

**MIDVALE CITY, UTAH
RESOLUTION NO. 2024-R-02**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE FEDERAL AID
AGREEMENT BETWEEN UDOT AND MIDVALE CITY FOR THE REPLACEMENT OF
THE BRIDGE OVER THE JORDAN AND SALT LAKE CANAL**

WHEREAS, Midvale City has an interest in maintaining its street network in as good as condition as practical; and

WHEREAS, the City has been contacted by the Utah Department of Transportation (UDOT) regarding the 'Bridge Formula Program' (BFP), a program using federal funds for the rehabilitation or replacement of local bridges that are not part of the federal aid system which includes the bridge over the Jordan and Salt Lake Canal located on 8000 South; and

WHEREAS, UDOT will administer the design and construction contracts, with input from the city; and

WHEREAS, the BFP requires local matching funds of 6.77% of the total cost, in this case that match is \$203,100; and

WHEREAS, the City is able to meet that match by using pavement management funds; and

WHEREAS, a Federal Aid Agreement between the City and UDOT has been prepared and needs to be entered into between the parties to start the process.

NOW THEREFORE BE IT RESOLVED, that based on the foregoing, the Midvale City Council adopts this resolution authorizing the Mayor to sign the Federal Aid Agreement between UDOT and Midvale City for the replacement of the bridge over the Jordan and Salt Lake Canal that is located at roughly 80 East 8000 South.


APPROVED AND ADOPTED this 2nd day of January 2024.



Marcus Stevenson, Mayor



ATTEST:



Rori L. Andreason, MMC
City Recorder

Voting by the City Council	"Aye"	"Nay"
Bonnie Billings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Paul Glover	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heidi Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bryant Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Gettel	<input checked="" type="checkbox"/>	<input type="checkbox"/>



State of Utah
Department of Transportation

45176

Midvale
Contract # 2024-91

Federal Aid Agreement for Local Agency Bridge Formula Program as part of Infrastructure Investment and Jobs Act (IIJA) Public Law 117-58	Midvale City - Keith Ludwig	Maximum Project Value Authorized \$3,000,000
Pin# 21293 FINET Number 56386 FMIS Number F018348 DUNS Number: 073003493	Project Number: F-2090(1)1 Project Name: BFP: Midvale City Bridge Replacement 035035F	Agreement Number 248800 Date Executed 01/18/2024

THIS FEDERAL AID AGREEMENT FOR LOCAL AGENCY ("Agreement"), is made and entered into as of the "Date Executed" written above, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**UDOT**", and Midvale City, a political subdivision of the State of Utah, hereinafter referred to as the "**Local Agency**."

RECITALS

- A. The Local Agency has a project that will receive financing from federal-aid highway funds through the Bridge Formula Program, herein referred to as "BFP" for preservation, rehabilitation, or replacement of bridges on the National Bridge Inventory (NBI). The project consists of 035035F – 8000 South over Jordan and Salt Lake Canal located in Midvale City, identified as project number F-2090(1)1 (the "Project").
- B. Pursuant to 23 CFR Section 635.105, UDOT has the responsibility to oversee the federal aid projects to provide for adequate supervision and inspection so the projects are completed in conformance with the approved plans and specifications, including compliance with all federal requirements.
- C. This Agreement describes the respective roles and responsibilities for UDOT and the Local Agency to provide for compliance with the federal requirements for the receipt of Bridge Formula Program ("BFP") funding for the Project referenced above. This Agreement includes the costs associated with the Project including the Local Agency's required share of the Project cost (the "Local Match"). If Project costs increase after the execution of this Agreement, a modification to this Agreement may be required.
- D. The funding for the Project is summarized as follows, and no other funding is available for the Project:

State Wide Transportation Improvement Program STIP 2024 - 2027

Fund*	Prior	2024	2025	2026	2027	Total	Fed Aid	State	Other	Pct
BFP BR MN L	\$0	\$3,000,000	\$0	\$0	\$0	\$3,000,000	\$2,796,900	\$0	\$203,100	6.77%
Total:	\$0	\$3,000,000	\$0	\$0	\$0	\$3,000,000	\$2,796,900	\$0	\$203,100	6.77%

AGREEMENT

Now, therefore, in consideration of the foregoing recitals, which by this reference are incorporated into this Agreement, and the following terms and conditions, the parties hereby incorporate the foregoing recitals into this Agreement and further agree as follows:

I. Description of the Project: The Project is further described as follows:

The Project's scope is to replace structure 035035F. Structure 035035F carries 8000 South over the Jordan and Salt Lake Canal. The width of the structure will be designed to accommodate the roadway width and facilities of the adjacent roadway approaches. The limits of the project will be set based on the limits required to tie the new structure into the existing roadway.

