

**MILLCREEK, UTAH**  
**ORDINANCE NO. 23-**

**AN ORDINANCE OF MILLCREEK AMENDING THE CITY’S ETHICS CODE**

**WHEREAS**, the Millcreek Council (“*Council*”) met in a regular session on \_\_\_\_\_, 2023, to consider, among other things, amending the City’s Ethics Code; and

**WHEREAS**, the Council desires to amend the city ethical code to add provision required by various federal government grants; and

**WHEREAS**, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the inhabitants of the city to adopt an amendment to the city’s ethical code to comply with requirement of various federal government grants.

**NOW, THEREFORE, BE IT ORDAINED** by the Council that the following be adopted as an amended to Chapter 2.07 of the Millcreek Code of Ordinances (designated by interlineating the words to be deleted and underlining the words to be added):

**2.07.010 Ethics Pledge/ Statement**

All persons holding office or in the employment of Millcreek, before commencing the duties of their respective offices and annually thereafter, shall read, sign, and file with the City the “Annual Ethics Pledge” in a form provided by the City.

**2.07.020 Employee Training**

All city elected officials and employees shall attend ethics training regarding their ethical duties and responsibilities as established by state statute and by the Millcreek Ethics Code. Additional periodic training will be required for federally supported, funded, or assisted activities depending on the funding source. Attendance at ethics training is mandatory.

**2.07.030 Government In The Sunshine**

1. Millcreek is considered an open records and open meetings government and all elected officials, officers and employees are directed to observe, with exactness, all applicable provisions of state statute and or city ordinance regarding open records and open meetings including, but not limited to, the Government Records Access and Management Act (GRAMA), the Open Meetings Act (ACT) and city ordinances and policies regarding those state statutes.
  1. In the interests of maintaining openness and transparency in city records, city officers and employees are directed to give strong consideration to the application of an impartial balancing test established by GRAMA when determining whether a

record should be released. Officers and employees shall seek to achieve GRAMA's express goals of openness while also giving due consideration to individual privacy rights. Where justified, in accordance with GRAMA, and all other considerations being equal, access should be balanced in favor of openness and transparency.

2. Technology.
  1. As technology presents new developments in the means of communication, including electronic messaging and the "social media," employees and officers are directed to apply GRAMA standards of openness or confidentiality based on the content of a record, regardless of the medium used.
  2. Whereas many modern forums of electronic media, such as the so-called "social media," reduce or eliminate the city's ability to retain, store, retrieve and copy such communications, officers and employees are encouraged to seek appropriate cost-effective solutions to make government records, which are transmitted in electronic media and are classified as public more available for public review and distribution.
2. All meetings of any deliberative board, committee, or agency covered by the Open Meetings Act, including boards or committees conducting quasi-judicial administrative hearings, are directed to conduct all aspects of their decision making process, including both the gathering of evidence and deliberations regarding a decision, in an open and public meeting, with appropriate notice and minutes, unless the nature of the hearing permits closure to the public under the exceptions provided in the Act.
  1. Under rare circumstances, where a deliberative body has good cause to close only its deliberation sessions, it may conduct its deliberative process in private, in accordance with the standards established by applicable decisions of the Utah Supreme Court.
  2. All other provisions of state statute and the Open Meetings Act shall be otherwise applicable to bodies and meetings as defined in the law and to those exceptions in statute which permit closed meetings, under the circumstances and in accordance with the provisions of Section 52-4-205 of the Act.

### **2.07.201 Conflict Of Interest**

1. For the purposes of this chapter, the following definitions control:
  1. "Compensation" or "compensated" means any remuneration or anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever. For purposes of this definition, compensation includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option, or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value.
  2. "Conflict of interest" means any financial interest held by an employee or representative of the city, or by members of an employee's or representative's

household, or those providing regular financial support to the employee or representative or any and all other interests including political, family, fraternal, social, and other interests or associations which may reasonably create the appearance or the actuality of a conflict of interest between an employee's or representative's outside interest and his or her city responsibilities. Conflict of interest also includes other conflicts as defined by state statute, and any campaign contribution made to the officer, employee, or representative, or to any member of his or her household, of more than five hundred dollars during the prior calendar year.

