

## LOCAL TRANSPORTATION FUNDING AGREEMENT

This Agreement is made effective this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between Weber County and Ogden City (collectively the “Parties” or individually the “Party”), and witnesses that:

**WHEREAS**, Utah Code Annotated §59-12-2217, the County Option Sales and Use Tax for Transportation provides the opportunity for a council of governments and the local legislative body to prioritize and approve funding for transportation and transit projects or services, and

**WHEREAS**, the Weber Area Council of Governments (WACOG) is the council of governments with the authority to work with Weber County, the local legislative body, to prioritize and approve funding for such projects; and

**WHEREAS**, the D Avenue Connection Project (“Project”) in the City is among the qualified projects prioritized for funding by WACOG and the County Commission; and

**WHEREAS**, the City intends to construct and improve 0.3 miles of D Ave between 24<sup>th</sup> Street and Exchange Road and terminate B Avenue at 24<sup>th</sup> Street; and

**WHEREAS**, the City submitted a timely and complete application/request to the WACOG, and accordingly such request was approved by the WACOG on November 7, 2022 and subsequently approved by the Weber County Commission on November 15, 2022; and

**WHEREAS**, the County has committed to assist with project costs up to \$4,332,000 programmed for calendar year 2025; and

**WHEREAS**, the City has committed local matching funds in the amount of \$460,300 towards the project; and

**WHEREAS**, the County and the City propose to enter into this Agreement to establish the terms and conditions the County and the City will be bound to in regard to this Agreement;

**NOW THEREFORE**, it is agreed by and between the parties hereto as follows:

**SECTION ONE  
INTRODUCTION AND BACKGROUND**

**A. Introduction and Project Background.**

In the last few years, the need for a traffic signal on 24<sup>th</sup> Street (SR-53) between I-15 and the viaduct has become apparent. B Avenue would appear to be the most logical place to install a signal, as it provides connection in to the West Ogden area linking 24<sup>th</sup> Street to Exchange Road. However, B Avenue is poorly suited for a signal due to the less than ideal roadway landings, steep grades and poor sight triangles at the intersections and rail crossing.

The Utah Department of Transportation and Ogden City have identified D Avenue as the “best” location for a signal and roadway linking 24<sup>th</sup> Street to Exchange Road. The extension of D Avenue would not have horizontal curves such as those on B Avenue, and would provide better stopping sight distances approaching the rail crossing.

The project proposes to construct and improve 0.3 miles of D Avenue between 24<sup>th</sup> Street (SR-53) and Exchange Road. Including the termination of B Avenue with the construction of a cul-de-sac.

The project will include standard items such as removal and replacement of pavement sections, installation of a traffic signal, sidewalk, curb & gutter, pedestrian improvements and storm drainage elements.

The project will improve safety by installing a signal at D Avenue, located in the center of West Ogden, and improve mobility of the heavy truck traffic related to the transfer station.

**B. County Obligations.**

1. The County agrees to reimburse up to \$4,332,000 programmed for calendar year 2025 for the cost of construction and construction related expenditures from the County Option Sales and Use Tax for Transportation Fund.
2. The County’s payment obligations will arise only after the following conditions are met:
  - a. The City submits to the County appropriate evidence of expenditures that qualify for reimbursement under this Agreement; and
  - b. The City submits to the County appropriate evidence of expenditures of at least \$460,300 of the City’s matching funds towards the project.

3. If the City does not expend and seek reimbursement for the full amount approved, then the appropriate County Local Transportation Fund will retain the remaining funds.
4. The County is not responsible for the construction, maintenance, or completion of the project.
5. The City acknowledges that the County cannot guarantee the payment of funds not yet appropriated, including the funds described in paragraph B.1. While the County may not use those funds for purposes or projects that have not gone through the WACOG process, which is outlined in Utah Code Annotated § 59-12-2217, there is no guarantee that the applicable tax revenue will be sufficient to fund all approved projects. If there is a funding shortfall at the time the County prepares its budget for one of the years referenced in paragraph B.1 then notwithstanding any other provision of this Agreement, the County may, without penalty or liability of any kind, appropriate for the Project a proportional amount, as follows: the County shall calculate the ratio of money promised for this Project to the total promised money for WACOG approved projects for the year, and then the County shall multiply that ratio by the actual funds anticipated to be available for WACOG approved projects at the time the County prepares its budget for the year. Here is an example using hypothetical numbers:

Assume the County has promised \$1,250,000 for this Project for the year 2025. If the County promised a total of \$25,000,000 for WACOG approved projects for 2025, then the ratio would be 5%. If, at budget preparation time, the available funds were only anticipated to be \$15,000,000, then the County would only be obligated to pay 5% of the \$15,000,000 to this Project, or \$750,000.