In order for the project to occur the Local Agency grants the Department access to the Local Agency's right of way and easements, whether existing or purchased as part of this project, to perform the design and construction of the project.

II. UDOT's Roles and Responsibilities on this BFP Federally Funded Local Agency Project are as follows:

This list of roles and responsibilities is not comprehensive but describes the general roles of UDOT.

- A. Oversee compliance with federal and state regulations.
- B. Provide for transportation Project oversight as outlined in 23 CFR 635.105.
- C. Assign a UDOT Project Manager (PM) to:
 1. Obtain authorization to proceed from FHWA before beginning work, see Section V. Federal funds shall not participate in costs incurred prior to the date of authorization. FHWA authorizes the funding in separate phases including environmental, design, right of way, and construction.
 2. Prepare and process the BFP federal aid agreement.
 - a. Coordinate betterment items and finalize agreements prior to construction advertising.
 - b. Coordinate with the Local Agency contact to review and recommend change orders for approval.
 - c. Notify the Local Agency when betterment or other funding is due to UDOT.
 3. Provide ongoing communication with the Local Agency contact.
 - a. Monitor and coordinate scope, schedule, budget, and track expenditures during the Project.
 - b. Coordinate and provide details, decisions and impacts involving their community councils, commissions, legal counsel, department heads, political leads, engineering and public works departments, etc.
 - c. Assist in preparing and executing UDOT Standard Utility Reimbursement Agreements when UDOT is responsible to reimburse utility relocation costs under Section XIV below.
 4. Oversee the work for the Project.
 5. Manage the day-to-day activities of the Project as follows:
 - a. Consultant and professional services used on the Project.

- b. Monitor Project risks by reviewing and discussing identified risks and mitigation efforts.
 - c. Monitor Project schedule and progress of all project tasks- to facilitate a timely delivery of the project.
 - d. Oversee Project compliance with federal and state transportation project processes.
- 6. Retain consultant(s) to perform the design, construction inspection and construction management (except to the extent specified in this Agreement).
 - a. Administer consultant qualifications-based selection, negotiation of contracts, and contracting processes for all phases of the Project using the UDOT Consultant Services selection process.
 - b. Approve pay requests.
- 7. Provide work to obtain NEPA Environmental clearances and approvals.
- 8. Require the Project to meet current AASHTO, MUTCD, UDOT, Local Agency, and/or BFP design criteria, as applicable, or if not, require the Project to obtain all design exceptions, waivers or deviations from UDOT and have the necessary signatures in place. Document coordination with the Local Agency associated with these items.
- 9. Right of Way Acquisition:
 - a. Work with Project right of way lead to secure the fee acquisition, perpetual easements and the temporary construction easements required for all areas affected by the Project work.
 - b. Require right of way acquisitions to follow the federal Uniform Act and comply with state right of way acquisition policy, including rules, and meet all Project right of way commitments.
 - c. Request certification through Project right of way lead.
- 10. Coordinate and participate in design review meetings to facilitate the federally-approved, UDOT design process.
- 11. Retain contractor to perform construction of the Project (except to the extent specified in this Agreement).
 - a. Manage the federally-approved construction advertising and award processes through the UDOT's processes.
 - b. Oversee Project construction management operations, progress, pay request approval, and documentation and quality inspection to meet state and federal contract administration requirements.
 - c. Require meeting construction standards and specifications.
 - d. Coordinate the UDOT Project closeout process.

III. Local Agency Roles and Responsibilities on this BFP Federally Funded Local Agency Project are as follows:

This list of roles and responsibilities is not comprehensive but describes the general roles of the Local Agency.

