COUNTY'S cost up to the limit of the Road Funds held by UTAH COUNTY. UTAH COUNTY shall withdraw its costs from the Road Funds when such costs are incurred by UTAH COUNTY. UTAH COUNTY shall have no obligation to incur any costs or expenses under this Agreement, and shall have no obligation to perform Road Services if insufficient Road Funds exist to reimburse UTAH COUNTY for its costs. UTAH COUNTY'S costs for Road Services shall

include all expenses, direct and indirect, including, but not limited to, overhead, administrative, liability and risk management expenses.

9. The parties agree to meet in April of each year to determine priorities for the expenditure of the available Road Funds deposited with Utah County for the Road Services.
10. Eagle Mountain agrees to immediately bring to the attention of the Utah County Engineer all road damage, safety concerns, special needs and construction trenches or projects which may affect road travel.
11. Eagle Mountain agrees to require "Excavation Permits" for private individuals who desire to perform work in the roadways and to hold the private parties responsible to repair the damage to the roads which result from their activities.
12. The parties agree to communicate with each other through the member of the Town Council of Eagle Mountain assigned to roads and the UTAH COUNTY Engineer.
13. Eagle Mountain shall continue to retain exclusive jurisdiction over the subject roads.
14. The following terms are included in this Agreement to comply with the requirements of the Interlocal Co-operation Act.
 - A. This Agreement does not establish a separate legal or administrative entity.
 - B. There shall not be a separate budget to carry out the terms of this Agreement.
 - C. The parties shall each file a copy of this Agreement with the keeper of records for their respective entities.
 - D. The parties hereby establish a joint board to administer this co-operative

undertaking. The initial representatives to the board shall be Clyde Naylor from UTAH COUNTY and Debbie Hooge from Eagle Mountain. Either party may change its representative at any time.

- E. Each party shall maintain separate ownership and control over their respective property.
15. The parties represent that each of them has lawfully entered into this Agreement, having complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation.
 16. This contract shall be interpreted pursuant to the laws of the State of Utah.
 17. Time shall be of the essence of this Agreement.
 18. In the event that either party should be required to retain an attorney because of the default or breach of the other or to pursue any other remedy provided by law, the non-breaching or non-defaulting party shall be entitled to a reasonable attorney's fee, whether or not the matter is actually litigated.
 19. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraph and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.
 20. No oral modifications or amendments to this Agreement shall be effective, but this Agreement may be modified or amended by written agreement signed by the parties.
 21. Should any provision of this Agreement require judicial interpretation, the Court

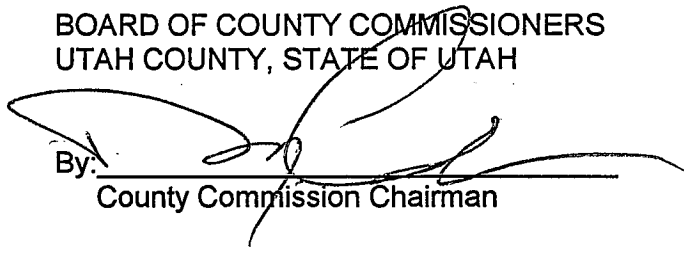
interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

22. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties hereto.
23. All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties.
24. The parties to this Agreement shall not assign this Agreement or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.
25. Eagle Mountain herewith agrees to indemnify and hold UTAH COUNTY, its officers, agents, officials and employees, harmless from any action, causes of action, claims for relief, demands, damages, expenses, costs, fees, attorney's fees, or compensation whether or not said actions, causes of action, claims for relief, demands, damages, costs, fees, expenses and/or compensations are known or unknown, are in law or equity, and without limitation, all claims of relief which can be set forth through a complaint or otherwise that may rise out of this Agreement or the subject Roads.
26. The term of this Agreement is September 1, 1997, through December 31, 1999. This agreement shall be automatically renewed for additional periods of one-year

each, not to exceed five such one-year additional terms, beginning January 1, 2000, unless thirty (30) days's written notice of termination is give by UTAH COUNTY or Eagle Mountain prior to the expiration of the initial period of this Agreement or any annual renewal term thereof; all other terms and conditions of this Agreement shall remain in full force and effect during any annual renewal term.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, STATE OF UTAH

By: 
County Commission Chairman

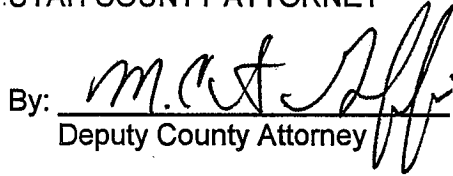
ATTEST:

ARLIN V. KUHN
UTAH COUNTY CLERK/AUDITOR

By: 
Deputy

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:

CARLYLE K. BRYSON
UTAH COUNTY ATTORNEY

By: 
Deputy County Attorney

TOWN OF EAGLE MOUNTAIN

By: *Debbie Hooge*
Mayor Debbie Hooge



ATTEST:

Janet B. Valentine
Clerk

APPROVED AS TO FORM AND COMPATIBILITY WITH THE LAWS OF THE STATE OF UTAH:

By: *[Signature]*
Eagle Mountain Attorney