3. "Employee" means a person who is employed on a full-time, part-time, or contract basis by the city. "Employee" shall include elected and appointed officers of the city.
4. "Financial interest" means, but may not be limited to, any employment by or compensated representation as an agent of any individual, corporation, business entity, organization, or committee. A financial interest also includes any legal or equitable ownership by an employee or representative of the city or their spouse or their minor children of 10% or more of the outstanding shares of a corporation or 10% in any business entity.
5. "Financial conflict of interest" means a situation in which the employee or representative of the city, the employee or representative of the city's spouse or dependent children has a significant financial interest or financial relationship that could directly and significantly affect the design, conduct, reporting with respect to the funding of a **federally supported, funded, or assisted activity** .
6. "Governmental action" means any official action on the part of the city, including, but not limited to:
  1. Any decision, determination, finding, ruling, or order, or discussions thereof;
  2. Any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect thereto; or
  3. Any legislative, administrative, appointive, or discretionary act of any public servant or volunteer public servant.
7. "Representative" means any authorized agent of the city. Representative shall include any appointed person, other than an employee, serving on a special, regular, or full-time committee, commission, authority, agency, or board of the city, who is not paid a salary or an hourly wage by the city for his or her services thereon.
8. "Significant financial interest" means:
  1. A financial interest consisting of one or more of the following interests of an employee or representative, the employee's or representative's spouse and dependent children that reasonably appears to be related to the employee or representative responsibilities:

(i) With regard to any foreign or domestic publicly traded entity, a significant financial interest exists if the value of any compensation

received from the entity in the twelve months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000;

(ii) With regard to any foreign or domestic non-publicly traded entity, a significant financial interest exists if the value of any compensation, not otherwise disclosed as current, pending, or other support, received from the entity in the twelve months preceding the disclosure, when aggregated, exceeds \$5,000, or when the employee or representative (or the employee's or representative's spouse or dependent children) holds any equity interest (e.g., stock, stock option, or other ownership interest);

(iii) Intellectual property rights and interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.

2. Any reimbursed or sponsored travel ( i.e., that which is paid on behalf of the employee or representative and not reimbursed to the employee or representative so that the exact monetary value may not be readily available) related to their institutional responsibilities, provided that this disclosure requirement does not apply to travel that is reimbursed or sponsored by a Federal, state, or local government agency of the United States; a domestic Institution of Higher Education; or a domestic research institute that is affiliated with a domestic Institution of Higher Education.
3. The term significant financial interest does not include the following types of financial interests: salary, royalties, or other remuneration paid by the City to the employee or representative if the employee or representative is currently employed or otherwise appointed by the City, including intellectual property rights assigned to the City and agreements to share in royalties relating to such rights; income from seminars, lectures, or teaching engagements sponsored by a Federal, state, or local government agency of the United States, a domestic Institution of Higher Education, or a domestic research institute that is affiliated with a domestic Institution of Higher Education; or income from service on advisory committees or review panels for a Federal, state, or local government agency of the United States, a domestic Institution of Higher Education, or a domestic research institute that is affiliated with a domestic Institution of Higher Education.

## 2. General prohibitions.

1. City employees are governed by the Municipal Officers' and Employees' Ethics Act (10-3-1301, et seq.) regarding outside interests and conflicts that are prohibited or that require disclosure.

2. Employees and representatives are prohibited from using non-public information in a manner that could provide themselves or another gain or benefit.
  3. Employees and representatives shall not use or attempt to use their position in a manner that could secure special privileges or exemptions for themselves or others.
  4. Employees and representatives are prohibited from engaging in any outside activity, employment, or financial investment which constitutes a conflict of interest where such conflict could impair their judgment regarding the faithful performance of city responsibilities.
3. Specific prohibitions depending on the funding source.

Additional specific prohibitions shall be required, as set forth herein, for federally supported, funded, or assisted activities depending on the funding source. An employee or representative shall be deemed to have a significant financial interest in a federally supported, funded, or assisted activities if the City Manager or its designee reasonably determines that the significant financial interest could be affected by the activities funded under applicable federally supported, funded, or assisted activities, could affect the activities funded under applicable federally supported, funded, or assisted activities, is in an entity whose financial interest could affect the activities funded under applicable federally supported, funded, or assisted activities, or is in an entity whose financial interest could be affected by the activities funded under applicable federally supported, funded, or assisted activities.