- A. Timely review and signing of this Agreement.
- B. Assign a representative to serve as the Local Agency contact ("Local Agency PM") during all phases of the Project to:
 - 1. Coordinate with the UDOT PM concerning the funding, scope and schedule and monitor the quality of work being performed to provide for the Project's ability to meet the Locals needs.
 - 2. Work with organizations (MPO's, etc.) for funding and expenditure time-frames, scope issues and delivery schedule.
 - 3. Provide details, decisions and impacts to their community councils, commissions, legal counsel, department heads, political leads, engineering and public work departments, etc.
 - 4. Reimburse utility companies for utility relocations when the Local Agency is responsible for reimbursements under Section XIV below. Coordinate with utilities and the Project team to minimize Project impacts and provide for needed utility relocations. Provide the

proper documentation, easements and agreements needed for utility relocations. The Local Agency shall also provide Project utility certifications to the UDOT Region Utility Coordinator as required by Section XIV prior to construction advertising. All utility agreements that involve a relocation reimbursement by UDOT must follow the UDOT standard utility agreement format and process.

5. Coordinate with the UDOT PM to deposit any betterment funds as outlined below in Section IV and provide UDOT with all information necessary to construct the betterment consistent with the Local Agency's needs.
 6. Review the milestone and final advertising package.
 7. Attend Project meetings during design and construction.
 8. Provide consent for change orders that result in increased Local Match or Betterment cost.
 9. Determine the public involvement needs for the Project and perform the necessary Stakeholder coordination, convey to the Project team any potential conflicts with other local projects, convey information to the public about road closures and detours during construction and other public outreach efforts needed to provide for a successful Project.
- C. Upon completion of the work, the following shall apply:
1. Upon completion, the Local Agency shall inspect and accept the work, and upon acceptance the Local Agency shall own and control all work performed for the Project. The Local Agency must accept the Project before UDOT will return control and use of the work back to the Local Agency.
 2. After acceptance, the Local Agency agrees to maintain the bridge and other work performed in a good and proper manner, and in accordance with federal, state and industry standards.
 3. After acceptance, UDOT has no responsibilities for the completed Project. Except when the parties enter a separate agreement that expressly allows certain claims or specified warranty work, by accepting the work the Local Agency releases UDOT and its employees and agents from all claims and losses of every kind (including, but not limited to claims, demands, damages, liabilities, liens, and suits, whether or not involving negligence) that are in any way connected with or arise from this Agreement, funding, the work for the Project, and the property where the Project is located.
 4. After acceptance by the Local Agency, UDOT will continue to provide in-service bridge inspections and load ratings in accordance with the UDOT Bridge Management Manual to address regulatory requirements. The Local Agency agrees that this work does not replace the Local Agency's responsibilities and does not require UDOT to perform any additional work or assume any obligations.

IV. **UDOT Service Costs Included:** UDOT may provide the following to the Project: expertise in Project management, contract preparation, design plan reviews, advertising, construction materials verification/certification, technical assistance, engineering services or other services as needed. Appropriate charges for these costs will be incurred by the Project and included in the overall Project costs. This includes costs for auditing consultant contracts that can be up to [0.5%] of the contract costs.

V. **Funding:** Funds requested beyond the amount described in this Agreement will require execution of a Federal Aid Agreement Modification by the parties. No costs are eligible for federal aid reimbursement until authorized by the FHWA through Form R-709, Request for Federal Aid Project Approval, separate from this Agreement.

The Local Agency shall be responsible for all costs associated with the Project which are not reimbursed by the federal government. If there are any unexpended Federal Funds remaining on the Project, the funds will be returned to the funding source that they originated from and be reprogrammed. UDOT will request payment of Local Match shares and overruns through an email that will be sent to Keith Ludwig at LUDWIGK@MIDVALE.COM the Local Agency Contact.

The Local Agency shall pay within 30 days after each payment request. The Local Agency shall make the check payable to the Utah Department of Transportation, referencing the Project number above and mail to UDOT Comptroller's Office, 4501 South 2700 West, Box 1415010, Salt Lake City, Utah 84114-1510.

- A. **Agency Local Match:** Local Match funds are required from the Local Agency to obtain the BFP federal funding described in this Agreement. (Bridges located on local routes off the federal aid system are eligible for 100% federal funding unless otherwise stipulated in this Agreement. Bridges on local routes on the federal aid system require a minimum Local Match of 6.77% of the total Project cost.)

