The Utah Department of Transportation (UDOT) will authorize the Local Agency to proceed on the project upon execution of this agreement providing the Local Agency has complied, or hereby agreed to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102, A-67, and A-133, (4) Utah State Code, (5) Utah Department of Transportation Local Government and State Aid Project Guide, (6) the Federal Aid Project Agreement entered into between UDOT and the Federal Highway Administration (FHWA), relative to the above project. Federal funds which are to be obligated for the project may not exceed the amount shown herein, without written authority by UDOT, subject to the approval of FHWA. All project costs not reimbursed by FHWA shall be the responsibility of the Local Agency. The Local Agency is responsible for all increased costs to UDOT if the Local Agency decides not to proceed after signing this agreement. 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 Local Agency Agreement.

Upon signing this agreement the Local Agency agrees to pay its estimated matching share in phases when requested by UDOT. Phases typically include environmental, design, right-of-way and construction. The local match for this project is represented by the percentages of the Total Project Value shown above. In addition the Local Agency agrees to pay 100% of the overruns that exceed $999,829 and any ineligible costs when requested by UDOT.

UDOT will request payment of matching shares and overruns through an email that will be sent to Mark Jensen at MJENSEN@HERRIMAN.ORG 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, Box 141510, 4501 South 2700 West, Salt Lake City, Utah 84119-5998.

By ____________________________ Date 06/30/11
Mayor Joshua E Mills

By ____________________________ Date 7/6/11
Region Director

By ____________________________ Date 7/13/11
Comptroller’s Office
Provisions

I. Roles and Responsibilities:
In accordance with 23 U.S.C. 106© and 23 CFR 635.105 the Utah Department of Transportation is responsible for acting on behalf of the Federal Highway Administration in the determination of federal-aid eligibility on all Local Agency Federal-aid projects as described in Appendix C of the FHWA-UDOT Stewardship Oversight Agreement.

II. Project Authorization for Federal-aid:
The Local Agency, through UDOT, must obtain an Authorization to proceed from FHWA before beginning work on any Federal-aid project. Federal funds shall not participate in costs incurred prior to the date of Authorization except as provided by 23 CFR 1.9(b).

III. Agreement provisions:
The Local Agency accepts and agrees to comply with the applicable terms and conditions set forth in title 23, U.S.C., the regulations issued pursuant thereto, the policies and procedures promulgated by FHWA relative to the designated project covered by the agreement, and all other applicable Federal laws and regulations.

IV. Liability:
The Local Agency agrees to hold harmless and indemnify UDOT, its officers, employees and agents (Indemnities) from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of the Local Agency’s negligent acts, errors or omissions in the performance of this project, and from and against all claims, suits and costs, including attorneys’ fees for injury or damage of any kind, arising out of Indemnities’ failure to inspect, discover, correct, or otherwise address any defect, dangerous condition or other condition created by or resulting from Local Agency's negligent acts, errors or omissions in the performance of this project.

Any periodic plan and specification review or construction inspection performed by UDOT arising out of the performance of the project does not relieve the Local Agency of its duty in the performance of this project or to ensure compliance with acceptable standards.

V. 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. Reasonable allowances will be made for circumstances beyond the control of the parties. Written notice of intent to terminate is required and shall specify the reasons for termination.

c. By UDOT for the convenience of the State upon written notice to the Local Agency.

d. Upon satisfactory completion of the provisions of this agreement.

e. By UDOT, in the event that construction of the project for which this design engineering is undertaken is not started by the close of the fifth fiscal year following the fiscal year in which this agreement is executed.

VI. Single Audit Act:
The Local Agency, as a sub-recipient of federal funds, shall adhere to the Federal Office of Management and Budget (OMB) Circular A-133. Audits of States, Local Governments, and Non-Profit Organizations, http://www.whitehouse.gov/omb/circulars/a133/a133.html. A sub-recipient who expends $500,000 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 the provision of OMB Circular A-133. Upon conclusion of the A-133 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 84144-8230.

