

**RESOLUTION NO. 2021-05 RDA**

**A RESOLUTION AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER TO EXECUTE THE CENTRAL COMMUNITY PARK PROJECT AGREEMENT WITH BLU LINE DESIGNS.**

**WHEREAS**, the Redevelopment Agency of Midvale City was created to transact the business and exercise the powers provided for in the Utah Redevelopment Agencies Act; and

**WHEREAS**, the Agency's Board of Directors adopted the Jordan Bluffs Project Area Plan on August 10, 2004; and

**WHEREAS**, Gardner Jordan Bluffs, L.C. assumed a Master Development Agreement for the Jordan Bluffs Project Area; and

**WHEREAS**, Gardner Jordan Bluffs, L.C. intends to dedicate approximately 15 acres of its property to Midvale City and provide no more than \$6,000,000 of improvements in order to create the Central Community Park; and

**WHEREAS**, the Central Community Park and available open space and their related facilities will have significant benefits for Gardner Jordan Bluffs, L.C., the Agency, and Midvale City; and

**WHEREAS**, the Agency desires to ensure that the Central Community Park meets the needs of and maximizes the benefits for the Agency and the Jordan Bluffs Project Area; and

**WHEREAS**, Agency published a Request for Proposals for Professional Design, Development, and Architectural Services for the Central Community Park Project; and

**WHEREAS**, blu line designs represented to the Agency that it is qualified to provide such services and has demonstrated its desire to provide such services by submitting a response to the RFP ; and

**WHEREAS**, in accordance with Midvale Municipal Code 3.02.130, the Agency determined that blu line designs was the responsive responsible bidder and awarded the Central Community Park project to blu line designs; and

**WHEREAS**, based on Agency staff recommendations, the Board of Directors desire to award the Central Community Park Project to blu line designs; and

**WHEREAS**, an agreement to complete the Central Community Park Project has been drafted and is acceptable to the Agency and blu line designs.

**NOW THEREFORE BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF MIDVALE CITY**, that the Board of Directors does hereby authorize the Chief Administrative Officer to execute the Central Community Park Project Agreement with blu line designs set forth in Exhibit A.

PASSED AND ADOPTED BY THE REDEVELOPMENT AGENCY OF MIDVALE CITY  
BOARD OF DIRECTORS, ON THIS 16<sup>TH</sup> DAY OF MARCH, 2021, BY THE  
FOLLOWING VOTE:



Robert M. Hale  
Chief Administrative Officer

Matt Dahl  
*Interim* Executive Director

ATTEST:

Rori L. Andreason, MMC  
Secretary

Voting by the Board of "Aye"

Directors:

Bryant Brown

Paul Glover

Quinn Sperry

Heidi Robinson

Dustin Gettel

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"Nay"

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# Central Community Park Project Agreement

This Agreement to provide professional design, development, and architectural services for the Central Community Park Project is executed on \_\_\_\_\_, 2021, by the Redevelopment Agency of Midvale City, a political subdivision of Utah, and blu line designs, a Utah professional corporation.

## Background

On August 10, 2004, the Redevelopment Agency of Midvale City Board of Directors adopted the Jordan Bluffs Project Area which consists of 270 acres on Midvale City's west side; and

Gardner Jordan Bluffs, L.C., has assumed a Master Development Agreement for the Jordan Bluffs Project Area; and

Gardner Jordan Bluffs intends to dedicate approximately 15 acres of its property to Midvale City and provide no more than \$6,000,000 of improvements in order to create the Central Community Park; and

The Central Community Park and available open space and their related facilities will have significant benefits for Gardner Jordan Bluffs, L.C., the Agency, and Midvale City; and

The Agency desires to ensure that the Central Community Park meets the needs of and maximizes the benefits for the City and the Jordan Bluffs Project Area; and

The Agency published a Request for Proposals for Professional Design, Development, and Architectural Services for the Central Community Park Project; and

blu represented to the Agency that it is qualified to provide such services and has demonstrated its desire to provide services by submitting a response to the RFP; and

In accordance with Midvale Municipal Code 3.02.130, the Agency determined that blu was the responsive responsible bidder; and

Therefore, in consideration of the mutual promises contained in this Agreement, it is agreed:

## Agreement

### 1. **Central Community Park Project.**

#### A. **Data Gathering.**

blu will familiarize itself with the Jordan Bluffs area, its history, current



conditions, and future goals. blu will develop a list of open space needs in the Jordan Bluffs Project Area and provide the Agency with a technical report of its findings.