Upon signing this Agreement, the Local Agency agrees to pay its estimated Local Match share in the phases required by UDOT within 30 days of a request made by UDOT. If required, prior to UDOT performing any work the Local Agency shall also certify that it has the following funding available for payment at the following phases:

When Due	Percent	Amount
Time of Signing this Agreement	10%	\$20,310
Design Commencement	10%	\$20,310
Environmental Commencement	10%	\$20,310
Construction Bid Advertising	70%	\$142,170
TOTAL:	100%	\$203,100

If the Project has cost overruns, the Local Agency shall pay its Local Match for the additional amount to UDOT within 30 days of receiving the invoice. Should the Local Agency fail to reimburse UDOT for costs that exceed the federal reimbursement, federal funding for other Local Agency projects or B&C road funds may be withheld until payment is made in addition to any other remedies available.

If the Local Agency's advanced amount exceeds its share of Project cost, UDOT will return the amount of overpayment to the Local Agency upon financial closure of the Project.

UDOT Comptroller shall provide the Local Agency with a quarterly statement reflecting a cost summary for the Project.

- B. **Utilities:** "Utility" includes telecommunication, crude oil, petroleum products, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private or cooperatively owned. Any utility relocation that may significantly impact the cost or schedule of the Project may be either (1) cause to terminate the Project (XIII, E) or (2) be treated as a Betterment with cost covered by the Local Agency and defined in the Betterment Agreement.
- C. **Betterments:** Local Agency betterments are ineligible for federal funding. The Federal Aid Agreement must be modified to incorporate the additional funding for the betterments that are included after the execution of this Agreement. UDOT and the Local Agency will authorize and address all betterment work using a separate agreement. However, the Local Agency

must advance the funds for both the Local Match and any betterment work to UDOT prior to the construction award. If betterment work has already been authorized by a separate agreement, the Local Agency agrees that payment for the betterment work will be made as follows:

Betterment Work (describe or write N/A)	When Due	Amount
N/A	—	—

- VI. **Local Agency's Reimbursement Claims:** Expenditures by the Local Agency for general administration, supervision, and other overhead shall not be eligible for federal participation unless an indirect cost plan has been approved annually by the Federal government. The Local Agency shall certify to UDOT that it has conformed to all the requirements of applicable state and federal law, Consultant Services Manual of Instruction, Local Public Agency Guide, and all the provisions of this Agreement, as a condition of and prior to receiving payment under this Agreement.

The Local Agency shall comply with 23 CFR Section 710.203 and other applicable requirements for FHWA reimbursement requests of real property acquisitions. A Local Agency shall not request reimbursement for excess acquisitions which are not eligible for FHWA reimbursement under 23 CFR Section 710.203. <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>

- VII. **Federal Aid Project Compliance:** Local Agency shall comply with Title 23, USC, 23 CFR, 2 CFR Part 200, any additional federal requirements applicable to BFP funding, UDOT Local Public Agency Guide, and the Federal Aid Project Agreement between UDOT and Federal Highway Administration concerning federal aid projects. They will also follow the Local Agency's Design Manuals, or processes established specifically for the BFP.
- VIII. **Compliance with the John S. McCain National Defense Authorization Act:** The Local Agency certifies conformance and continued conformance with Public Law 115-232, § 889 and 2 CFR § 200.216.
- IX. **Project Authorization for Federal Aid:** Authorization from FHWA is required before beginning work on any federal aid project. Federal funds shall not participate in costs incurred prior to the date of authorization. The Project Manager will establish a Project end date. Any expenses incurred after the FMIS Close Out End Date will not be eligible for Federal reimbursement and the Local Agency will be required to pay 100% of those costs. FHWA authorizes the funding in separate phases including environmental, design, ROW, and construction.
- X. **Title VI Provisions:** Where Title VI APPENDICES A and E in the remainder of this section use contractor, substitute Local Agency. Where the Title VI APPENDICES A and E in the remainder of this section use the recipient, substitute UDOT.

APPENDIX A: During the performance of this contract, for itself, its assignees and successors in interest (hereinafter in referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Federal Aviation Administration (FAA) as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, FTA, or FAA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, FTA, or FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. canceling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing such provisions including sanctions for A non-compliance. Provided that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E – During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

XI. **Indemnity clause:** UDOT and the Local Agency are both governmental entities subject to the Utah Governmental Immunity Act ("Act"). Each party agrees to indemnify, defend, and save harmless the other party from and against all "Loss" (including but not limited to claims, suits, damages and costs) that arise out of the negligent acts, errors or omissions of itself or its officers, agents, contractors or employees in the performance of this Agreement (except that in the case of an agent or contractor, this indemnity applies to a party only to the extent that the party is able to recover the Loss from its agent or contractor). Each party agrees to require its agents and contractors to maintain liability insurance appropriate for the work performed. Nothing in this paragraph is intended to create additional rights to third parties or to waive any of the provisions of the Act. The obligation to indemnify is limited to the dollar amounts set forth in the Act. The indemnification in this paragraph shall survive the expiration or termination of this Agreement. This indemnity does not apply to matters released by the Local Agency under paragraph III.C.3 above.

