



REQUEST FOR PROPOSAL

2011-13J

August 3, 2011

The above number must appear on all quotations and related correspondence.

THIS IS NOT AN ORDER

**PROPOSALS ACCEPTED NO LATER THAN:
3:00 PM, MONDAY, AUGUST 29, 2011**

**TO: Julie Rollins
Utah County Auditors Office
100 East Center, Suite 3600
Provo, UT 84606 (801) 851-8234**

UTAH COUNTY IS ACCEPTING PROPOSALS FROM QUALIFIED SUPPLIERS TO PROVIDE ASPHALT OVERLAYS AND GRAVEL SHOULDERS FOR APPROXIMATELY 5 MILES OF CLASS B ROADS.

***** SEE ATTACHED SPECIFICATIONS AND REQUIREMENTS *****

PLEASE INCLUDE THE FOLLOWING ITEMS IN YOUR PROPOSAL:

- CONTRACTOR'S COST PROPOSAL (EXHIBIT B)
- CONTRACTOR INFORMATION FORM (ATTACHMENT A)
- CERTIFICATE OF NON-COLLUSION (ATTACHMENT B)

PLEASE DIRECT ALL QUESTIONS TO:

GLENN TANNER, SR. ENGINEERING TECHNICIAN
BUSINESS HOURS: 8:00 A.M. - 5:00 P.M. MST
PHONE (801) 851-8600

PLEASE SUBMIT FOUR (3) COPIES OF YOUR PROPOSAL.

SEALED PROPOSALS SHOULD BE MAILED OR HAND DELIVERED TO: JULIE ROLLINS, UTAH COUNTY PURCHASING AGENT, 100 EAST CENTER, SUITE 3600, PROVO, UTAH 84606, AND SHOULD BE CLEARLY MARKED "SEALED PROPOSAL." PLEASE REFERENCE RFP# 2011-13J ON ALL DOCUMENTS PERTAINING TO THIS PROPOSAL. ALL PROPOSALS ARE DUE ON MONDAY, AUGUST 29, 2011, AT 3:00 P.M. NO LATE PROPOSALS WILL BE ACCEPTED.

UTAH COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS OR WAIVE MINOR IRREGULARITIES WHEN TO DO SO WOULD BE IN THE BEST INTERESTS OF UTAH COUNTY. MINOR IRREGULARITIES ARE THOSE WHICH WILL NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON OVERALL COMPETITION OR PERFORMANCE LEVELS.

JULIE ROLLINS, C.P.M.
PURCHASING AGENT

UTAH COUNTY
PUBLIC WORKS DEPARTMENT
2855 South State Street
Provo, Utah 84606
(801) 851-8600

**INVITATION TO BID
for
ASPHALT ROADWAY OVERLAYS**

RFP# 2011-13J

CLOSING DATE
FOR RECEIPT OF BIDS: Monday, August 29, 2011

TIME: 3:00 p.m.(Mountain Time)
Bids will be opened at 3:30 p.m.

PLACE: Office of the Utah County Purchasing Agent
100 East Center Street
Room 3600
Provo, Utah 84606

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1. INVITATION TO BID

1.1 INTENT

Through this Invitation to Bid (ITB), Utah County intends to select a qualified Contractor to provide for the completion in every detail of the road construction work described herein.

The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the terms hereof.

Pursuant to this ITB an agreement will be executed, a copy of which is attached as Attachment C. The deadlines for completion of various aspects of the work are set forth herein.

1.2 PROCEDURE

- A. The procedure for response to this ITB, evaluation of bids, and selection of a Contractor is as follows:
 - 1. Interested entities will prepare and submit their bids prior to the specified Closing Date for Receipt of Bids.
 - 2. Utah County and/or its representatives will evaluate all submitted bids to determine acceptance or rejection of the bids.
 - 3. The selected bidder(s) will be required to sign an agreement, a sample of which is included as Attachment C.

1.3 BID ORGANIZATION

- A. Each respondent must submit its SEALED bid to the Utah County Purchasing Agent. The envelope containing the bid must be clearly labeled "SEALED BID RFP# 2011-13J - ASPHALT ROADWAY OVERLAYS". The bid must be delivered to

Utah County Purchasing Agent
100 East Center, Room 3600
Provo, Utah 84606

**LATE BIDS WILL NOT BE ACCEPTED EXCEPT AS SET FORTH IN UTAH COUNTY
PROCUREMENT RULES AND REGULATIONS.**

- B. The bid must include:
 - 1. Completed Contractor Cost Proposal (Exhibit B)
 - 2. Completed Contractor Information Form (Attachment A).
 - 3. Completed Certificate of Non Collusion (Attachment B).
 - 4. A copy of the bidder's current local business license.
 - 5. A copy of the bidder's current General Contractor License issued by the Utah Department of Commerce, Division of Occupational and Professional Licensing.
 - 6. Proof of required insurance.
 - 7. Documentation from the County Treasurer of the bidder's county showing that bidder is current on its personal property taxes.

