

RICHARD GRAHAM
PUBLIC SERVICES DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC SERVICES

ROSS C. "ROCKY" ANDERSON
MAYOR

COUNCIL TRANSMITTAL

TO: Rocky J. Fluhart
Chief Administrative Officer

DATE: August 31, 2005

FROM: Rick Graham, Public Services Director *RG*

SUBJECT: Interlocal Cooperative Agreement, Modification #1 with Utah Department of Transportation for reconstruction of the 700 South Bridge at Jordan River, UDOT No. BRO-LC35(129) and SLC Job No. 107008.

STAFF CONTACT: Richard A. Johnston, P.E., Deputy City Engineer, 535-6232

DOCUMENT TYPE: Interlocal Cooperative Agreement

RECOMMENDATION: Approve Agreement

BUDGET IMPACT: The City's additional match of \$103,550 is to come from the following cost centers: 83-04038-2740 - \$94,645; and a new cost center established in the September budget opening for \$8,904.60. The IFAS number is 83100183. The activity code is 695.

BACKGROUND/DISCUSSION: This modification to an earlier approved cooperative agreement provides for additional Federal Bridge Replacement funding needed to fund a projected cost increase in the project. The cost increase is due to significant increases in steel, asphalt and materials experienced during the last year, and increased design requirements for the bridge. A budget opening in September 2005 will provide additional city funds required for the increase in City match. The project will be bid in the fall of 2005 with construction to take place for March 1 to October 1, 2006.

PUBLIC PROCESS: Community Council and adjacent property owners to be notified of construction schedule and impacts.

451 SOUTH STATE STREET, ROOM 148, SALT LAKE CITY, UTAH 84111

TELEPHONE: 801-535-7775 FAX: 801-535-7789

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RESOLUTION NO. _____ OF 2005
AUTHORIZING THE APPROVAL OF AN
INTERLOCAL COOPERATION AGREEMENT
BETWEEN SALT LAKE CITY CORPORATION AND
THE UTAH DEPARTMENT OF TRANSPORTATION

WHEREAS, Title 11, Chapter 13, Utah Code Ann., 1953, allows public entities to enter into cooperative agreements to provide joint undertakings and services; and

WHEREAS, the attached agreement has been prepared to accomplish said purposes;

THEREFORE, BE IT RESOLVED by the City Council of Salt Lake City, Utah, as follows:

1. It does hereby approve the execution and delivery of the following:

A COOPERATIVE AGREEMENT –CONSTRUCTION ENGINEERING REIMBURSEMENT – BETWEEN THE UTAH DEPARTMENT OF TRANSPORTATION AND SALT LAKE CITY CORPORATION REGARDING THE 700 SOUTH & JORDAN RIVER, SALT LAKE PROJECT, PROJECT NUMBER BRO-LC35(129).

2. The effective date of the agreement shall be the date it is signed by all parties to the agreement.

3. Ross C. “Rocky” Anderson, Mayor of Salt Lake City, Utah, or his designee, is hereby authorized to approve said agreement on behalf of Salt Lake City Corporation, subject to such minor changes which do not materially affect the rights and obligations of the City thereunder and as shall be approved by the Mayor, his execution thereof to constitute conclusive evidence of such approval.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2005.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

COOPERATIVE AGREEMENT MODIFICATION #1 CONSTRUCTION ENGINEERING REIMBURSEMENT

(FEDERAL PARTICIPATION)

THIS AGREEMENT, No. _____, made and entered into and effective this ____ day of _____, 20__, by and between the Utah Department of Transportation (hereinafter referred to as "UDOT") and Salt Lake City (hereinafter collectively referred to as "LOCAL AUTHORITY"), witnesseth that:

WHEREAS, the parties to this agreement desire to provide for the construction engineering of the project, 700 SOUTH & JORDAN RIVER, SALT LAKE CITY, financed in part from Federal-aid highway funds, said project being located on 700 South and identified as project number BRO-LC35(129); and

WHEREAS, the LOCAL AUTHORITY agrees to pay all costs of the project, less the eligible amount reimbursed to UDOT by the Federal Government, and that through their consultant selection process has selected Carter Burgess, hereinafter referred to as "CONSULTANT", as their Consultant Project Engineer to perform Construction Engineering; and

WHEREAS, the LOCAL AUTHORITY agrees to comply with the applicable UDOT and Federal Highway Administration (FHWA) Federal-aid Program Procedures and Standards for the project; and

WHEREAS, UDOT's Policy for Construction Engineering on Local Government Projects provides that UDOT not perform construction engineering for local government projects, unless a hardship exists and substantial savings can be realized by using UDOT construction engineering, and UDOT construction resources are available; and

WHEREAS, by law, UDOT may not expend State funds on any local government project;

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

1. **Description of Work Involved:**

(a) UDOT shall:

- (1) Award the project, with concurrence from the LOCAL AUTHORITY, using UDOT procedures.
- (2) Provide a Project Manager for the project.
- (3) Provide Technical Assistance and Engineering Services to the CONSULTANT only if such Technical Assistance and Engineering Services are requested in writing from the CONSULTANT and are not available from other private consultants.
- (4) Charge appropriate costs for all Technical Assistance and Engineering Services to the CONSULTANT.
- (5) Charge appropriate costs for all project management to the project.