XII. **Single Audit Act:** The Local Agency, as a sub-recipient of federal funds, shall adhere to 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. A sub-recipient who expends \$750,000 or more in federal awards from all sources during

a given fiscal year shall have a single or program-specific audit performed for that year in accordance with 2 CFR 200. Upon conclusion of the 2 CFR 200 audit, the Local Agency shall be responsible for ensuring that a copy of the report is transmitted to the Utah Department of Transportation, Internal Audit, 4501 S 2700 W, Box 148230, Salt Lake City, Utah 84114-8230.

- XIII. **Maintenance:** The Local Agency shall properly maintain each type of roadway, structure and facility once the Project is completed in accordance with state and federal requirements.
- XIV. **Utilities:** The Local Agency shall notify and cooperate with utility companies having facilities in the Project limits in accordance with Utah Code Section 54-3-29. In addition, the following shall apply:
- A. The Local Agency shall determine reimbursement eligibility for identified relocations based on the Local Agency's Franchise Agreement or Ordinance that governs the utility. If reimbursable under those local requirements, the Local Agency shall require the utility owner to relocate the facilities in question under those requirements (including payment requirements) in a manner that is consistent with the Project schedule and work.
 - B. If the Local Agency requires the relocation under its Franchise Agreement or Ordinance, in accordance with 23 CFR Section 645.209 (g), the Local Agency will provide a degree of protection to the highway that is equivalent to or more protective than Utah Administrative Rule 930-7, Utility Accommodation Rule.
 - C. If not reimbursable under the Local Agency's Franchise Agreement or Ordinance, then the Local Agency must submit a written statement to UDOT that the Local Agency is "legally unable to reimburse the utility" for relocation or protection work as part of the Project. For those utilities, relocations that UDOT deems to be reimbursable under federal requirements will be performed in accordance with 23 CFR Section 645, Utilities, Subpart A, and among other things, they are subject to 23 CFR Section 635.410, Buy America Requirements.
 - D. When UDOT reimburses utility relocations, the Local Agency shall certify, in accordance with 23 CFR Section 645.107(c), that utility relocation reimbursements to be made in accordance with the provisions of 23 CFR Section 645.107(a) do not violate the terms of a use and occupancy agreement, or legal contract, between the utility and the Local Agency, or are solely for the purpose of implementing safety corrective measures to reduce the roadside hazards of utility facilities to the highway use as provided in 23 CFR Section 645.107(k).
 - E. The utility company must perform the relocation work in coordination with UDOT and the Project, whether the cost is reimbursed by the Local Agency or by UDOT. The Local Agency will facilitate coordination between the Project and the utility company.
- XV. **Availability of Records:** For a period not less than three (3) years from the date of final voucher, the Local Agency accounting records pertaining to the federal aid Project are to be kept available for inspection and audit by the state and federal government or furnished upon request.
- XVI. **Right of Way:** UDOT or the Local Agency with UDOT supervision shall acquire any required right of way for the Project in compliance with 23 CFR Section 710.309, 49 CFR Part 24 and UDOT Right of Way Operations Manual. All the right of way needed for construction must be obtained during the design phase. The Project may not be advertised with any right of way limitations.

For real property disposals, UDOT or the Local Agency shall comply with 23 CFR Sections 710.409 and 710.403. The Local Agency should have property management records, which identify inventories of real property considered excess to Project needs. If in the future a Local Agency determines that real property initially acquired as part of the Project is declared excess and disposed of, the Local Agency must comply with 23 CFR Sections 710.409 and 710.403. These sections require that the Federal share of net income from the sale or lease of real property acquired with Federal assistance be used for Title 23 eligible projects. Refer to <https://www.ecfr.gov/cgi-bin/ECFR?page=browse> for additional information. The Local Agency

shall deposit the net proceeds from the sale or lease with UDOT to be applied towards a Title 23 eligible project as authorized by the BFP.