1.4 QUESTIONS AND CLARIFICATIONS

Questions regarding this ITB should be directed prior to the submission deadline date to Glen Tanner, Senior Engineering Technician.

Business Hours: Mon - Fri, 8:00 a.m. to 5:00 p.m. Mountain Time
Office Number: (801) 851-8600

1.5 ACCEPTANCE OF BID

- A. Utah County reserves the right to reject any or all bids or waive minor irregularities when to do so would be in the best interests of Utah County. Minor irregularities are those which will not have a significant adverse effect on overall competition or performance levels.
- B. The responding party agrees that Utah County may terminate this procurement procedure at any time, and Utah County shall have no liability or responsibility to the responding party for any costs or expenses incurred in connection with this ITB, or such party's response.

1.6 DISQUALIFICATION OF BID

The occurrence of any of the following may result in disqualification of a bid:

- A. Failure to respond within the established timetable.
- B. Failure to completely answer all questions presented in the ITB.
- C. Use of any other type of form or format other than those indicated in the ITB.
- D. Failure to provide requested documentation at the time of bid submission.
- E. Illegible responses.
- F. If the bidder adds any provisions reserving the right to accept or reject an award or to enter into an agreement pursuant to an award, or any other unauthorized conditions, limitations or provisions.
- G. If the bidder is unable to evidence a satisfactory record of integrity.
- H. If the bidder is not qualified legally to contract.
- I. If the bid at the opening does not contain a signed bid, and a signed certificate of non-collusion.
- J. Utah County reserves the right to reject any or all bids.

1.7 DISPOSITION OF BIDS

All bids (and the information contained therein) shall become the property of Utah County. No bid shall be returned to the respondent regardless of the outcome of the selection process.

1.8 EVALUATION CRITERIA

All bids will be evaluated by authorized representatives of Utah County for compliance with the terms and conditions contained in this ITB and the resulting agreement awarded to the lowest responsive and responsible bidder.

1.9 GENERAL

- A. Utah County will award a contract in reliance upon the information contained in bids submitted in response to the ITB. Utah County will be legally bound only when and if there is a signed agreement entered into between Utah County and the awarded bidder.

- B. It is vitally important that any person who signs a bid or agreement on behalf of a respondent certifies that he or she has the authority to so act. The bidder who has its bid accepted may be required to answer further questions and provide further clarification of its bid and responses.
- C. Receiving this ITB or responding to it does not entitle any entity to participate in services or transactions resulting from or arising in connection with this ITB. Utah County shall have no liability to any person or entity under or in connection with this ITB, unless and until Utah County and such person have executed and entered into an agreement pursuant to the terms of this ITB.
- D. By responding to this ITB each responding party acknowledges that neither Utah County nor any of its representatives is making or has made any representation or warranty, either express or implied, as to the accuracy or completeness of any portion of the information contained in this ITB. The responding party further agrees that neither Utah County nor any of its representatives shall have any liability to the responding party or any of its representatives as a result of this ITB process or the use of the information contained in this ITB. Only the terms and conditions contained in an agreement when, as, and if executed, and subject to such limitations and restrictions as may be specified therein, may be relied upon by the respondent in any manner as having any legal effect whatsoever.

1.10 INTERPRETATION OF ITB

The invalidity of any portion of this ITB shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this ITB are for convenience only and do not constitute a part of the provisions hereof.

1.11 PROPRIETARY INFORMATION

The Contractor shall mark proprietary information contained in the bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bids. Pricing and service elements of the successful bid will not be considered proprietary.

1.12 RULES OF PROCUREMENT

- A. This procurement shall conform to and is governed by The Utah County Division of Purchasing, Procurement Rules and Regulations.
- B. For this procurement, all bids must be submitted in the bid format outlined herein.
- C. All prospective bidders must meet the required criteria as of the date of submission. Respondents must provide all information requested in the Contractor Information Form.
- D. Utah County has established certain requirements with respect to bids to be submitted by respondents. The use of "shall", "must", or "will", in this ITB indicates a requirement or condition from which a material deviation will not be approved by Utah County.