2. **Liability:** The LOCAL AUTHORITY 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 AUTHORITY'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 Indemnitees' failure to inspect, discover, correct, or otherwise address any defect, dangerous condition or other condition created by or resulting from LOCAL AUTHORITY'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 AUTHORITY of its duty in the performance of this agreement or to ensure compliance with acceptable standards for the project.

3. **Financing of Project:** The costs shown below are only estimates for the construction phase of the project. Actual costs exceeding the Transportation Commission approved STIP amount will be paid by the LOCAL AUTHORITY. The funding percentages match applies to the Transportation Commission approved STIP amount only. Any requests for additional federal funding above the approved amount will require the LOCAL AUTHORITY to make an official request to its Metropolitan Planning Organization, or Joint Highway Committee and the Transportation Commission for extra matching funds. This may require an amendment to the STIP with advertisement to the public if approved by the Transportation Commission.

These percentages are based on the estimated total cost of construction and the percentages represent each agencies portion of the project. If construction costs overrun or under-run the estimated amount the percentage match for each agency will still remain the same.

	FEDERAL PARTICIPATING	FEDERAL NON-PARTICIPATING
Preliminary Engineering:		
UDOT In-house Design Costs	\$15,000.00	\$
Consultant Design Costs	\$200,000.00	\$
Right-of-way:		
UDOT Review, Services, and Technical Assist.	\$0.00	\$
Acquisitions and Appraisals	\$0.00	\$
Utilities	\$0.00	\$
Construction Contract	\$1,240,000.00	\$
Construction Engineering:		
SLC Construction Engineering	\$11,000.00	\$
UDOT Construction Monitoring	\$20,000.00	\$
Consultant Construction Engineering	\$150,000.00	\$
Estimated Total	\$1,636,000.00	
10% Contingency	\$164,000.00	
ESTIMATED TOTAL COSTS	\$1,800,000.00	\$0.00
COMMISSION APPROVED AMOUNT	\$1,800,000.00	
Federal Funds	80%	\$1,440,000.00
Local Match	20%	\$360,000.00

Local Authority Non-participating Costs	\$0.00
Local Authority Match and Non-participating Costs	\$360,000.00
Less Local Match Already on Deposit for Construction Phase	\$256,450.00
Additional Local Authority Match Required	\$103,550.00

NOTE: The Utah State Transportation Commission has approved \$1,800,000 in total funds for this project. Any additional participating project costs above this amount shall be paid by the Local Authority.

- a. **Payment of LOCAL AUTHORITY Match For Construction:** Upon signing this agreement, the LOCAL AUTHORITY will pay their matching share for construction phase estimated at \$103,550. The LOCAL AUTHORITY shall make a check payable to the Utah Department of Transportation referencing the project number BRO-LC35(129). Payment should be mailed to the UDOT Comptroller's Office, 4501 South 2700 West, Salt Lake City, Utah 84119-5998.
- b. **UDOT Technical Assistance and Engineering Services:** The CONSULTANT shall pay all costs (both direct and indirect) for any Technical Assistance or Engineering Service performed by UDOT relative to this project.
- c. **Construction:** The LOCAL AUTHORITY shall pay all costs of construction and construction engineering, less the eligible amount reimbursed to UDOT by the Federal Government. The Joint Highway Committee limits federal participation in construction engineering costs to 20 percent of the construction contract costs for local government projects, provided that the average statewide cost for construction engineering does not exceed the 15 percent limit required by the Federal Government. Construction engineering includes UDOT Project Management and Consultant Construction Engineering.
- d. **Consultant Construction Engineering:** The LOCAL AUTHORITY shall submit four copies of billings with attached supporting data for costs incurred to the UDOT Project Manager. The LOCAL AUTHORITY and the UDOT Project Manager shall certify and approve the billings and forward to the UDOT Consultant Services Accountant within the Comptroller's Office. UDOT shall pay the Consultant for the LOCAL AUTHORITY, by a separate Engineering Services contract for work covered by the billing.
- e. **Underruns:** The UDOT Comptroller shall provide the LOCAL AUTHORITY with a final invoice, showing all costs, after final inspection and acceptance of the project by the FHWA. If the deposited amount stated above exceeds the LOCAL AUTHORITY's total share of project costs, UDOT will return the amount of overpayment to the LOCAL AUTHORITY.
- f. **Overruns:** If project costs exceed the estimated amount, the LOCAL AUTHORITY shall pay its matching share for the overruns, prior to the project being advertised. UDOT may delay advertising the project until after the payment is made. If the LOCAL AUTHORITY fails to reimburse UDOT for costs that exceed the federal reimbursement, federal funding for other LOCAL AUTHORITY projects or B&C road funds may be withheld until payment is made.
- g. **Final Inspection and Acceptance:** The UDOT Comptroller shall provide the LOCAL AUTHORITY with a final invoice after final inspection and acceptance of the project by the FHWA. If the deposited amount stated above exceeds the LOCAL AUTHORITY's share of the project, UDOT shall return the amount of overpayment to the LOCAL AUTHORITY. If the project overruns in costs, the LOCAL AUTHORITY