1. Employees and representatives who are planning to participate in federally supported, funded, or assisted activities must disclose to the City Manager or its designee significant financial interests and the employee's or representative's spouse and dependent children no later than the time of application for federally supported, funded, or assisted activities. In the event the City seeks to add an employee or representative after the time of application, the City shall require the employee or representative and the employee's or representative's spouse and dependent children to make such disclosures prior to participating in the federally supported, funded, or assisted activities.
2. Employees and representatives who are participating in federally supported, funded, or assisted activities shall submit an updated disclosure of significant financial interests at least annually, on or before the last day of June, during the period of the award. Such disclosure shall include any information that was not disclosed initially to the City pursuant to paragraph 3.1 of this section, or in a subsequent disclosure of significant financial interests (e.g., any financial conflict of interest identified on a federally supported, funded, or assisted activities transferred from another government entity), and shall include updated information regarding any previously disclosed significant financial interest (e.g., the updated value of a previously disclosed equity interest).
3. Employees and representatives who are participating in federally supported, funded, or assisted activities must submit an updated disclosure of significant financial interests within 30 days of discovering or acquiring (e.g., through purchase, marriage, or inheritance) a new significant financial interest.

4. Disclosure and updated disclosure shall be signed and dated by the employee or representative and include a certification statement that reads:

I understand that this Disclosure is required to obtain funding from the U.S. Government. I, [Full Name and Title], certify to the best of my knowledge and belief that the information contained in this Disclosure Statement is true, complete, and accurate. I understand that any false, fictitious, or fraudulent information, misrepresentations, half-truths, or omissions of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 1001 and 287, and 31 U.S.C. 3729-3730 and 3801-3812). I further understand and agree that (1) the statements and representations made herein are material to U.S. Government's funding decision, and (2) I have a responsibility to update the disclosures during the period of performance of the award should circumstances change which impact the responses provided above.

4. Conflicts of interest.

1. Employees and representatives are required to disclose any conflict of interest and are bound by the requirements of the Municipal Officer's and Employee's Ethics Act (10-3-1301, et seq.).
2. Any action, vote, contract, or other governmental action which has been undertaken by an officer, employee, or representative who has a conflict of interest shall be terminable by the body that took the action, or by the city officer with authority to void or terminate the action. That body or city officer may also ratify any prior governmental action that was taken in violation of this section.

5. Disclosure.

1. Employees and representatives are required to comply with all legal requirements setting a responsibility to disclose a conflicts of interests including, if applicable, public disclosure of any and all conflicts of interest at any meeting, hearing, or deliberation where the employee or representative is present, and the conflict of interest could impair the judgment of the employee or representative.
2. Oral or written disclosures must be made in accordance with state statute, other sources of the law, and this section.
3. Employees are required to file written disclosures in accordance with the provisions of state statute and city ordinance.
4. All persons holding office or in the employment of Millcreek, before commencing the duties of their respective offices, when necessary if **circumstances change which impact the responses provided**, and annually shall read, sign, and file a "Conflict of Interest " form as provided by the City.

6. Specific management and reporting requirements depending on the funding source.

1. Prior to the City's expenditure of applicable federally supported, funded, or assisted activities the City Manager or its designee entity shall, consistent with the applicable provision of paragraph 3 of this section: review all applicable disclosures of significant financial interests; determine whether any of the disclosures relate to the activities funded under applicable federally supported, funded, or assisted activities; determine whether a financial conflict of interest exists; and, if so, develop and implement a management plan that shall specify the actions that have been, and shall be, taken to manage such financial conflict of interest.
2. Whenever, in the course of an ongoing activities funded by applicable federally supported, funded, or assisted activities, an employee or representative who is new to participating in the activities discloses a significant financial interest or an existing employee or representative discloses a new significant financial interest to the City Manager or its designee, the City Manager or its designee shall, within 60 days: review the disclosure; determine whether it is related to the activities funded by applicable federally supported, funded, or assisted activities; determine whether a financial conflict of interest exists; and, if so, implement, on at least an interim basis, a management plan that shall specify the actions that have been, and will be, taken to manage such financial conflict of interest. Depending on the nature of the significant financial interest, the City Manager or its designee may determine that additional interim measures are necessary with regard to the employee or representative in the activities funded by applicable federally supported, funded, or assisted activities between the date of disclosure and the completion of the review.
3. Whenever the City Manager or its designee identifies a significant financial interest that was not disclosed timely by an employee or representative, for whatever reason, was not previously reviewed by the City Manager or its designee during an ongoing federally supported, funded, or assisted activities (e.g., was not timely reviewed or reported by a subrecipient), the designated official(s) shall, within 60 days: review the significant financial interest; determine whether it is related to the activities funded by federally supported, funded, or assisted activities; determine whether a financial conflict of interest exists; and, if so:

(i) Implement, on at least an interim basis, a management plan that shall specify the actions that have been and will be taken to manage such financial conflict of interest going forward;

(ii)(A) In addition, whenever a financial conflict of interest is not identified or managed in a timely manner, including failure by the employee or representative to disclose a significant financial interest that is determined by the City Manager or its designee to constitute a financial conflict of interest; failure by the City Manager or its designee to review or manage such a financial conflict of interest; or failure by the employee or representative to comply with a financial conflict of interest management plan, the City Manager or its designee shall, within 120 days of the City's

determination of noncompliance, complete a retrospective review of the employee's or representative's activities and the federally supported, funded, or assisted activities to determine whether any activities funded by applicable federally supported, funded, or assisted activities, or portion thereof, conducted during the time period of the noncompliance, was biased in the purpose, design, conduct, or reporting of such activities funded by applicable federally supported, funded, or assisted activities.

(B) The City Manager or its designee shall document the retrospective review; such documentation shall include, but not necessarily be limited to, all of the following key elements:

(1) The federally supported, funded, or assisted activities award number;

(2) The title of the activities funded by applicable federally supported, funded, or assisted activities;

(3) City's principal contact;

(4) Name of the employee or representative with the financial conflict of interest;

(5) Name of the entity with which the employee or representative has a financial conflict of interest;

(6) Reason(s) for the retrospective review;

(7) Detailed methodology used for the retrospective review (e.g., methodology of the review process, composition of the review panel, documents reviewed);

(8) Findings of the review; and

(9) Conclusions of the review.

(iii) Based on the results of the retrospective review, if appropriate, the City Manager or its designee shall update the previously submitted a financial conflict of interest report, specifying the actions that will be taken to manage the financial conflict of interest going forward. If bias is found, the City Manager or its designee shall notify the federal entity that supported, funded, or assisted activities program office promptly and submit a mitigation



report. The mitigation report must include, at a minimum, the key elements documented in the retrospective review above, a description of the impact of the bias on the activities funded by applicable federally supported, funded, or assisted activities, and the City's plan of action or actions taken to eliminate or mitigate the effect of the bias (e.g., impact on the p activities funded by applicable federally supported, funded, or assisted activities; extent of harm done, including any qualitative and quantitative data to support any actual or future harm; analysis of whether the activity funded by applicable federally supported, funded, or assisted activity is salvageable). Thereafter, the City Manager or its designee shall submit financial conflict of interest reports annually. Depending on the nature of the financial conflict of interest, the City Manager or its designee may determine that additional interim measures are necessary with regard to the employee's or representative's participation in the activity funded by federally supported, funded, or assisted activity between the date that the conflict of interest or the employee's or representative's noncompliance is determined and the completion of the City's retrospective review.

4. Whenever the City Manager or its designee implements a management plan pursuant to these provisions, the City Manager or its designee shall monitor employee's or representative's compliance with the management plan on an ongoing basis until the completion of the activity funded by applicable federally supported, funded, or assisted activity.
  5. Prior to the City's expenditure of any funds by federally supported, funded, or assisted activities, the City Manager or its designee shall ensure public accessibility, via a publicly accessible website or written response to any requestor within five business days of a request of information concerning any significant financial interest disclosed to the City Manager or its designee that meets the following three criteria:
    - (A) The significant financial interest is still held by the senior/key personnel as defined by this conflict-of-interest policy;
    - (B) The City Manager or its designee determined that the significant financial interest is related to the activities funded by federally supported, funded, or assisted activities; and
    - (C) The City Manager or its designee determined that the significant financial interest is a financial conflict of interest.
- (ii) The information that the City Manager or its designee makes available via a publicly accessible website or written response to

any requestor within five business days of a request, shall include, at a minimum, the following: the employee's or representative's name; the employee's or representative's title and role with respect to the activities funded by applicable federally supported, funded, or assisted activities; the name of the entity in which the significant financial interest is held; the nature of the significant financial interest; and the approximate dollar value of the significant financial interest (dollar ranges are permissible: \$0-\$4,999; \$5,000-\$9,999; \$10,000-\$19,999; amounts between \$20,000-\$100,000 by increments of \$20,000; amounts above \$100,000 by increments of \$50,000), or a statement that the interest is one whose value cannot be readily determined through reference to public prices or other reasonable measures of fair market value.