1.13 SUCCESSORS IN INTEREST

Any agreement resulting from this ITB shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

EXHIBIT A

A SPECIFICATIONS

A.1 APWA STANDARD SPECIFICATIONS

All work performed by the Contractor shall meet or exceed all applicable specifications listed in the publication American Public Works Association - Manual of Standard Specifications, 1997 Edition, published by the Utah Chapter of the American Public Works Association, hereinafter referred to as the "Manual of Standard Specifications".

A.2 QUANTITIES AND SITE CONDITIONS

- A. Bidders shall have SOLE responsibility for examining the project locations, determining all necessary measurements, estimating the quantities of materials needed, and determining all other site conditions that will affect the work.
- B. Bid Prices shall include all applicable costs and shall be based on the quantities and units shown in Contractor's Cost Proposal (Exhibit B).
- C. The quantities specified herein are only estimates used for bid evaluation purposes. Actual payment will be based upon inspection records kept by the County, and the actual work completed, approved, and accepted by the County.

A.3 LOCATIONS

The specified work is located on the following roads in Utah County.

- A. Road: 1100 East
Beginning Point: River Bottoms Road
Ending Point: Powerhouse Road
Total Length: 5,100 feet (0.97 miles)
Asphalt Driving Surface Width: 24 feet
Gravel Shoulder Width: 4 feet
Estimated Tons of Asphalt: 2,000 Tons

- B. Road: Powerhouse Road
Beginning Point: Fairway Drive
Ending Point: 1100 East
(at a seam line +/- 600' east of the intersection)
Total Length: 7,400 feet (1.40 miles)
Asphalt Driving Surface Width: 24 feet
Gravel Shoulder Width: 3 feet
Estimated Tons of Asphalt: 3,000 Tons

- C. Road: Provo River Drive
Beginning Point: US 189
Ending Point: US 189
Total Length: 8,400 feet (1.59 miles)
Asphalt Driving Surface Width: 32 feet
Gravel Shoulder Width: 3 feet
Estimated Tons of Asphalt: 4,200 Tons

D. Road:	River Drive
Beginning Point:	6400 South
Ending Point:	5600 South
Total Length:	6,000 feet (1.14 miles)
Asphalt Driving Surface Width:	24 feet
Gravel Shoulder Width:	3 feet
Estimated Tons of Asphalt:	2,250 Tons

A.4 PAVEMENT SYSTEM CROSS SECTION

- A. The completed pavement system shall be comprised of the following, installed in the following order:
 - 1. Tack Coat
 - 2. Leveling Course (as needed).
 - 3. Finished Asphalt Driving Surface.
- B. The completed roadway shall have a Finished Asphalt Driving Surface with width as specified in A.3 and gravel shoulders with a minimum width as specified in A.3.
- C. The completed roadway surface shall have a 2% drainage crown where possible.

A.5 TACK COAT

(Section 02709 of the Manual of Standard Specifications shall apply)

- A. The Contractor shall apply "Tack Coat" oil along any surface or transition between backfill or existing asphalt and new applied asphalt. All costs for "Tack Coat" are the responsibility of the Contractor and shall NOT be paid as a separate item.
- B. Existing asphalt surfaces to receive Tack Coat shall be cleaned by Contractor to remove all dirt, sand, oil, grease and loose materials.

A.6 HOT-MIX ASPHALT CONCRETE PAVING

(Section 02745 of the Manual of Standard Specifications shall apply)

- A. The Contractor shall furnish, transport, install, place, and compact the following Hot-Mix Asphalt Concrete Paving:
 - 1. Any necessary asphalt Leveling Course over the project surface.
 - 2. A Finished Asphalt Driving Surface over the entire project with a compacted thickness of two and one half inches (2 1/2") of new asphalt.
- B. All Hot-Mix Asphalt Concrete Paving shall meet the following specifications:
 - 1. Gradation of aggregate material shall be 3/4 inch maximum.
 - 2. AC-10 oil shall be used.
 - 3. A 6% oil mix in the bituminous material, and a Utah County approved Marshall Method of mix design, are required . The Contractor shall submit the mix design to Utah County for approval prior to placement of asphalt.
 - 4. Contractor shall provide any finish grading or compaction.
 - 5. During installation placement and compaction minimum air temperature in the shade and for the roadbed shall be greater than 50° F.

