

RESOLUTION NO. 2017-R-19

WHEREAS, Midvale City has created a Street CIP and desires to complete the improvements on these streets; and

WHEREAS, to that end, Midvale City has procured funds through the bond market to finance these projects; and

WHEREAS, design drawings and specification have been prepared by Paul Hansen & Associates to meet City standards for three of the streets on the CIP list; and

WHEREAS, the City advertised the 2017 Roadway Improvement Project to solicit bids from qualified contractors to construct this project; and

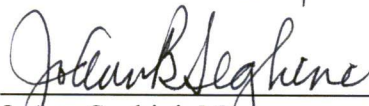
WHEREAS, the City held a public bid opening on April 24th, 2017 and received 2 bids; and

WHEREAS, the City has evaluated these bids based on the criteria noted in the bid documents, and based on that evaluation wishes to award the 2017 Roadway Improvement Project to Miller Paving Inc.; and

WHEREAS, an agreement has been prepared between the City and Miller Paving, Inc.

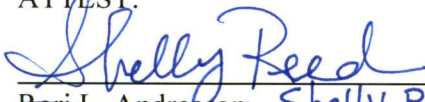
NOW THEREFORE BE IT RESOLVED, that based on the foregoing, the Midvale City Council adopts this resolution authorizing the Mayor to sign the agreement with Miller Paving, Inc. for the construction of the 2017 Roadway Improvement Project.

APPROVED AND ADOPTED this 16th day of May, 2017.



JoAnn Seghini, Mayor

ATTEST:



Rori L. Anderson, Shelly Reed
Deputy City Recorder



Voting by the City Council	"Aye"	"Nay"
Stephen Brown	<u>✓</u>	_____
Paul Glover	<u>✓</u>	_____
Quinn Sperry	<u>ABSENT</u>	_____
Paul Hunt	<u>✓</u>	_____
Wayne Sharp	<u>✓</u>	_____

DOCUMENT 00 52 00

AGREEMENT

THIS AGREEMENT dated as of the 3rd day of May, 2017, is by and between MIDVALE CITY (hereinafter called OWNER), and MILLER PAVING, (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1. WORK

The Construction Contract is known as

**2017 ROADWAY IMPROVEMENT PROJECTS
(Bid Schedules A, B and C)**

2. ENGINEER

The Project has been designed by:

Paul Hansen Associates
1073 East 11780 South
Sandy, UT 84094

who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

3. CONTRACT TIME

3.1. Construction shall meet the timetables and scheduling constraints outlined on the plans in order to minimize disruption to public. The Contract time shall be governed by the following criteria:

- A. The entire project shall be substantially complete by September 29, 2017 and shall meet final completion by October 13, 2017.
- B. Work completed on any of the three street projects shall be completed within the following time frames, and as measured from the date when demolition commences on each particular roadway project:
 - 1. Bid Schedule A - 525 East: Substantially complete within 30 calendar days, and shall meet final completion within 35 calendar days.
 - 2. Bid Schedule B - North Union Avenue: Substantially complete within 14 calendar days, and shall meet final completion within 17 calendar days
 - 3. Bid Schedule C - Union Avenue: Substantially complete within 14 calendar days, and shall meet final completion within 17 calendar days.

3.2. LIQUIDATED DAMAGES

OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER One Hundred Dollars (\$100.00) for each calendar day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete.

After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or within any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER One Thousand Dollars (\$1000.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

4. CONTRACT PRICE

4.1. OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds in accordance with the Bid Form included herewith.

5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. PROGRESS PAYMENTS: All progress payments will be on the basis of the progress of the Work estimated by the engineer.

5.2. FINAL PAYMENT: Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

6. INTEREST

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 7.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and accepts the determination set forth in the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to reply.
- 7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities.

No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 4.03 of the General Conditions.

- 7.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 7.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the work consist of the following:

- 8.1. This AGREEMENT (Document 00 52 00).
- 8.2. Exhibits to this Agreement (pages __ to __, inclusive).

- 8.3. BID (Document 00 41 00)
- 8.4. BID SCHEDULE (Document 00 43 00).
- 8.5. SUBCONTRACTOR SUPPLIER REPORT (Document 00 43 36).
- 8.6. WORK UNDER CONTRACT REPORT (Document 00 43 37).
- 8.7. BIDDER STATUS REPORT (Document 00 43 38).
- 8.8. EMPLOYMENT STATUS VERIFICATION AFFIDAVIT (Document 00 45 37)
- 8.9. PERFORMANCE BOND (Document 00 61 13).
- 8.10. PAYMENT BONDS (Documents 00 61 14)
- 8.11. NOTICE OF AWARD.
- 8.12. GENERAL CONDITIONS (Document 00 72 00).
- 8.13. MODIFICATIONS TO GENERAL CONDITIONS (Document 00 73 10).
- 8.14. Specifications bearing the title TECHNICAL SPECIFICATIONS and consisting of divisions as listed in the table of contents thereof.
- 8.15. DRAWINGS
- 8.16. Addenda numbers 1 to 1 inclusive.
- 8.17. Documentation submitted by CONTRACTOR prior to Notice of Award.
- 8.18. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.04 and 3.05 of the General Conditions.
- 8.19. The documents listed above are attached to the Agreement (except as expressly noted otherwise above). There are no Contract Documents other than those listed above in the Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.04 and 3.05 of the General Conditions.

9. MISCELLANEOUS

- 9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may

become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

10. OTHER PROVISIONS

None

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

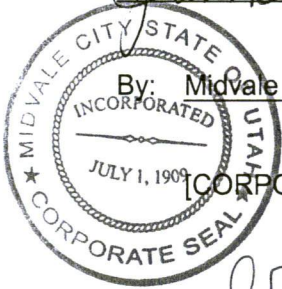
This Agreement will be effective on 3rd day of May, 2017.

John Seghine, OWNER

[Signature], CONTRACTOR

By: Midvale City Corporation

By: Miller Paving



[CORPORATE SEAL]

[CORPORATE SEAL]

Attest: Shelly Reed
Deputy Recorder

Attest: [Signature]

Address for Giving Notices:

Address for Giving Notices:

Midvale City Corporation
7505 South Holden Street
Midvale, UT 84047

Miller Paving
5640 South Riley Lane
Salt Lake City, Utah 84107

(OWNER shall attach authority to sign and resolution or other documents authorizing execution of Agreement.)

License No.: 292925-5501

Agent for Service of Process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

END OF SECTION