(iii)(A) If the City Manager or its designee uses a publicly accessible website for the purposes of this subsection, the information that the City's posts shall be updated at least annually. In addition, the City Manager or its designee shall update the website within 60 days of the City's receipt or identification of information concerning any additional significant financial interest of the senior/key personnel for the activities funded by federally supported, funded, or assisted activities that was not previously disclosed, or upon the disclosure of a significant financial interest of senior/key personnel new to the activities funded by applicable federally supported, funded, or assisted activities, if the City Manager or its designee determines that the significant financial interest is related to the activities funded by applicable federally supported, funded, or assisted activities and is a financial conflict of interest. The website shall note that the information provided is current as of the date listed and is subject to updates, on at least an annual basis and within 60 days of the City's identification of a new financial conflict of interest.

(B) If the City Manager or its designee responds to written requests for the purposes of this subsection, the City Manager or its designee will note in its written response that the information provided is current as of the date of the correspondence and is subject to updates, on at least an annual basis and within 60 days of the City's identification of a new financial conflict of interest, which should be requested subsequently by the requestor.

(iv) Information concerning the significant financial interests of an individual subject to paragraph (a)(5) of this section shall remain available, for responses to written requests or for posting via the

City's publicly accessible website, for at least three years from the date that the information was most recently updated.

6. The City Manager or its designee shall report any unmanaged or unmanageable significant financial interest found to be a conflict as require by the applicable entity providing the funds or assisted activities.

7. Contractual representatives.

1. Individuals and business entities who contract to represent the city interests shall disclose to the city the names of other clients they represent and those clients' respective issues and interests that are relevant to the city interests. Unless they receive written permission from the mayor, such individuals or business entities are prohibited from representing other clients about the same or substantially same issues and interests as covered by the city representation.
2. Individuals and business entities who contract to represent the city's interests by lobbying the State Legislature or any other municipal, city, state or federal office or agency are prohibited from engaging in any lobbying of city officers, employees, agencies or offices, as defined in MKC 2.73.010.

**2.07.202 City Endorsements**

Notwithstanding the provisions of this chapter, the city or a city official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

**2.07.203 Definitions**

The terms defined in this section shall have the following meaning:

"Gifts" means anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.

"Honoraria" means the offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.

"Purchasing official" means any officer or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods,

services, or real property or any specific contract related to a procurement of goods or services or disposal of property.

### **2.07.204 Gifts**

Officers and employees of the city shall not knowingly accept or solicit any gift for themselves, family members or organizations of the officer or employee or others, except as permitted in MKC 2.07.207.

#### **2.07.204.1 Authority to Accept Gifts and Processing Gifts**

1. The Mayor or City Manager may accept gifts to the City from donors where the good faith estimated value of the gift is equal to or less than \$1,000. Authority to accept gifts is not authority to budget or appropriate.
2. The City Council shall have exclusive authority to accept gifts where the good faith estimated value is more than \$1,000. A decision by the Council to accept or reject the gifts shall be made by resolution at a duly noticed and convened open meeting.
3. A "Declaration of Gift" shall accompany any proposed gift in a form acceptable to the City. The Declaration of Gift shall include a description of the gift, its value in cash or the value provided by the donor for non-monetary gifts, the purpose of the gift, and any proposed limitations or restriction for its use. If the gift is accepted by the City appropriate information shall be forwarded to the finance department for inclusion in City records.

### **2.07.205 Gifts And The Procurement Process**

1. Without exception, receipt or solicitation of any gift or a request for employment by a purchasing official from any person including a vendor of goods, seller or buyer of real property, or service provider is illegal and punishable as provided by statute.
2. It is unlawful and punishable as provided by statute for any payment, gift or offer of employment to be offered or made by any person to a public officer or employee or contractor of the city to obtain a specific procurement, disposal, contract, or subcontract.
3. Contracts entered into resulting from a violation of this section are voidable and any payments made on these contracts shall be recoverable to the city.

### **2.07.206 Honoraria**

Officers and employees of the city shall not accept honoraria in regard to activities related to their city duties or purpose except as provided in MKC 2.07.207.