**B. Central Community Park Planning.**

In coordination with Agency and Midvale City staff, blu will provide a technical report that addresses and includes:

- i. What features and improvements should be added to, or removed from, the conceptual park design;
- ii. Community feedback on the Central Community Park received from a public engagement open house conducted by blu and scheduled and hosted in coordination with the Agency;
- iii. Detail the anticipated maintenance requirements and costs for proposed open space improvements;
- iv. Recommendations on site design and development including irrigation, landscaping, facilities, facility locations, park amenities and similar items;
- v. Recommendations on a phasing plan for initial park construction and future improvements, including estimated cost of construction;
- vi. Recommend access standards, including access points, parking count, and location requirements; and
- vii. Recommendations on how to maximize the developer's contribution to the development of the park.

**C. On-Going Professional Services.**

blu agrees to provide the following services as requested by the Agency:

- i. Validate cost estimates for park features and improvements provided by the developer;
- ii. Review and provide opinions of park design and operation proposals from developer, Agency, and City Staff;
- iii. Provide written recommendations as needed regarding maintenance of facilities and improvements within the Central Community Park;
- iv. Assist with public engagement regarding open space needs assessments, designs, and development for the Jordan Bluffs Project Area. Assistance may include facilitating meetings, providing meeting materials, and generating summary reports of public engagement;
- v. Provide open space technical reports for projects within the Jordan Bluffs Project Area as requested by the Agency; and
- vi. Conduct public engagement open houses scheduled and hosted in coordination with the Agency.

Any request by the Agency to perform one or more of the above services will be submitted as a task order that will define the scope of work of such request.

Within two business days, blu will provide the Agency with an estimated cost and schedule to complete the Agency's task.

2. **Term.** The Agreement will become effective on the execution date at the top of Agreement. The Agreement will expire upon the third anniversary of its execution. The Parties may mutually renew the Agreement for one-year periods until the final acceptance of the Central Community Park by Midvale City from Gardner Jordan Bluffs, L.C., or any subsequent developer.

3. **Compensation.**

- A. **Project Cost.**

- i. **Data Gathering.** The Agency will pay blu \$5,015 to complete the Data Gathering requirements under Subsection 1(A) of the Agreement.
    - ii. **Central Community Park Planning.** The Agency will pay blu \$15,300 to complete the Central Community Park Planning requirements under Subsection 1(B) of the Agreement.
    - iii. **On-Going Professional Services.** The Agency will pay blu to complete any requested On-Going Professional Services under Subsection 1(C) of the Agreement in accordance with blu's hourly rates attached as Exhibit A.

- B. **Invoices.** In order to receive payment, blu will submit invoices to the Agency. The invoice must be itemized, describe the work performed, and provide sufficient documentation of the work performed. Within 30 days of receiving the invoice, the Agency will pay blu for any uncontested charges. The Parties will resolve any disputed charges under Section 10 of this Agreement.

- C. **Non-Funding.** The Parties acknowledge that funds are not presently available for the Agency's performance under this Agreement beyond June 30, 2021. The Agency's ability to pay compensation under this Section beyond June 30, 2021, is contingent upon funds being appropriated in future fiscal years. In the event that insufficient funds are appropriated, the Agreement will terminate and become null and void on the first day of the City fiscal year for which funds were not sufficiently appropriated. In the event of a reduction in appropriations, the Agreement will terminate and become null and void on the last day before the reduction becomes effective. Termination of this Agreement under this Subsection will not be considered a breach of this Agreement. Such termination will be without any penalty or liability.

4. **Schedule.**

- A. **Data Gathering.** blu will complete the Data Gathering requirements under Subsection 1(A) of the Agreement within 30 days of the execution of this

Agreement.