If the County pays a reduced, proportional amount as set forth above, it shall continue to pay proportional amounts of the funds available for WACOG approved projects in subsequent years, and shall not approve new projects to use those funds for those years, until the full amount set forth in this Agreement has been paid. The City specifically acknowledges and agrees that in the event of a funding shortfall, the County shall not be obligated to make up the difference using the County's general funds or any other funding source.

**C. City Obligations.**

1. The City shall be responsible for the construction, maintenance, and completion of the project.
2. The City shall ensure that all applicable local, state and federal guidelines are followed with respect to property acquisition, description and recording.
3. The City shall comply with all program policies that have been adopted by WACOG. Should any of them conflict with state or federal law, the conflicting provisions of state or federal law shall control.

**D. Joint Obligations.**

1. The Parties agree to jointly develop accounting and reporting procedures for the use and distribution of transportation funds.

**E. Miscellaneous.**

1. Indemnification. Because the County is only providing funding for this project, the City agrees to hold harmless and indemnify the County, its officers, employees and agents from and against all claims, suits and costs, including attorney's fees for injury or damage of any kind, arising out of the City's acts, errors or omissions in the performance of this project.
2. Modification. This Agreement may be modified only upon the written agreement of both parties.
3. Applicable Law. This Agreement shall be administered and interpreted in accordance with the laws of the State of Utah.
4. Default. The County may declare a default, terminate this Agreement, and cease further payments if: (1) the City fails to obtain or provide its share of the funding; (2) the project changes in any material way from what WACOG approved; or (3) the project is not timely completed pursuant to WACOG policies and procedures. Additionally, if a default is declared by the County, the City agrees to return all funds that have already been paid under this Agreement.
5. Term. This Agreement shall terminate after satisfaction of all obligations accrued or incurred hereunder, or upon completion or cancellation of the Project referenced herein.

6. **Notice.** Any notice or certification required or permitted to be delivered under this Agreement shall be deemed to have been given when personally delivered, or if mailed, three business days after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the following respective addresses:

Board of Weber County Commissioners  
2380 Washington Blvd., Suite 320, Ogden, UT 84401

Ogden City  
2549 Washington Blvd. Ste. 760, Ogden, UT 84401

7. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court of proper jurisdiction, the remaining provisions shall remain in full force and effect.
8. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one of the same instrument.
9. **Entire Agreement.** This Agreement contains the entire agreement between the Parties, and no statement, promises or inducements made by either Party or agents for either Party that are not contained in this Agreement shall be binding or valid.
10. **Waiver.** No failure to enforce any provision of this Agreement on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Agreement concerning any subsequent or continuing breach.
11. **Dispute Resolution.** If a dispute arises regarding this Agreement, the Parties shall first attempt informal negotiations to resolve the dispute before taking legal action. If that fails, then the Parties may, but are not required to, pursue other means of alternative dispute resolution before taking legal action. In any legal dispute, each party shall be responsible for paying its own costs, including attorneys' fees, regardless of the outcome of the dispute.

IN WITNESS THEREOF, the Parties hereto have caused these presents to be executed by their duly authorized officers as of the day, month, and year first above written.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By \_\_\_\_\_  
Gage Froerer, Chair

Commissioner Harvey voted \_\_\_\_\_  
Commissioner Bolos voted \_\_\_\_\_  
Commissioner Froerer voted \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor

OGDEN CITY

By Michael P Caldwell  
Michael P Caldwell Feb 27, 2023 07:34 MST  
Title: Mayor



Feb 27, 2023

*Lee Ann Peterson*  
Chief Deputy Recorder