### **2.07.207 Exceptions**

The following are exceptions to the gifts and honoraria requirements of this chapter except as provided in MKC 2.07.205:

1. The gift is a political contribution authorized by law and reported as part of the campaign disclosure requirements of the city or any other governmental entity;
2. Token items of nominal value, including but not limited to, educational materials, t-shirts, coffee mugs, parking validations or other commemorative or similar souvenir items;
3. Snacks, beverages or educational or informational materials provided at meetings or other functions;
4. Transportation to and attendance at conventions, seminars, or events of a primarily educational nature, including meals and entertainment that are part of the required registration, and any associated educational or informational materials directly related to the official duties of the officer or employee;
5. Gifts not related to the activities of the officer and employee with the city;
6. Awards publicly made for public service;
7. Food or a beverage given at a widely attended reception, meal, or meeting by an organization before whom the recipient appears to represent Millcreek, make a speech, answer questions, or participate in part of a program;
8. Attendance at political events that are primarily sponsored by a political party or political candidate;
9. Flowers, plants, balloons, or similar tokens which are given to express condolences, congratulations, or sympathy for ill health, or to commemorate holiday or special occasions;
10. City sponsored programs activities or work;
11. Gifts for the city that become the property of the city;
12. Gifts to city officers, employees or agencies from other city officers, employees or agencies;
13. Death transfers including bequests and inheritances; and
14. Gifts to blind trusts related to legal defense funds for imminent or pending litigation against officers or employees (related to their official duties).
15. An occasional nonpecuniary gift having a value of less than \$50.
16. Any bona fide loan made in the ordinary course of business.

### **2.07.208 Restrictions On Post-City Employment**

1. When a city officer or FLSA exempt employee, excluding uncompensated volunteers, voluntarily leaves city service he or she is prohibited for a period of one year from directly communicating, for compensation, with his or her former city agency for the purpose of attempting to influence any action on any matter pending before that city agency. This prohibition does not apply to routine government services which do not require the exercise of discretion or to the normal scope of a person's licensed professional capacity.
2. Any private business entity or individual whose employee or contractor is found to be in violation of this section shall be prohibited from contracting or conducting any non-statutory transaction with the city for a period of one year from date of the violation.
3. A former officer or employee is not prohibited from holding any office but must disclose and resolve any conflicts of interest arising from their previous city employment which conflicts of interest would tend to interfere with the city's best interest.

### **2.07.209 Nepotism**

City officers and employees shall comply with Utah Code Annotated Section 52-3-1 et seq. For purposed of this provision “direct supervision” means a supervisor who immediately oversees, directs, and evaluates an employee.

### **2.07.401 Political Activities Of Employees**

1. Except as otherwise provided by law, city officers or employees may voluntarily participate in political activity subject to the following provisions:
  1. No person shall be denied the opportunity to become a city employee by virtue of political opinion or affiliation.
  2. No person employed by the city may be dismissed from service as a result of political opinion or affiliation.
  3. A city employee may voluntarily contribute personal funds to political groups and become a candidate for public office.
  4. No city officer or employee, whether elected or appointed, may directly or indirectly coerce, command, or advise any city officer or city employee to pay, lend, or contribute part of his or her salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No city officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the officer's or employee's support or lack of support for any political party, committee, organization, agency, or person engaged in a political activity.
  5. No officer or employee may engage in any political activity during the hours of employment, nor shall any person solicit political contributions from city employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a city employee to the party or candidate of the employee's choice.
  6. Nothing contained in this chapter shall be construed to permit partisan political activity by any city officer or employee who is prevented or restricted from engaging in such political activity by the provisions of the federal Hatch Act.
2. Officers and employees may become candidates for political office or for leadership positions in political parties. Officers and employees doing so shall refrain from engaging in any political activities or campaigning during city working hours. Officers and employees may take an unpaid leave of absence in order to run for political office. Such a leave is at the employee's discretion and may be for some or all of the time between filing a declaration of candidacy and the end of the political campaign. No adverse employment action may be taken against officers or employees who file for office or take a leave of absence.

**2.07.402 Prohibitions On Political Use Of City Resources**

No employee shall use any property or resources of the city, including time, other city employees, equipment, material, city seal, buildings, or facilities in connection with any political activity, except in accordance with established city policy regarding scheduling and use of public meeting rooms.