**B. Central Community Park Planning.**

- i. **Public Engagement Open House.** The Agency and blu anticipate hosting a public engagement open house in accordance with Subsection 1(B)(ii) within 75 days of executing this Agreement. The Agency and blu will negotiate the actual date of the public engagement open house in good faith.
- ii. **Data Gathering.** blu will provide a technical report to the Agency that meets the Central Community Park Planning requirements under Subsection 1(B) of the Agreement within 30 days of the completion of the public engagement open house scheduled under Subsection 4(B)(i).

**C. On-Going Professional Services.** Upon request of the Agency, blu will complete any requested tasks under Subsection 1(C) of the Agreement within the timeframe agreed to by the Agency and blu.

**D. Acts of God.** In the event that a Party is unable to perform any of its obligations under this Agreement due to events beyond its reasonable control, the Party must notify the other Party of its inability to meet its obligations and identify the events beyond its reasonable control. The other Party may either modify the schedule under the Agreement to reasonably accommodate the unforeseen event, or it may terminate the Agreement under Subsection 8(A) of this Agreement. Events beyond a Party's reasonable control include, but are not limited to, fires, floods, accidents, strikes, riots, acts or threats of terrorism, epidemics, and natural disasters.

**E. Midvale-Caused Delay.** Both Parties recognize that the Agency's cooperation is necessary for blu to successfully complete the Project in accordance with the schedules in Subsections 4(A)-(C). In the event that the Agency unreasonably delays blu's performance, the affected schedule will be extended by the number of days blu's performance was unreasonably delayed by the Agency.

**F. Time.** Time is of the essence.

**5. Standard of Care.**

blu represents that its performance under this Agreement will be completed in a manner consistent with the level of care and skill ordinarily exercised by the members of blu's profession currently practicing in the same locality, at the same time, and under similar conditions.

**6. Insurance.**

**A. Coverage Amounts.** blu must retain, at a minimum, the following insurance



coverages for the term of this Agreement:

- i. Commercial General Liability: \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate;
  - ii. Automobile Liability: \$1,000,000 combined single limit;
  - iii. Professional Negligence/Errors and Omissions: \$1,000,000 per occurrence; and
  - iv. Worker's Compensation Insurance at statutory limits.
- B. **Additional Insured.** Except for its Worker's Compensation Insurance policy, blu must list the Agency as an additional insured on the insurance policies required under Subsection 6(A) of this agreement.
- C. **Primary Insurance.** Insurance under this Section is required to be primary, non-contributory, and not in excess of any insurance or self-insurance policies available to or maintained by the Agency.

7. **Indemnification.**

- A. **blu.** blu agrees to indemnify, defend, and hold harmless the Agency and its officials, officers, employees, volunteers, and agents from and against all damages, liabilities, and claims (including legal fees) arising from blu's breach of contract, negligence, recklessness, intentional misconduct, or subconsultant's negligence.
- B. **Agency.** The Agency agrees to indemnify, defend, and hold harmless blu and its officers, employees, and agents from and against all damages, liabilities, and claims (including legal fees) arising from the Agency's breach of contract, negligence, recklessness, or intentional misconduct.

8. **Termination.**

- A. **Convenience.** The Agency may terminate this Agreement at its convenience at any time by providing blu 30-day prior written notice. Termination under this Section will not be considered a default. The Agency agrees to pay blu for any work performed under this Agreement prior to the termination. blu must provide reasonable, detailed documentation to the Agency for any work performed prior to the termination. blu will provide the Agency with any project-related work product created before termination of the Agreement upon final payment from the Agency.
- B. **Cause.**

- i. **blu.** In the event that blu terminates this Agreement because of the Agency's default, the Agency will pay blu for any completed work within 30 days of the termination of this Agreement. blu will provide the Agency with any project-related work product created before termination of the Agreement upon final payment from the Agency.
- ii. **Agency.** In the event that the Agency terminates this Agreement because of blu's default, the Agency will pay blu for any completed work within 30 days of the termination of this Agreement. blu will provide the Agency with any project-related work product created before termination of the Agreement upon final payment from the Agency.