A.7 GRAVEL SHOULDERS

- A. Contractor shall perform all required clearing & grubbing and/or shoulder preparation.

- B. Contractor shall furnish, transport, place, and compact Untreated Base Course (UBC) to form a six inch (6") minimum depth shoulder with a minimum width as specified in A.3 extending from each edge of the Finished Asphalt Driving Surface.
- C. Cross-slope of the installed gravel shoulder shall match the cross slope of the adjacent asphalt for the required width and then shall taper to the surrounding ground surface at a 1:1 slope.
- D. Gradation of the UBC shall be 3/4 inch.
- E. Compaction of the UBC shall be at 95%.
- F. Compaction testing shall be the responsibility of the Contractor, with the results provided to the County project inspector.

A.8 CENTERLINE STRIPING AND TRAFFIC CONTROL DEVICES

- A. Following completion of the Finished Asphalt Driving Surface, the Contractor shall provide and install yellow centerline striping to the entire project length using acrylic water based pavement marking paint and glass spheres.
- B. All work and materials shall conform to applicable portions of Utah Department of Transportation (UDOT) Standard Specification 02765 (UDOT 02765) or such other standard as may be adopted by UDOT at the time work is performed, and to the Federal standards set forth in the MUTCD.
- C. The Contractor shall supply all materials, labor, mobilization, traffic control, pavement preparation, and clean-up necessary to complete the work specified herein. All associate costs shall be included in the Contractor's Bid Price in Exhibit B.
- D. Pavement marking paint shall be applied at 20 - 25 wet mils thicknesses as determined by a wet mil gauge.
- E. Glass spheres shall be applied at a minimum rate of 8 pounds per gallon of paint for the full dimensions of the painted area.
- F. Contractor shall protect all installed paint until dry or cured. In the event that an uncured marking is damaged, the marking will be reapplied and track marks left on the pavement will be removed at no additional cost to the County.
- G. Contractor shall repaint, at no additional cost to the County, any marking that fails to meet thickness, glass sphere adherence, or dimensional requirements.
- H. Contractor shall reestablish all traffic control devices that were removed during the construction process.

A.9 TRAFFIC CONTROL

(Section 01555 of the Manual of Standard Specifications shall apply)

- A. The Contractor shall not perform any work until proper traffic control and warning devices are in place. The Contractor shall conform to Federal standards for traffic control and warning devices as set forth in the MUTCD.
- B. The Contractor shall ensure that the roads are open to public access on all weekends and legal holidays, and shall do no work that endangers, interferes, or conflicts with traffic or access to the roadways during those times.
- C. All related costs for traffic control are the responsibility of the Contractor and shall not be paid as a separate item.

A.10 SAFETY

The Contractor shall comply with all applicable requirements of the Utah Labor Commission and the Occupational Safety and Health Act of 1970. Nothing in this Agreement shall relieve the

Contractor of responsibility assigned herein, in Utah Labor Commission's requirements, or in Federal, state, and local laws and ordinances.

A.11 STORAGE AND CLEAN-UP

All areas for storage of materials and equipment used by the Contractor shall be approved by the County prior to use. These areas shall be cleaned up upon completion of the project, and shall be approved by the County prior to final payment. All related costs for storage and clean-up are the responsibility of the Contractor and shall not be paid as a separate item.

A.12 BONDS

- A. Before this contract is awarded by Utah County the Contractor shall furnish to Utah County the following bonds:
 - 1. A performance bond satisfactory to County in an amount equal to 100% of the price specified in the contract, to assure the faithful performance of the contract, for the protection of Utah County, to be held until final acceptance by Utah County of all aspects of this project; and
 - 2. A payment bond satisfactory to the County in an amount equal to 100% of the price specified in the contract, for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.
- B. Each bond shall be:
 - 1. Binding upon the award of the contract;
 - 2. Executed by a surety company or companies duly authorized to do business in the State of Utah, or, in the form of cash or other certified funds.
 - 3. Payable to Utah County, A Body Corporate and Politic;
 - 4. Filed with the Utah County Public Works Department in a timely manner following the Closing Date for Receipt of Bids.
 - 5. Increased if the contract price is increased by change order or otherwise subsequent to entering into the contract.
- C. Utah County will hold the Payment Bond for 90 days subsequent to the completion of the project.