VII. Maintenance:
The Local Agency shall properly maintain and restore each type of roadway, structure and facility as nearly as possible in its original condition as constructed or improved in accordance with State and Federal requirements. Future utility installations will be made according to UDOT's "Regulations for the Accommodation of Utilities on Federal-aid and Non Federal-aid Highway Right-of-Way."

VIII. Availability of Records:
For a period not less then three (3) years from the date of final project close out with Federal Government, 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.

IX. Payment and Reimbursement to UDOT:
UDOT shall not be ultimately responsible for any of the cost of the project. The Local Agency shall be responsible for all costs associated with the project which are not reimbursed by the Federal Government. For a Joint Highway Committee project, the federal participation for construction engineering costs is limited to 20 percent of the construction contract costs.

Funds requested beyond the amount set forth will require execution of a Supplemental Financial Agreement.

If the project overruns in costs, the Local Agency shall pay the additional amount required 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.
If the advanced amount exceeds the Local Agency's share of project cost, UDOT will return the amount of overpayment to the Local Agency upon financial close out of the project.

UDOT shall provide the Local Agency with a quarterly statement reflecting a cost summary of project costs.

X. Reimbursement Claims by Local Agency:
The Local Agency shall bill UDOT for eligible Federal aid project cost incurred after FHWA approval for authorization to proceed (form R709) and in conformity with applicable Federal and state laws. Authorized Local Agency reimbursement claims shall be submitted to UDOT Project Manager. Reimbursements to the Local Agency for right of way claims are classified as a pass-through of Federal funds from UDOT to the Local Agency. 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 by the Federal Government.

XI. Right of Way:
The Local Agency shall comply with 23 CFR 710.203 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 710.203 [http://www.gpoaccess.gov/cfr/retrieve.html](http://www.gpoaccess.gov/cfr/retrieve.html) (6) Property not incorporated into a project funded under title 23 of the United States Code.

For real property disposals the Local Agency shall comply with 23 CFR 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 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 710.409 and 710.403. This requires 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 [http://www.gpoaccess.gov/cfr/retrieve.html](http://www.gpoaccess.gov/cfr/retrieve.html) 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 appropriate Metropolitan Planning Organization or the Joint Highway Committee.


XII. Change in Scope and Schedule:
Local Agency recognizes that if a project scope changes from the original intent of the project application, the project will need to be re-evaluated by the responsible agency that programmed the project. Such a review may result in approval of the scope change, removal from the program, or adjustment in the federal aid funds programmed for the project.

Local Agency is responsible for the schedule of the project. If the project cannot progress as programmed, the responsible programming agency may advance other projects and require the project to wait for next available funding.

Any change orders required to meet the terms and conditions of the construction contract will be initiated by UDOT. UDOT will notify the Local Agency of any such change orders.

At the Local Agency's request, UDOT will initiate change orders that cover betterments.

The Local Agency agrees they will be responsible for 100% of the costs of all change orders on the project not reimbursed by FHWA.

XIII. UDOT Service Costs:
UDOT may provide 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 included in invoices to the Local Agency.

XIV. Content Review:
Language content was reviewed and approved by the Utah AG’s office on January 12, 2009.
GENERAL (FHWA) PROVISIONS FOR FEDERAL-AID AGREEMENT

1. General Provisions: The Grantee will comply with all Federal laws and requirements which are applicable to grant agreements, and imposed by the Federal Highway Administration (FHWA) concerning special requirements of law, program requirements, and other administrative requirements.

2. Modification: This agreement may be amended at any time by a written modification properly executed by both the FHWA and the Grantee.

3. Retention and Custodial for Records:
(a) Financial records, requisitions for documents, statistical records, and all other records pertinent to this instrument shall be retained for a period of three (3) years, with the following exception:
   (1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(b) Records for non-expendable property, if any, required with Federal funds shall be retained for three years after its final disposition.

