

The following document is provided for your use. **Please do not return completed application via Internet.** UDOT will require a mailed hard copy of application and financials. To obtain a copy of this application: [Pre-Qualification Application](#)

FORWARD TO:

U.S. Mail Address:		Hand Delivery/FedX/UPS
UTAH DEPARTMENT OF TRANSPORTATION	or	UTAH DEPARTMENT OF TRANSPORTATION
PREQUALIFICATION BOARD		PREQUALIFICATION BOARD
P. O. BOX 148220		4501 SOUTH 2700 WEST
SALT LAKE CITY UT 84114-8220		SALT LAKE CITY UT 84119

Allow a minimum of 10 working days for processing. If assistance is needed, please contact:
Margaret Gish
Prequalification Board Specialist
(801)965-3835.

UTAH DEPARTMENT OF TRANSPORTATION



**CONTRACTOR APPLICATION FOR
PREQUALIFICATION**

C O N F I D E N T I A L

Company Name: _____ Date: _____
(Same as Financial Statement)

Street, City, State, Zip Code: _____

P O Box, City, State, Zip Code: _____

Telephone No: _____ Fax No: _____

Internet E-Mail Address: _____

Utah Contractor License # _____ Classification Title/Code _____

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PLEASE READ INSTRUCTIONS

A. PREPARATION OF CONTRACTOR'S APPLICATION

The Department requires one completed and approved copy of this application with an attached current annual financial statement prior to bidding on a project requiring prequalification. Failure to submit complete information or providing inaccurate information may result in failure to prequalify. A **minimum of 10 working days** is required for Department processing and approval.

B. FINANCIAL PROCEDURE

1. Regular Procedure

The applicant's current annual financial statement, **AUDITED** by an independent certified public accountant must be submitted and approved by the Department prior to bidding on projects requiring prequalification. Financial statements must be prepared in accordance with generally accepted accounting principles, and must include the auditor's opinion letter, balance sheet, statements of earnings and retained earnings, statement of cash flows, and footnotes.

2. Alternate Procedure

An applicant may be prequalified for an amount less than obtained by the above method with the submission of their latest annual **REVIEWED** financial statement by an independent certified public accountant, including auditor's opinion letter, balance sheet, statements of earnings and retained earnings, statement of cash flows, and footnotes. Under this procedure, the contractor will be granted **one-half (1/2)** of the financial factor allowed under the regular procedure in calculating the prequalification amount.

Guaranty Procedure

An affiliated entity may choose to provide a guaranty of financial support on behalf of the applicant. The Department will only accept the guaranty form provided with this application, and the guarantee may increase the adjusted equity of the applicant by a maximum of 50% of the applicant's calculated adjusted equity in the formula.

C. EXPERIENCE PROCEDURE

*APPLICANT'S STATEMENT OF EXPERIENCE TO DETERMINE CATEGORY OF
PREQUALIFICATION*

Applicants who have not previously completed projects for the Department will have an experience factor assigned by the Prequalification Board which will not exceed one-half the prequalification amount for experience available to applicants who have completed at least 3 projects in the last 3 years for the Department.

Considering your **experience in heavy highway construction**, check the category of work in which you wish to become prequalified. Reference the "classification code" related to that category for each project on your work history, indicating the experience your company has performed in that particular heavy highway classification.

Check all that apply to the company's HEAVY HIGHWAY CONSTRUCTION experience. Only projects performed by the company can be used for experience.

**CLASSIFICATION
CODE**

(Indicate the checked "code classification number" (example: 1, 2d, etc) to the appropriate project on your work history.)

1. **MARK ONLY IF ALL below Heavy Highway categories # 2 – 8 have been performed by this company and are specified on the company Work History.**
2. Grading. Includes clearing and grubbing, excavation, and embankment.
3. Surfacing:
 - a. Crushed Gravel or Stone
 - b. Roadmix Asphalt
 - c. Plantmix Asphalt
 - d. Portland Cement Concrete Paving (not Structural or Flatwork)
 - e. Miscellaneous Surface Treatments
4. Major Bridge:
 - a. Bridges which include Curved Steel Girders
 - b. Bridges with Multi-Level Roadways
 - c. Bridges of Concrete Segmental Construction
 - d. Bridges which include Cable Stayed Construction
 - e. Bridges of conventional construction which are over a water opening of 1000 feet or more
5. Intermediate Bridge. Bridges that contain none of the types of construction listed under Major Bridges; and, span lengths exceeding 50 feet (center to center of cap).
6. Minor Bridge. Bridges with span lengths not exceeding 50 feet (center to center of cap) and total length not exceeding 300 feet. A Minor Bridge shall not contain any types of construction listed under Major Bridges or Intermediate Bridges.
7. Drainage. All storm drains, pipe culverts, culverts, etc.
8. Miscellaneous Heavy Highway Construction Classes of Work.
 - a. Electrical Work; includes roadway, bridge and runway lighting
 - b. Fencing
 - c. Guardrail
 - d. Grassing, Seeding and Sodding
 - e. Landscaping