This Ordinance assigned Ordinance No. 22-\_\_, shall take effect as soon as it shall be published or posted as required by law, deposited, and recorded in the office of the City Recorder, and accepted as required herein.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

**MILLCREEK**

\_\_\_\_\_  
**Jeff Silvestrini**, Mayor

**ATTEST:**

\_\_\_\_\_  
**Elyse Sullivan**, City Recorder

**MILLCREEK, UTAH**  
**RESOLUTION NO. 23-42**

**A RESOLUTION OF THE MILLCREEK COUNCIL APPROVING AN AGREEMENT  
BETWEEN UDOT AND MILLCREEK TO CONVERTED TRANSPORTATION  
ALTERNATIVE PROGRAM (TAP) FUNDS FOR LOCAL AGENCY WITH RESPECT  
TO SIDEWALK IMPROVEMENTS LOCATED ON COLUMBIA AVENUE BETWEEN  
40 EAST TO STATE STREET**

**WHEREAS**, the Millcreek Council (“*Council*”) met in regular session on August 28, 2023, to consider, among other things, approving an agreement between UDOT and Millcreek to converted TAP funds for local agency with respect to sidewalk improvements located on Columbia Avenue between 40 East to State Street; 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 an Interlocal Cooperative Agreement with UDOT for sidewalk improvements located on Columbia Avenue between 40 East to State Street; and

**WHEREAS**, an interlocal 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. 23-42, shall take effect immediately on passage.

**PASSED AND APPROVED** by the Millcreek Council this 28<sup>th</sup> day of August 2023.

**MILLCREEK COUNCIL**

By: \_\_\_\_\_  
**Jeff Silvestrini**, Mayor



**ATTEST:**

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**Elyse Sullivan, City Recorder**

Roll Call Vote:

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



**State of Utah  
Department of Transportation**

<p><b>Cooperative Agreement Converted TAP Funds for Local Agency</b></p>	<p>Project Description: Transportation Alternative Program (TAP)  Columbia Ave; 40 E to State St – Sidewalk sTAP</p>	<p>Charge ID No. 74555</p>
<p>Pin:21041  Job/project: S-R299(474)</p>		<p>Date Executed</p>

**THIS COOPERATIVE AGREEMENT** made and entered into on the executed date, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as “**UDOT**”, and Millcreek, a political subdivision of the State of Utah, hereinafter referred to as the “**Local Agency.**”

**RECITALS**

**WHEREAS**, in the interest of the public, it is the desire of the parties hereto to construct and thereafter maintain a Transportation Alternative Program project(TAP) described as Columbia Ave; 40 E to State St – Sidewalk sTAP; and

**WHEREAS**, funds for the construction of Transportation Alternative Program (TAP) projects have been made available by **UDOT**; and

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

**AGREEMENT**

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

- I. The **Local Agency** 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.
- II. The **Local Agency** is required to pay, as part of the total project cost, 50% of the cost of any utility facility relocations required within the UDOT highway right-of-way, and the utility company is required to pay the remainder of the cost of relocation. The **Local Agency** will determine, as part of the design of 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 the Region Two Utility and Railroad Leader John Bangle, [jbangle@utah.gov] for assistance in preparing the Reimbursement Agreement.
- III. The **Local Agency** will comply with all applicable state and federal environmental regulations, including, but not limited to, Section 404 of the Clean Water Act and Utah Administrative Code 9-8-404. Contact the Region Two Environmental Manager, Dan Bolin at dbolin@utah.gov, for assistance with any environmental compliance requirement questions.
- IV. All construction work performed by the **Local Agency** or its contractor within **UDOT** highway right-of-way shall conform to **UDOT’s** standards and specifications. For work performed within **UDOT’s** right-of-way, the **Local Agency** shall submit plans to **UDOT** for review and approval prior to starting construction. The **Local Agency** shall comply with Utah Administrative Code R930-6 if performing any work within **UDOT’s** right-of-way. Any inspection by **UDOT** does not relieve the **Local Agency** of its

obligation to meet the standards and specifications. **Local Agency's** construction may conform to local standards if they are equal to or greater than **UDOT's** standards and specifications.

V. All construction performed under this Agreement shall be barrier free to wheelchairs at crosswalks and intersections according to state and local standards.

VI. The **Local Agency** will participate at a minimum of 40% of the total project. **Local Agency's** 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.

VII. The total estimated cost of the project including **Local Agency's** participation is as follows:

<b>UDOT Funds (Allocated Amount)</b>	\$123,000.00
<b>Local Agency's Funds (Participation Amount)</b>	\$ 82,000.00
<b>Total Project</b>	\$ 205,000.00

VIII. Upon completion of construction and final inspection by **UDOT**, and upon request of the **Local Agency**, **UDOT** will deliver to the **Local Agency** a lump sum amount of \$123,000.00 or 100% of **UDOT's** funds for the construction of the facilities covered by this Agreement. This amount is the maximum amount of **UDOT's** contribution. If the project should overrun the estimated project amount contained herein, the **Local Agency** shall be responsible to cover the additional amount. If the project is completed for an amount less than the estimated cost, the amounts in paragraph 7 will be adjusted proportionally and **UDOT** will deliver to the **Local Agency** a lump sum amount based on the percentages as stated in this Agreement.

