

LOCAL TRANSPORTATION FUNDING AGREEMENT

This Agreement is made effective this _____ day of _____ 2021, by and between Weber County and Plain 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 and Utah Code Annotated §72-2-117.5, the Local Transportation Corridor Preservation Fund provide the opportunity for a Council of Governments and the local legislative body to prioritize and approve funding for transportation projects that are included in the area’s Regional Transportation Plan; 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 transportation projects; and

WHEREAS, The North Plain City Road project in Plain City is among the qualified projects prioritized for funding by WACOG and the Weber County Commission; and

WHEREAS, Plain City intends to improve and widen 0.4 miles of North Plain City Road from 2750 West to 2900 West; and

WHEREAS, Plain City submitted a timely and complete application/request to the WACOG, and accordingly such request was approved by the WACOG on October 7, 2019 and subsequently approved by the Weber County Commission on October 15, 2019; and

WHEREAS, Weber County has committed to assist with right-of-way and related costs up to \$416,960 programmed for calendar year 2022; and

WHEREAS, Weber County has committed to assist with construction and construction related costs up to \$3,252,440 programmed for calendar year 2023; and

WHEREAS, Plain City has committed that local funds in the amount of \$100,000 are being contributed as matching and supporting funds for the project; and

WHEREAS, Weber County and Plain City propose to enter into this Funding Agreement to establish the terms and conditions Weber County and Plain 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.

Plain City’s North Plain City Road is a highly travelled road that serves as a major east-west corridor that connects Plain City residents to town and provides access to I-15.

Plain City desires to be proactive and ready for the increased traffic flows and changes that continue to affect the City. In order to accomplish this, the City needs to widen North Plain City Road, add sidewalks, curb and gutter, and shoulders. The proposed project will also include improvements to access, safety, and drainage.

North Plain City Road is classified as a major collector street on the UDOT Functional Classification Map. In the City’s roads master plan, North Plain City road is master planned for a 70’ right-of-way road with additional bike and pedestrian lanes.

The project proposes to reconstruct and widen the existing asphalt street section from 2750 West to approx. 2900 West. The project will include the road widening and construct sidewalks on the north and south side of the road. Installation of a bike path for non-motorized vehicles and joggers, curb and gutter, storm drainage, lights and updated signage will also be included. The pavement will go from the existing width to a pavement width of 70 feet and will be wide enough to facilitate a two-lane road with wide shoulder and bike lanes.

These improvements will allow the road to accommodate increased traffic flows and provide safer access for pedestrians and bicyclist. The City is anticipating higher volumes of traffic in the area once the school district changes the school boundaries. This project will provide the sidewalks necessary to ensure safe access for children and parents walking and biking to and from the new school being constructed to the north of North Plain City Road.

B. County Obligations.

1. County agrees to reimburse up to \$416,960 programmed for calendar year 2022 for the purchase of right-of-way, and right-of-way related expenditures from the Local Transportation Corridor Preservation Fund.
2. County agrees to reimburse up to \$3,252,440, programmed for calendar year 2023 for the cost of construction and construction related expenditures from the County Option Sales and Use Tax for Transportation Fund.

3. County's payment obligations will arise only after the submission, by Plain City, of appropriate evidence of expenditures that qualify for reimbursement under this agreement. If Plain City does not expend and seek reimbursement for the full amount approved, then the appropriate Weber County Local Transportation Fund will retain the remaining funds.

4. Plain City acknowledges that the County cannot guarantee the payment of funds not yet appropriated, including the funds described in paragraph B.1. and B.2. 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 and B.2 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 2022. If the County promised a total of \$25,000,000 for WACOG approved projects for 2022, 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. Plain 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. Plain City Obligations.

1. Plain City shall ensure that all applicable Local, State and Federal guidelines are followed with respect to property acquisition, description and recording.

2. Plain 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 County and Plain City 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, Plain City agrees to hold harmless and indemnify Weber 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 Plain 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.** If Plain City fails to obtain or provide its share of the funding, or if the project changes in any material way from what WACOG approved, then the County may declare a default, terminate this Agreement, and cease further payments. Additionally, Plain 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

Plain City, 4160 W 2200 N, Plain City, UT 84404

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 _____
James H. Harvey, Chair

Commissioner Jenkins voted _____
Commissioner Froerer voted _____
Commissioner Harvey voted _____

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

PLAIN CITY

By

Title:

A handwritten signature in blue ink, appearing to read "J. Beedy", is written over a horizontal line. The signature is cursive and extends slightly above and below the line.