A.13 CHANGE ORDERS

- A. Utah County may at any time, without notice to any sureties, by written order designated or indicated to be a change order, make changes to the work within the general scope of the contract and to the contract amount and/or contract deadlines.
- B. The overhead, profit, and commission fees included in any change order bid shall not exceed the maximum percentages of the net cost of the bid as shown in the following table:

	Overhead & Profit	Commission
To prime Contractor on work performed by subcontractors	0%	10%
To prime Contractor or subcontractor for that portion of work performed with their respective forces	15%	0%

1. Only the Contractor or subcontractor who actually performs or furnishes the work may charge for overhead or profit regardless of the number of tiers of subcontractors, that is, the markup on work subcontracted by a subcontractor will be limited to one charge of 15% for overhead and profit and one charge of 10% for the prime Contractor's commission.
 2. Overhead and profit includes, but is not limited to: estimating; field supervision above foreman level superintendents, assistant superintendents, general foremen, engineers, accountants, timekeepers, office manager, and other staff; office supplies; drinking water; temporary heat, light, and power; field toilets; small tools; and other costs of materials and/or equipment associated with performance of the contract.
 3. On bids covering both increases and decreases in the contract amount, the overhead and profit shall be computed on the net change only.
- C. Each change order shall be signed by the Contractor, the County Public Works Director, and the County Commission, and payment and performance bonds shall be increased by the Contractor to reflect any increase to the contract amount before the Contractor will be authorized to proceed with the work specified therein.
- D. Failure of Contractor and the County to agree on an adjustment of contract amount or contract deadlines shall not excuse Contractor from proceeding with prosecution and performance of work. Contractor, subcontractors, and suppliers shall handle all disputes in a manner which will permit work to proceed on schedule while the matter in dispute is being resolved.
- E. The County shall have the right within its sole discretion to require Contractor to commence performance of changes to work based on County requirements prior to the submission of a cost bid by the Contractor to the Project Coordinator, or approval of the cost bid by the County. In such case, Contractor shall proceed with the work so changed upon receipt of a Construction Change Directive from the County, and thereafter submit to the County as soon as possible any cost bid required.

A.14 COMPLETION DATES

- A. Contractor may begin work upon receipt from County of the Notice to Proceed. All specified items shall be completed on or before the following dates:

REQUIRED ITEM	SCHEDULED DATE
Completion Date for all work except gravel shoulders	Friday, October 7, 2011
Completion Date for gravel shoulders	Friday, November 18, 2011

- B. If the Contractor fails to FULLY complete any specified items, without a punch list by the County, on or prior to a required completion date, or extension of time granted by the County in writing, then the Contractor may forfeit a 5% payment retainer for all uncompleted items, and shall in addition be liable for all additional costs and damages incurred by Utah County as a result of the failure of completion.
- C. If abnormal weather conditions, or other natural events totally beyond the control of the Contractor require in the judgment of Utah County the extension of any completion date, written authorization must be given by Utah County for such specific extension.

EXHIBIT B

CONTRACTOR'S COST PROPOSAL

1. BID PRICE:

Bid Prices shall include all applicable costs and shall be based on the quantities and units shown below.

<u>ROAD</u>	<u>ITEM</u>	<u>QUANT</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>BID PRICE</u>
A. 1100 East	Asphalt	2,000	Tons	\$ _____	\$ _____
	Gravel Shoulder	380	Tons	\$ _____	\$ _____
	Centerline Striping	5,100	Linear Feet	\$ _____	\$ _____
B. Powerhouse Rd.	Asphalt	3,000	Tons	\$ _____	\$ _____
	Gravel Shoulder	420	Tons	\$ _____	\$ _____
	Centerline Striping	7,400	Linear Feet	\$ _____	\$ _____
C. Provo River Drive	Asphalt	4,200	Tons	\$ _____	\$ _____
	Gravel Shoulder	470	Tons	\$ _____	\$ _____
	Centerline Striping	8,400	Linear Feet	\$ _____	\$ _____
D. River Drive	Asphalt	2,250	Tons	\$ _____	\$ _____
	Gravel Shoulder	340	Tons	\$ _____	\$ _____
	Centerline Striping	6,000	Linear Feet	\$ _____	\$ _____
TOTAL BID PRICE:					\$ _____

NOTE: The quantities specified herein are only estimates used for bid evaluation purposes. Actual payment will be based upon inspection records kept by the County, and the actual work completed, approved, and accepted by the County.

2. CERTIFICATION OF BID:

I hereby certify that I have read, understand, and agree to all sections, Exhibits, and Attachments of this Invitation to Bid for Asphalt Roadway Overlays. I further certify that the information submitted by me/my company in response to this Invitation, including the pricing and other information, is true and accurate.