9. **Default.**

- A. **blu.** In the event that the Agency defaults under this Agreement, blu may pursue the following remedies upon written notice of the default and the remedy to Midvale.
  - i. **Stop Performance.** blu may stop performance under this Agreement until the Agency has cured the default.
  - ii. **Interest.** blu may charge the Agency 1.5% interest, compounded monthly, on any unpaid amount owed by the Agency.
  - iii. **Termination.** If the Agency has not cured the default within a reasonable amount of time, blu may terminate this agreement in accordance with Subsection 8(B)(i) of this Agreement.
- B. **Agency.** In the event that blu defaults under this Agreement, the Agency may pursue the following remedies upon written notice of the default and the remedy to blu.
  - i. **Suspend Performance.** The Agency may suspend blu's performance under this Agreement until blu has cured the default.
  - ii. **Withhold Payment.** The Agency may withhold payment until blu has cured the default.
  - iii. **Termination.** If blu has not cured the default within a reasonable amount of time, the Agency may terminate this Agreement in accordance with Subsection 8(B)(ii) of this Agreement.
- C. **Other Legal Remedies.** The list of remedies under this Section is not exhaustive. Either Party may pursue any other right or remedy available to it, either in law or equity, on account of the other Party's default.



D. **Nonexclusive.** The remedies available to the Parties are nonexclusive. Either Party may use any combination of remedies available.

10. **Dispute Resolution.**

Any dispute arising under or relating to this Agreement will be resolved in the following order:

- A. Good faith negotiations between the Parties;
- B. Good faith mediation with a mutually agreed upon mediator and with each Party paying one-half of the mediation costs; and
- C. Litigation. If a Party incurs any legal or attorney's fees in litigation to resolve a dispute arising under or relating to this Agreement, the prevailing Party may recover such fees.

11. **Applicable Laws.**

blu agrees to comply with all applicable laws, rules, and regulations. This includes, but is not limited to, not discriminating against any individual in an employment decision because of the individual's race, color, sex, age, religion, national origin, disability, pregnancy, familial status, veteran status, genetic information, sexual orientation, or gender identity

12. **Notice.**

Any notice required or permitted under this Agreement will be deemed sufficiently given or served if personally delivered or sent by United States Certified Mail, return receipt requested, addressed as follows:

Midvale City RDA  
Attn: Jessica Stephens  
7505 S. Holden Street  
Midvale, Utah 84047

blu line designs  
Attn: Robert Donigan  
8719 S Sandy Parkway  
Sandy, Utah 84047

The Parties each have the right, from time to time, to change their respective notice addresses under this Section by written notice to the other Party.

13. **Relationship of Parties.**

blu is an independent contractor. The Parties have not created any other legal relationship with each other including, but not limited to, that of employee or agent of the other Party. Neither Party has the authority or power to bind the other Party.

14. **Modification.**

The Parties may modify this Agreement with prior written consent by both Parties. Any other modification is prohibited and invalid.

15. **Assignment and Delegation.**

A Party may not assign or delegate any part of this Agreement without the other Party's prior written consent. A Party may not unreasonably withhold its consent.

16. **Subcontractors.**

- A. **Prior Consent.** If blu subcontracts with any entity for performance under this Agreement, it must first receive written consent from the Agency. The Agency may not withhold its consent unreasonably.
- B. **Responsibility.** blu is responsible for the acts or omissions of any of its subcontractors in the performance of this Agreement. Any subcontractor retained by blu to perform work under this Agreement is subject to the requirements of this Agreement.
- C. **Status Verification.** If blu subcontracts with an entity that performs on-site work at any Midvale location, the subcontractor must be compliant with Section 19 of this Agreement. Prior to performing any work, the subcontractor must provide certification of its compliance prior to performing any work under this Agreement.