shall pay its share of the additional amount required for completion of the work within 90 days after receiving the final invoice. Federal funds for future projects may be withheld until payment is made.

UDOT shall furnish a quarterly statement to the LOCAL AUTHORITY and UDOT Project Manager showing costs charged to the project.

4. **Construction Change Orders:** An authorized LOCAL AUTHORITY official shall approve all construction change orders.
5. **Certification of Consultant Selection Process:** The LOCAL AUTHORITY certifies that the consultant selection process used for obtaining the CONSULTANT for this project is in conformance with UDOT and FHWA requirements. Failure to conform to these requirements may result in loss of Federal funds for the project.
6. **Maintenance:** The LOCAL AUTHORITY 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."
7. **Parking Regulation and Traffic Control:** After the effective date of this agreement, no changes in parking regulations and traffic control will be made on this project without prior approval of the Federal Highway Administration unless the LOCAL AUTHORITY has a functioning traffic engineering unit with the demonstrated ability, as determined by the UDOT, to apply and maintain sound traffic operations and control. Any requests for revisions should be submitted through UDOT's Region Director.
8. **Inter-local Co-operation Act Requirements:**
 - a. This agreement shall be authorized by each party pursuant to Section 11-13-202.5 of the Inter-local Co-operation Act, Utah Code Title 11, Chapter 13, as amended (the "Act");
 - b. This agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party, pursuant to Section 11-13-202.5 of the Act;
 - c. A duly executed original counterpart of this agreement shall be filed with keeper of records of each party, pursuant to Section 11-13-209 of the Act;
 - d. Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this agreement, and for any financing of such costs; and
 - e. No separate legal entity is created by the term of this agreement. To the extent that this agreement requires administration other than as set forth herein, it shall be administered by the mayor of the LOCAL AUTHORITY and the Region Director of UDOT, acting as a joint board. No real or personal property shall be acquired jointly by the parties as a result of this agreement. To the extent that a party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this agreement, such party shall do so in the same manner that it deals with other property of such party.
9. **Representation Regarding Ethical Standards for Local Authority Officers and Employees and Former Local Authority Officers and Employees:**

UDOT represents that it has not: (1) provided an illegal gift or payoff to a LOCAL AUTHORITY officer or employee of former LOCAL AUTHORITY officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the LOCAL AUTHORITY's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a LOCAL AUTHORITY officer or employee of former LOCAL AUTHORITY officer or employee to breach any of the ethical standards set forth in the LOCAL AUTHORITY's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

10. **Termination:** This agreement may be terminated as follows:

- a. By mutual agreement of the parties, in writing;
- b. By either UDOT or the LOCAL AUTHORITY for failure of the other party to fulfill its obligations as set forth in 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 (30) days after written notice to the LOCAL AUTHORITY;

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day, month, and year first above written.

AUTHORIZED LOCAL AUTHORITY OFFICIAL: Salt Lake City

By: _____
Title: _____

Approved as to form and legality:

Printed Name: _____

LOCAL AUTHORITY Attorney

UTAH DEPARTMENT OF TRANSPORTATION REGION OFFICE

APPROVED AS TO FORM
Salt Lake City Attorney's Office

By: _____
Title: Region Director

Date 9-9-05

By Ray Ferguson

UTAH DEPARTMENT OF TRANSPORTATION

Project Management Administration signature required when the standard boilerplate agreement has been modified.

Check box if Project Management Administration signature is required.

By: _____
Title: Director, Project Development

By: _____
Title: James C. Gorac, M.B.A., C.P.A., Contract Administrator