I understand that Utah County has the right to reject any or all bids, to waive minor irregularities when to do so would be in the best interests of Utah County, and to negotiate a price for the proposed services as determined to be in the best interest of Utah County.

Signature

Title

ATTACHMENT A

CONTRACTOR INFORMATION FORM

In order to receive consideration, submitted bids must contain responses to all questions.
Failure to respond to all questions may result in disqualification of the bid.

COMPANY NAME & ADDRESS: _____

Is this an Office: _____, Home: _____, Shop: _____, Other: _____
Telephone Number: (____) _____, Emergency Number: (____) _____
Answering Machine: (____) _____, Fax Number: (____) _____
Email Address: _____

COMPANY OWNER: _____
COMPANY PRESIDENT: _____
CONTACT PERSON: _____ Phone: _____

Type of Company (Partnership, Corporation, Venture etc.): _____

If a Corporation, in what State Incorporated: _____
Business License Number: _____
State of Utah Contractor License Number: _____
Federal Tax Identification Number: _____
D&B D-U-N-S Number: _____
How long has this company been in business: _____ Years, and _____ Months.

Officers authorized to execute contracts: _____

What would happen to your company in the event of the owner's absence or death?

Brief History of the Company: _____

Are there any judgments, suits or claims pending against your company? If Yes, attach a written explanation. **YES NO**

Has your company operated under any other name (s)? If Yes, attach a written explanation. **YES NO**

CONTRACTOR INFORMATION FORM Page 2

Has your firm failed to complete a contract within the last five years?
If "yes" attach explanation. **YES NO**

Has your firm or any partner or officers ever been involved in any
bankruptcy action? If "yes" attach explanation. **YES NO**

Has your firm ever been listed on the Excluded Parties List System? **YES NO**

Are any of your firm's owners, officers, employees, or agents also
employees of Utah County or related to any employees of Utah County
If "yes" attach explanation. **YES NO**

FINANCIAL REFERENCES

1. Bank Name & Address _____

Manager _____ Phone _____

2. Bank Name & Address _____

Manager _____ Phone _____

CLIENT REFERENCES

1. Name: _____, Contact: _____

Address: _____, Phone: _____

2. Name: _____, Contact: _____

Address: _____, Phone: _____

3. Name: _____, Contact: _____

Address: _____, Phone: _____

4. Name: _____, Contact: _____

Address: _____, Phone: _____

ATTACHMENT C

AGREEMENT

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2011, by and between **UTAH COUNTY**, a body corporate and politic of the State of Utah, hereinafter referred to as the **COUNTY**, and _____, hereinafter referred to as **CONTRACTOR**.

WITNESSETH:

WHEREAS, COUNTY desires to obtain materials and services as herein defined and further to obtain such materials and services in accordance with Utah State Law; and

WHEREAS, CONTRACTOR is willing to provide such materials and services to COUNTY in consideration of receiving such fees as herein provided;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. DESCRIPTION OF WORK

In consideration of the compensation set forth in Section 2, the CONTRACTOR agrees to provide road construction services to COUNTY as set forth in the Specifications attached hereto as Exhibit A and the CONTRACTOR'S Cost Proposal attached hereto as Exhibit B, all of which are incorporated herein by this reference the same as if each and all had been set forth at length herein.

2. COMPENSATION

In exchange for services listed in Section 1, COUNTY will pay CONTRACTOR at the applicable price stated in Exhibit B for items accepted by COUNTY which conforms to the Specifications in Exhibit A.

3. AMENDMENTS

No oral modifications or amendments to this Agreement shall be effective, but such may be modified or amended by a written agreement signed by the parties.

4. ALTERATION OF SPECIFICATIONS OR CHARACTER OF WORK

The County Commission, after recommendation by the County Public Works Director, reserves the right to make, at any time during the term of this Agreement, such increases or decreases in quantities and such alterations in the details of the work, and the elimination of one or more items as may be found necessary or desirable and to adjust the contract price accordingly by change order. Such alterations shall not be considered as a waiver of nor release of any surety. CONTRACTOR agrees to accept the specifications as altered the same as if it had been a part of

the original Agreement. CONTRACTOR shall proceed with the work alterations when ordered in writing. Financial increases to this Agreement must be approved by the County Commission before additional work is authorized and constructed.

5. ASSIGNMENT

The parties to this Agreement shall not assign said Agreement, or any part thereof, without the prior written consent of the other party to the Agreement. No assignment shall relieve the original parties from any liability hereunder.