17. **Conflict of Interest.**

- A. **Relationship.** blu represents and warrants that none of its officers, employees, or immediate family members of its officers or employees is or has been an elected official, employee, board member, commission member, or agent of the Agency or its affiliates who influences the Agency's procurement process. This includes, but is not limited to, anyone involved in the Agency's drafting of procurement and project documents or the Agency's selection of a bidder.
- B. **Gift.** blu represents and warrants that it has not provided any compensation or gift in any form, whether directly or indirectly, to an elected official, employee, board member, commission member, or agent of the Agency or its affiliates who influences the Agency's procurement process. This includes, but is not limited to, anyone involved in the Agency's drafting of procurement and project documents or the Agency's selection of a bidder.

18. **Government Records Access and Management Act.**

The Agency is a governmental entity that is subject to Utah's Government and Records

Access and Management Act, Utah Code Ann. §§ 63G-2-101 to 901. Any documents produced or collected under this Agreement may be subject to public access. If blu believes that a document should be protected under Utah Code Ann. §§ 63G-2-305(1) or (2), blu must provide a written claim of business confidentiality to the Agency that complies with Utah Code Ann. § 63G-2-309(1). blu agrees to cooperate with and to supply any requested records to the Agency with any public records request. This obligation will survive any suspension or termination this Agreement.

19. **Status Verification.**

Under the Utah Immigration Accountability and Enforcement Act, Utah Code Ann. §§ 63G-12-101 to 402, any entity contracting with a public employer is required to participate in Utah's Status Verification System. blu will provide the Agency a certification of its compliance with this requirement prior to performing work under this Agreement.

20. **Waiver.**

Failure by either Party to insist upon the strict performance of any condition of this Agreement or to exercise any right or remedy found under the Agreement does not constitute a waiver. Either Party may waive any of its rights or any conditions by written notice to the other Party. No waiver may affect or alter the remainder of this Agreement. Every other condition in the Agreement will remain in full force with respect to any existing or subsequently occurring default.

21. **Severability.**

In the event that any provision of the Agreement is held to be void, the voided provision will be considered severable from the remainder of the Agreement and will not affect any other provision in the Agreement. If the provision is invalid due to its scope or breadth, the provision will be considered valid to the extent of the scope or breadth permitted by law.

22. **Governing Law and Venue.**

This Agreement is governed, construed, and interpreted under the laws of the State of Utah. Any suit arising from this Agreement must be brought within the appropriate court in Salt Lake County, Utah.

23. **Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior understandings or agreements between the Parties.

*Signature Page to Follow.*



The Redevelopment Agency of Midvale City and blu have read and understand the terms of this Central Community Park Project Agreement. Both Parties have demonstrated their willingness to enter into the Agreement as of the date above by having their Authorized representatives sign below.



THE REDEVELOPMENT AGENCY OF  
MIDVALE CITY

DocuSigned by:

*Robert Hale*

Robert M. Hale, Chief Administrative Officer

ATTEST:

DocuSigned by:

*Rori Andreason*

Rori L. Andreason, Secretary

blu line designs

A stylized, handwritten signature in dark ink, appearing to read "RBD".

Robert Donigan, Project Manager

## Exhibit A Hourly Rates

### HOURLY RATES

Principal Landscape Architect_____	\$150/hr
Senior Associate Landscape Architect_____	\$145/hr
Associate Landscape Architect/PM_____	\$130/hr
Senior Landscape Architect_____	\$110/hr
Landscape Architect_____	\$95/hr
Landscape Designer_____	\$80/hr
Drafter_____	\$65/hr
Principal Engineer_____	\$155/hr
Senior Engineer/PM_____	\$125/hr
PLS or PE_____	\$115/hr
Senior Civil Designer_____	\$95/hr
Survey Crew_____	\$125/hr

### DIRECT EXPENSES

Automobile Travel_____	\$0.545/mile
Black & White Copies/Prints - 8 1/2"x11"_____	\$0.10 per copy
Black & White Copies/Prints - 11"x17"_____	\$0.10 per copy
Color Copies/Prints - 8 1/2"x11"_____	\$0.10 per copy
Color Copies/Prints - 11"x17"_____	\$0.10 per copy
Black & White Plotter Bond_____	\$2.50 per SF
Color Plotter Bond_____	\$5.50 per SF
Outside Reproduction_____	cost plus 10%