- XVII. **Additional Contracting Party:** If the Local Agency desires to be an additional contracting party and an additional bondholder or obligee on the performance bond for Class B and C roads, a signed letter on official letterhead by the governing body of the Local Agency shall be an attachment to this Federal Aid Agreement. This provision applies only to federally funded projects and only on B and C roads.

- XVIII. **Termination:** This Agreement may be terminated as follows:

- A. By mutual agreement of the parties, in writing.
- B. By either UDOT or the Local Agency for failure of the other party to fulfill their obligations as set forth in the provisions of this Agreement. A thirty-day written notice to terminate the Agreement will be provided to the other party describing the noncompliance with the Agreement. If the Local Agency has not remedied the noncompliance within the thirty- day period (or, if the noncompliance is not capable of being remedied in thirty days, if the Local Agency cannot demonstrate that it has promptly initiated a cure and is diligently pursuing it to completion), then this Agreement shall terminate automatically. However, if UDOT believes that the Local Agency is violating the Agreement in a manner that may result in harm to the public, inappropriate use of federal funds, or if the Federal Highway Administration requests immediate termination, UDOT may terminate the Agreement without giving the thirty- day notice and this Agreement shall terminate immediately upon the Local Agency's receipt of notice.
- C. By UDOT, for the convenience of the state upon written notice to the Local Agency.
- D. By UDOT, in the event that construction of the Project that is the subject of this Agreement is unreasonably delayed due to the Local Agency's lack of performance, or if federal funding is no longer available.
- E. By UDOT, in the event that unreasonable Project delays and cost due to utilities or right of way may result in cancellation of the Project or loss of federal funding.
 - a. Unreasonable right of way costs is defined as greater than [10%] of the construction item costs of the bridge replacement.
 - b. Condemnation for right of way will not be pursued for the Project.
 - c. Utility delays of greater than [1] year or exceeding the funding expiration date, whichever is shorter.
 - d. Unreasonable utility costs are defined as greater than [10%] of the construction item costs of the bridge replacement.
- F. By UDOT, if environmental commitments and requirements become too onerous or such that delays caused by meeting environment commitments and requirements cause that the Project could not be completed within the funding timeframes.
- G. By UDOT, if the Department determines that there is insufficient support or acceptance of the Project by the local stakeholders.

In the event of termination, the Local Agency shall pay all of UDOT's costs referenced in paragraph IV regardless of whether the Project is constructed.

In the event of termination and the Project is not constructed all federal funding becomes ineligible and the Local Public Agency is responsible for paying all costs incurred by the Project.

- XIX. **Miscellaneous:** The following terms apply to this Agreement:

- A. Any party may give a written notice under this Agreement by delivering it to the following physical address (an email may be used in addition as a courtesy), and notice is effective upon delivery when delivered by hand or by overnight delivery service with confirmation of

delivery (or, if placed in the U.S. mail, notice is effective three days after such notice receives a postmark):