(c) The retention periods start from the date of the submission of the final expenditure report.

(d) The Secretary of Transportation and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of Labor recipient, and its contractors and subcontractors, to make audits, examinations, and transcripts.

4. Equal Employment Opportunity:

(b) All contractors/subcontractors required to be so designated under the Federal statutes and applicable regulations, including the Secretary of Labor, in any solicitation or award of a contract shall be entitled to the protection of these provisions.

5. Copeland Act: All contracts in excess of $2,000 shall be subject to the enforcement of the anti-kickback law (18 U.S.C. 747) as supplemented in Department of Labor regulations (29 CFR, Part 3).

6. Davis-Bacon Act: When required by the Federal program legislation, all construction contracts awarded by the recipient and its contractors or subcontractors shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a et seq) as supplemented in Department of Labor regulations (29 CFR, Part 5). Under this act, contractors shall be required to pay wages to the workmen and mechanics at a rate not less than the minimum wages specified in a wage determination issued by the Secretary of Labor. In addition, subcontractors shall be required to pay wages not less than one week.

7. Contract Work Hours and Safety Standards Act: Where applicable, all contracts awarded by recipient in excess of $2,000 that involve the employment of mechanics or laborers, shall include a provision for compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 276b to 276d) as supplemented in Department of Labor regulations (29 CFR, Part 5). Under Section 203 of the Act, each contractor shall be required to pay wages to the workmen or mechanics in accordance with their work. In addition, the Act requires that the workman shall be compensated at a rate not less than the minimum wage specified in a wage determination issued by the Secretary of Labor. In addition, subcontractors shall be required to pay wages not less than the minimum wage specified in a wage determination issued by the Secretary of Labor.

8. Access to Records: All negotiated contracts (except those of $10,000 or less) awarded by recipients shall include a provision to the effect that the recipient, FHWA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program or for the purpose of making audits, examinations, and transcriptions.

9. Civil Rights Act: The recipient shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), in accordance with Title VI of that Act, no person in the United States shall have the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the recipient received Federal financial assistance and shall immediately take any measures necessary to effectuate this Agreement. It shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where:
(a) The primary purpose of and instrument is to provide employment, or
(b) Discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

10. Nondiscrimination: Discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.


12. Government Work (Unlimited): FHWA shall have unlimited rights for the benefit of the Government in all other work developed in the performance of this Agreement, including the right to use same on any other Government work without additional cost to FHWA.

13. Accountability of equipment acquired in prior years will be transferred to the current year Grant. An updated inventory list will be provided by FHWA.

14. This Grant is subject to the conditions specified in the enclosed Negotiation Document.

15. Drug-Free Workplace: By signing this agreement, the recipient certifies that it is in compliance with the Drug-Free Workplace Act (41 U.S.C. Sec. 701 et seq.) and implementing regulations (43 CFR Part 29), which require, in part, that grantees prohibit drug use in the workplace, notify the FHWA of employee convictions for violations of criminal drug laws occurring in the workplace, and take reasonable steps to ensure that an employee or subcontractor employee of the recipient is not involved in a drug abuse assistance program.

16. Limitation on Use of Federal Funds for Lobbying for Grants in Excess of $100,000: By signing this agreement, the recipient agrees that it is in compliance with 31 U.S.C. Sec. 1352, which prohibits the use of Federal appropriated funds to influence a Federal employee, officer, or Member of Congress in connection with the making or modification of any Federal grant, contract, loan, contract, or cooperative agreement. Unless the payment of funds is otherwise reported to FHWA, signing this agreement constitutes a declaration that no funds, including funds not Federally appropriated, were used or agreed to be used to influence this grant. If the recipient of the grant is in excess of $100,000 must make the same declarations to the grant recipient.

50036.3-M-34b
Form FHWA-1273 (Rev. 3-94)