RESOLUTION NO. 2016-R-29

WHEREAS, Midvale City has received funds from the State of Utah for the reconstruction of 9th Avenue; and

WHEREAS, design drawings and specification have been prepared by Paul Hansen & Associates to meet City standards; and

WHEREAS, the City advertised the 9th Avenue Reconstruction Project to solicit bids from qualified contractors to construct this project; and

WHEREAS, the City held a public bid opening on July 28, 2016; and

WHEREAS, the City has evaluated these bids based on the criteria noted in the bid documents, and based on that evaluation wishes to award the 9th Avenue Reconstruction Project to Miller Paving Inc.; and

WHEREAS, an agreement has been prepared between the City and Miller Paving, Inc.

NOW THEREFORE BE IT RESOLVED, that based on the foregoing, the Midvale City Council adopts this resolution authorizing the Mayor to sign the agreement with Miller Paving, Inc. for the construction of the 9th Avenue Reconstruction Project.

APPROVED AND ADOPTED this 23rd day of August, 2016.

JoAnn Seghini, Mayor

ATTEST:

Rori L. Andreason,
City Recorder

<table>
<thead>
<tr>
<th>Voting by the City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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</thead>
<tbody>
<tr>
<td>Stephen Brown</td>
<td>✔</td>
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<tr>
<td>Paul Glover</td>
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<td>Quinn Sperry</td>
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<td>Paul Hunt</td>
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<tr>
<td>Wayne Sharp</td>
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</table>
AGREEMENT

THIS AGREEMENT dated as of the 10th day of August, 2016, is by and between MIDVALE CITY (hereinafter called OWNER), and Miller Paving Inc. (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1. WORK

The Construction Contract is known as

9th Avenue Roadway improvement Project
Bid Schedule "A"

2. ENGINEER

The Project has been designed by:

Paul Hansen Associates
1073 East 11780 South
Sandy, UT 84094

who is hereinafter called ENGINEER and who will assume all duties and responsibilities and will have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

3. CONTRACT TIME

3.1. The Work will be substantially completed on or before October 15, 2016, and will be completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions on or before October 30, 2016. (If weather shutdown is agreed upon, revised dates will be established).

3.2. LIQUIDATED DAMAGES

OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration preceding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER One Hundred Dollars
($100.00) for each calendar day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete.

After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or within any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER One Thousand Dollars ($1000.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

4. CONTRACT PRICE

4.1. OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds in accordance with the Bid Form included herewith.

5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. PROGRESS PAYMENTS: All progress payments will be on the basis of the progress of the Work estimated by the engineer.

5.2. FINAL PAYMENT: Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

6. INTEREST

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project.

7. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

7.1. CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.

7.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions,
and accepts the determination set forth in the Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to reply.

7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar data are or will be required by CONTRACTOR for such purposes.

7.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities.

No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 4.03 of the General Conditions.

7.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

8. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the work consist of the following:

8.1. This AGREEMENT (Document 00 52 00).

8.2. Exhibits to this Agreement (pages ___ to___, inclusive).

8.3. PERFORMANCE and PAYMENT BONDS (Documents 00 61 13 and 00 61 14, respectively).

8.4. NOTICE OF AWARD.
8.5. GENERAL CONDITIONS (Document 00 72 00).

8.6. MODIFICATIONS TO GENERAL CONDITIONS (Document 00 73 10).

8.7. Specifications bearing the title TECHNICAL SPECIFICATIONS and consisting of divisions as listed in the table of contents thereof.

8.8. DRAWINGS

8.9. Addenda numbers _1_ to _1_ inclusive.

8.10. BID (Document 00 41 00)

8.11. BID SCHEDULE (Document 00 43 00).

8.12. SUBCONTRACTOR SUPPLIER REPORT (Document 00 43 36).

8.13. WORK UNDER CONTRACT REPORT (Document 00 43 37).

8.14. BIDDER STATUS REPORT (Document 00 43 38).

8.15. Documentation submitted by CONTRACTOR prior to Notice of Award.

8.16. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraphs 3.04 and 3.05 of the General Conditions.

8.17. The documents listed above are attached to the Agreement (except as expressly noted otherwise above). There are no Contract Documents other than those listed above in the Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.04 and 3.05 of the General Conditions.

9. MISCELLANEOUS

9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and...
legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

10. OTHER PROVISIONS

None

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on 10th day of August, 2016.

Midvale City, OWNER

By: [Signature]

[CORPORATE SEAL]

Miller Paving Inc., CONTRACTOR

By: [Signature]

[CORPORATE SEAL]

Attest: [Signature]

Address for Giving Notices:
Midvale City Corporation
7505 South Holden Street
Midvale, UT 84047

(OWNER shall attach authority to sign and resolution or other documents authorizing execution of Agreement.)

P.O. Box 571039
Murray, UT 84107-1039

License No.: 292925-5501

Agent for Service of Process:

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

END OF SECTION

June 2016
9th Avenue Roadway improvement Project - Bid Schedule “A”