6. AUTHORITY OF THE COUNTY COMMISSION AND THE COUNTY PUBLIC WORKS DIRECTOR

A. The County Commission and the County Public Works Director will decide all questions which may arise as to the quality, quantity and acceptability of materials furnished and work performed and as to the rate of progress of work. They will also decide all questions which may arise as to the acceptable fulfillment of the Agreement on the part of CONTRACTOR.

B. The County Commission or the County Public Works Director will have the authority by written order to suspend work wholly or in part due to the failure of CONTRACTOR to correct conditions unsafe for the workmen or general public, for failure to carry out provisions of the Agreement, for failure to carry out orders, for such periods as deemed necessary due to unsuitable weather, for conditions considered unsuitable for the progress of the work, or for any other condition or reason deemed to be in the public interest. Written orders shall state the reason for suspension.

7. EMPLOYMENT STATUS VERIFICATION

CONTRACTOR shall register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act. CONTRACTOR shall by contract require its contractors, subcontractors, contract employees, staffing agencies, or any contractors regardless of their tier to register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act.

8. EXTRA WORK

Extra work shall be undertaken only when previously authorized in writing by Utah County and is defined as additional work which is neither shown nor defined in the Specifications.

Miscellaneous items normally associated with the major work items shown, but which may not be specifically shown, shall be furnished by CONTRACTOR as if they had been shown, without additional cost to Utah County.

9. INDEMNIFICATION

CONTRACTOR shall defend, indemnify, save and hold harmless Utah County, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgments, losses, damages, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from (a) CONTRACTOR'S, its subcontractors, agents or employees performance of this Agreement or their provision of any services required herein to be performed by CONTRACTOR or its subcontractors, agents or employees, and (b) any act or omission of CONTRACTOR, or its subcontractors, agents or employees.

10. INDEPENDENT CONTRACTOR

- A. CONTRACTOR states and affirms that it is acting as an independent contractor, holding itself out to the general public as an independent contractor for other work or contracts as it sees fit; that it advertises its services as it sees fit to the general public, maintains its office or place of employment separate from Utah County, and that this Agreement is not exclusive of other agreements, contracts or opportunities.
- B. The parties intend that an independent contractor relationship will be created by this Agreement. Utah County is interested only in the results to be achieved, and the conduct and control of the work will lie solely with CONTRACTOR. CONTRACTOR is not to be considered an agent or employee of Utah County for any purpose, and the employees of CONTRACTOR are not entitled to any of the benefits that Utah County provides for County's employees. It is understood that Utah County does not agree to use CONTRACTOR exclusively. It is further understood that CONTRACTOR is free to contract for similar services to be performed for others while working under the provisions of this Agreement with Utah County.
- C. Both parties agree that CONTRACTOR shall be deemed an independent contractor in the performance of this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, CONTRACTOR shall have no authorization, express or implied, to bind Utah County to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for Utah County. The compensation provided for herein shall be the total compensation payable hereunder by Utah County.

11. INSPECTION AND ACCEPTANCE

Utah County or its authorized representatives shall have the right to enter the premises of CONTRACTOR, or such other places where contract services are being performed, to inspect,

audit, monitor or otherwise evaluate the services being provided and the financial records pertaining to the Agreement. CONTRACTOR must provide reasonable access to all facilities and assistance to Utah County or its authorized representatives.

12. INSURANCE

- A. CONTRACTOR agrees to carry Commercial General Liability insurance coverage equal to or greater than \$2,200,000 per occurrence or as modified by the risk manager pursuant to state statute during the term of this Agreement. This coverage shall provide liability insurance to cover the activities of CONTRACTOR including CONTRACTOR'S agents, employees and subcontractors, and for all equipment and vehicles, public or private, used in the performance of this Agreement. The successful bidder shall provide a Certificate of Insurance to Utah County evidencing that CONTRACTOR has this insurance in place and shall maintain said insurance for the duration of this Agreement.
- B. CONTRACTOR shall furnish a Certificate of Insurance to COUNTY evidencing that CONTRACTOR has Workers Compensation Insurance for the CONTRACTOR, all subcontractors, and all employees of the CONTRACTOR and/or subcontractors.

13. INTERPRETATION OF AGREEMENT

The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

14. KEYS

If it becomes necessary for the County to issue CONTRACTOR a key to County locks, final payment to CONTRACTOR will be held until the key has been returned and documented. It is illegal to duplicate County keys.