<p>To UDOT:</p> <p>UDOT 4501 South 2700 West Box 143600 Salt Lake City, UT 84114 Attention: _____</p> <p>With a copy to:</p> <p>Assistant Attorney General (UDOT) 4501 South 2700 West Box 148455 Salt Lake City, UT 84114</p>	<p>To the Local Agency:</p> <div style="border: 1px solid black; padding: 5px;"> <p>Midvale City 7505 SOUTH HOLDEN STREET Midvale, UT 84047-3000 Keith Ludwig, (801) 567-7200 LUDWIGK@MIDVALE.COM</p> </div>
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- B. The parties agree to undertake and perform all further acts that are reasonably necessary (except when expressly prohibited by law) to carry out the intent and purpose of the Agreement and to assist UDOT with maintaining compliance with the legal requirements applicable to UDOT after receiving a written notice that explains the need for such action. Among other things, the parties agree that if this Agreement omits or conflicts with the terms of an applicable federal law or program requirement, the applicable federal law or program requirement is hereby incorporated into this Agreement, and the parties will conform to the applicable federal law or program requirement in lieu of anything in this Agreement to the contrary.
- C. UDOT's action or inaction when providing a consent, review, acceptance, approval or taking other action hereunder for any conditions, inspections, plans, specifications, or work, is for purposes of administering this Agreement only, and it does not constitute an assumption by UDOT of any responsibility or liability for the same.
- D. No part of this Agreement may be waived, whether by a party's failure to insist on strict performance of this Agreement or otherwise, except in a writing signed by an authorized representative of the party waiving. Neither party may assign or delegate this Agreement and actions required by it without the other party's prior written authorization, and any purported assignment or delegation to the contrary is void. This Agreement does not create any agency, joint venture, partnership, or other relationship among the parties, and it is intended only for the parties hereto and does not create any third-party beneficiaries. This Agreement is governed by Utah law without reference to choice or conflict of law provisions. Jurisdiction for any judicial action brought in connection with this Agreement shall be in brought in a court in Salt Lake County, Utah, and ALL PARTIES KNOWINGLY AND VOLUNTARILY WAIVE THEIR RIGHTS TO A JURY TRIAL. Time is of the essence. This Agreement (or, if any part hereof is invalidated by law, this Agreement's remaining provisions) shall be construed to enforce its terms to the fullest extent allowed under applicable law to give effect to the intent of the parties. This Agreement will not be interpreted to have a drafter or be construed against a drafter. Before taking any legal action in connection with this Agreement, each party agrees to first advise the other of a dispute and to meet to discuss it in good faith in an effort to resolve it. All remedies in this Agreement are cumulative and nonexclusive and they do not limit any other remedies available to the parties. The indemnity provision, remedies, and other terms that by their nature are intended to survive this Agreement's termination shall survive. Nothing in this Agreement shall be construed to limit UDOT's governmental powers and authority. This Agreement may only be amended in a written document that is signed by an authorized representative of each party. This is the entire agreement of the parties with respect to the subject matter hereof and it shall supersede all prior negotiations, understandings, and agreements with respect to such subject matter. Each party warrants that all of its representatives who are necessary to make this Agreement fully binding against the party (and its successors and assigns, if any) have signed below with the party's authorization, and that this Agreement's terms do not violate laws, contracts, or

commitments that apply to the party. This Agreement may be signed in counterparts and signed electronically.

XX. Content Review: Language content was reviewed and approved by the Utah AG's office on March 02,2023

LOCAL AGENCY

By Keith Ludwig

Date 01/03/2024

Midvale City Official
City Engineer

LOCAL AGENCY

By Adam Olsen

Date 01/03/2024

Midvale City Official
Community Development Director

LOCAL AGENCY

By Garrett Wilcox

Date 01/03/2024

Midvale City Official
City Attorney

LOCAL AGENCY

By JN Rockwood

Date 01/03/2024

Midvale City Official
Assistant City Manager

LOCAL AGENCY

By Marcus Stevenson

Date 01/04/2024

Midvale City Official
Mayor



Utah Department of Transportation

By [Signature]
Region Director

Date 01/18/2024

UDOT Comptroller

By [Signature]
Comptroller's Office

Date 01/18/2024

attest: Shelly Reed
Deputy Recorder



**Consultant Services
Federal Aid Agreement Review/Approval Routing Form**

**STATE OF UTAH
UTAH DEPARTMENT OF TRANSPORTATION
CONSULTANT SERVICES**

TODAY'S DATE 12/11/2023
PM REQUEST DATE 12/11/2023

**FEDERAL AID
AGREEMENT NO.**

Project No.: F-2090(1)1
PIN Description: BFP: Midvale City Bridge Replacement
035035F

PIN No.: 21293
FINET Prog Code No.: 56386

UDOT Project Manager	UDOT Contract Administrator
John Montoya 2010 South 2760 West Salt Lake City, UT 84104 (801)910-2500 johnmontoya@utah.gov	Michael R. Butler (Acting as UDOT) PO Box 148490 Salt Lake City Utah 84114-8490 (801)815-4367 michael.butler+udot@wgc.us

Local Government
Midvale City 7505 SOUTH HOLDEN STREET Midvale, UT 84047-3000 Keith Ludwig, (801) 567-7200 LUDWIGK@MIDVALE.COM

Project Value	\$3,000,000
Federal Match	\$2,796,900
Local Government Match	\$0
State Match	\$203,100

This Federal Aid Agreement will follow the current Consultant Services electronic signature process. Please follow the email instructions for processing the Federal Aid Agreement. If legal reviews are required by your entity, the contract will still need to ultimately follow the electronic signature process.