IX. The **Local Agency** will furnish to **UDOT** a statement upon completion of the project for which the grant was made certifying the amount expended on the project and certification that the project was completed in accordance with the standards and specifications adopted for the project by this Agreement.

X. **UDOT** shall have the right to audit all cost records and accounts of the **Local Agency** pertaining to this project. Should the audit disclose that **UDOT's** share of the total cost should be less than the lump sum payment made to the **Local Agency** under this Agreement, the **Local Agency** will promptly refund to **UDOT** the identified overpayment. For purpose of audit, the **Local Agency** is required to keep and maintain its records of work covered herein for a minimum of 3 years after completion of the project.

XI. Upon commencement of the construction, the **Local Agency** agrees to complete the construction [one year from signing of this Agreement]. If for any reason, the **Local Agency** cannot complete construction [one year from signing of this agreement], the **Local Agency** must request, in writing [ninety days before the Agreement expires], an extension of the grant with a full explanation of why the project cannot be completed on time and provide a new planned completion date. **UDOT** will review the request and inform the **Local Agency**, in writing, whether or not the request has been approved. Reasons for which **UDOT** will allow an extension of time include, but are not limited to, weather delays, material shortages, labor strike, natural disaster, or other circumstances that are beyond the **Local Agency's** control. If the request is not approved the **Local Agency** will relinquish the grant allocation for the project and this Agreement shall be terminated.

XII. If the **Local Agency** modifies its project and the modification affects the work, the **Local Agency** 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 Agreement, such modification must be approved in writing by the parties prior to the start of work on the changes or additions.

XIII. Upon completion of the work covered by this Agreement, the **Local Agency** shall be responsible for all costs associated with the ongoing care and maintenance of the resulting improvements.

**XIV. UDOT and the Local Agency** 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 Agreement. It is expressly agreed between the parties that the obligations 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 of the Governmental Immunity Act by the parties. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

**XV.** Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of the Agreement at the request of the other party.

**XVI.** 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 Agreement, or by law, will not release either party from any obligations arising under this Agreement.

**XVII.** This Agreement does not create any type of agency relationship, joint venture or partnership between the parties.

**XVIII.** Each party represents that is has the authority to enter into this 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.

City of Millcreek				Utah Department of Transportation			
By		Date		By		Date	
				Kevon Ogden, Project Manager			
By		Date		By		Date	
				Robert Stewart Director, Region Two			
By		Date		By		Date	
				Comptroller Office			

**MILLCREEK, UTAH**  
**RESOLUTION NO. 23-43**

**A RESOLUTION OF THE MILLCREEK COUNCIL APPOINTING AN APPEAL  
AUTHORITY TO HEAR APPEALS FROM THE BUILDING OFFICIAL**

**WHEREAS**, the Millcreek Council (“*Council*”) met in regular meeting on August 28, 2023, to consider, among other things, appointing an appeal authority to hear appeals from the building official; and

**WHEREAS**, The International Building Code (“*Building Code*”) that was adopted by the City provides for the creation a board of appeals (“*Appeal Authority*”) to hear and decide appeals of orders, decisions or determination made by the building official relative to the application and interpretation of the Building Code; and

**WHEREAS**, the Building Code provides that the Appeal Authority be appointed by the governing body of the City and shall hold office at its pleasure; and

**WHEREAS**, the Council is the governing body of the City and Richard Catten has been nominated to be the sole member of the Appeal Authority’s; and

**WHEREAS**, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the residents of Millcreek to appoint Richard Catten as the sole member of the Appeal Authority.

**NOW, THEREFORE, BE IT RESOLVED** by the Council that Richard Catten be appointed as the sole member of the Appeal Authority.

This Resolution assigned No. 23-43, shall take effect immediately upon passage.

**PASSED AND APPROVED** by the Council this 28<sup>th</sup> day of August, 2023.

**MILLCREEK**

**ATTEST:**

\_\_\_\_\_  
**Jeff Silvestrini, Mayor**

\_\_\_\_\_  
**Elyse Sullivan, City Recorder**

Roll Call Vote:

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