15. LEGAL

CONTRACTOR shall be responsible to provide all legal support for the project including but not limited to the preparation of contracts with subcontractors. This Agreement shall be interpreted pursuant to the laws of the State of Utah.

16. NO PRESUMPTION

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against a party, by reason of the rule of construction that a document is to be construed

more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

17. NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their respective places of business, or at such other addresses as may be designated by notice given hereunder.

18. PAYMENTS

- A. CONTRACTOR shall submit timely invoices for materials delivered to County. Upon verification of the validity of an invoice, County shall pay CONTRACTOR within 30 calendar day of receipt of the invoice.
- B. Payment will be based upon verification of the actual quantities accepted by County which comply with these specifications.
- C. The "Method of Measurement" and the "Basis of Payment" for all items shall be by the "Unit Price" specified by CONTRACTOR in the "Bid Schedule".

19. TERM AND TERMINATION

- A. The initial term of this Agreement shall commence upon the date of execution hereof and shall terminate upon CONTRACTOR'S completion of the specified work and acceptance thereof by COUNTY.
- B. The Agreement may be terminated for any reason by Utah County upon thirty (30) days written notice to CONTRACTOR, without prejudice to any other right or remedy Utah County may have.
- C. Failure of CONTRACTOR to adhere to any of the performance requirements of the Agreement shall be cause for termination without prior notice.
- D. The Agreement may be terminated for any reason by CONTRACTOR upon ninety (90) days written notice to Utah County.

20. WARRANTY

CONTRACTOR warrants to Utah County that all materials furnished under this Agreement will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with this Agreement. All work and/or materials not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by Utah County, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials.

21. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

IN WITNESS WHEREOF the parties have caused this AGREEMENT to be duly executed on the date set forth above.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH

GARY ANDERSON, Chairman

ATTEST:
BRYAN E. THOMPSON
County Auditor/Clerk

By: _____
Deputy

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
Utah County Attorney

By: _____
Deputy County Attorney

CONTRACTOR

By:

1. Only the Contractor or subcontractor who actually performs or furnishes the work may charge for overhead or profit regardless of the number of tiers of subcontractors, that is, the markup on work subcontracted by a subcontractor will be limited to one charge of 15% for overhead and profit and one charge of 10% for the prime Contractor's commission.
 2. Overhead and profit includes, but is not limited to: estimating; field supervision above foreman level superintendents, assistant superintendents, general foremen, engineers, accountants, timekeepers, office manager, and other staff; office supplies; drinking water; temporary heat, light, and power; field toilets; small tools; and other costs of materials and/or equipment associated with performance of the contract.
 3. On bids covering both increases and decreases in the contract amount, the overhead and profit shall be computed on the net change only.
- C. Each change order shall be signed by the Contractor, the County Public Works Director, and the County Commission, and payment and performance bonds shall be increased by the Contractor to reflect any increase to the contract amount before the Contractor will be authorized to proceed with the work specified therein.
- D. Failure of Contractor and the County to agree on an adjustment of contract amount or contract deadlines shall not excuse Contractor from proceeding with prosecution and performance of work. Contractor, subcontractors, and suppliers shall handle all disputes in a manner which will permit work to proceed on schedule while the matter in dispute is being resolved.
- E. The County shall have the right within its sole discretion to require Contractor to commence performance of changes to work based on County requirements prior to the submission of a cost bid by the Contractor to the Project Coordinator, or approval of the cost bid by the County. In such case, Contractor shall proceed with the work so changed upon receipt of a Construction Change Directive from the County, and thereafter submit to the County as soon as possible any cost bid required.

A.14 COMPLETION DATES

- A. Contractor may begin work upon receipt from County of the Notice to Proceed. All specified items shall be completed on or before the following dates:

REQUIRED ITEM	SCHEDULED DATE
Completion Date for all work except gravel shoulders	Friday, October 7, 2011 Friday, June 8, 2012
Completion Date for gravel shoulders	Friday, November 18, 2011 Friday, July 20, 2012

- B. If the Contractor fails to FULLY complete any specified items, without a punch list by the County, on or prior to a required completion date, or extension of time granted by the County in writing, then the Contractor may forfeit a 5% payment retainer for all uncompleted items, and shall in addition be liable for all additional costs and damages incurred by Utah County as a result of the failure of completion.
- C. If abnormal weather conditions, or other natural events totally beyond the control of the Contractor require in the judgment of Utah County the extension of any completion date, written authorization must be given by Utah County for such specific extension.