- f. ___ Traffic Signals
- g. ___ Computerized Traffic Control Systems
- h. ___ Bridge Painting
- i. ___ Pavement Markings; includes delineators, traffic stripe painting and thermoplastics
- j. ___ Roadway Signing.
- k. ___ Utilities (specify)
- l. ___ Other , i.e. Concrete (Structural or Flatwork), etc (specify) _____

9. ___ Miscellaneous. Classes of work not normally performed by road and bridge contractors as the applicant may request.
Specify: _____

CONTRACTOR STATEMENT OF EXPERIENCE

Submitted by: _____ A corporation
 _____ A limited liability company
 _____ An individual/partnership
 (Complete Appropriate Affidavit; see Section E, pg 10-12)

Principal Office: _____

The signatory of this questionnaire certifies the truth and accuracy of all statements and information provided in the application and any supporting documents.

1. How many years has the company been in business as a contractor under your present business name?

2. State the number of years of the company’s experience in **heavy highway construction**?

 a. As a prime contractor? _____
 b. As a subcontractor? _____
 c. By the definition outlined on page 10, does your organization qualify as a minority business? _____
3. List below, or attach as necessary, a complete listing of **heavy highway construction** projects and classes of work performed by your organization’s employees and equipment in the last 5 years. Using the prequalification “classification code” (see page 4), indicate the type of work performed on each project.

YEAR	CLASS CODE (see page 4)	TYPE OF WORK – Be Specific (also indicate Prime or Sub Contractor)	CONTRACT AMOUNT	LOCATION/OWNER

Questions 4 to 14 must be answered completely regardless of whether or not previous applications have been submitted. Insert attachments as necessary.

4. Have you ever failed to complete any work awarded to you? Yes ___ No ___ If so, where and why?

5. Has any officer or partner of the company ever been an officer or partner of another organization that failed to complete a construction contract? Yes ___ No ___ If so, state name of individual, organization and reason.

6. Has any officer or partner of the company ever failed to complete a construction contract handled in its own name? Yes ___ No ___ If so, state name of individual, name of owner and reason.

7. Has any officer or member of your company been convicted of a felony? Yes ___ No ___ If yes, explain below.

8. Has your organization been convicted of submitting a false or fraudulent claim on any construction project you have been awarded? Yes ___ No ___ If yes, explain below.

9. In what other lines of business are you financially interested?

10. For what companies or individuals have you performed work for, state when, and list name of reference.

11. List all governmental entities, including local, state and federal, for which the company has performed work, include when and name of reference.

12. Name the persons with whom you have been associated in business as partners, members, officers or business associates in each of the last five years.

13. State the **heavy highway construction** experience of the principal individuals of your organization.

NAME	PRESENT POSITION OR TITLE	YEARS & TYPE HEAVY HIGHWAY EXPERIENCE (Be Specific, Use Attachments if necessary)	Classification Code (pg 4)

D. GENERAL INFORMATION

1. REFERENCE THE UTAH STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION. UDOT website: www.udot.utah.gov/index.php/m=c/tid=1093

2. The Utah Department of Transportation requires bid submission using the current version of the UDOT EBS, Electronic Bid System. UDOT website: www.udot.utah.gov/index.php/m=c/tid=319

3. From the applicant's financial statement, the following information is used to arrive at Adjusted Equity and Financial Rating Factor.

Current Assets (CA)	Equity (EQ)
Net Fixed Assets (FA)	Revenues (REV)
Current Liabilities (CL)	Net Operating Income/Loss (INC)
Long Term Debt (LTD)	

The financial rating factor is determined by computing the following financial ratios.

- a. Working Capital Ratio CA/CL
(Liquidity Ratio-Cash Position. Ideal = 2.00)
- b. Debt to Equity Ratio LTD/AEQ
(Penalized for high debt financing. Ideal = 1.00)
- c. Fixed Assets to Equity Ratio FA/AEQ
(Penalized for high investment in fixed assets. Ideal = 1.00)
- d. Working Capital to Long Term Debt Ratio (CA-CL)/LTD
(Ability to pay debt. Ideal = 1.00)
- e. Operating Ratio (REV-INC)/REV
(Profitability. Ideal < 1.00)

UDOT FORMULA TO DETERMINE PREQUALIFICATION AMOUNT:

ADJUSTED EQUITY x A x (B + C + D)

WHERE: ADJUSTED EQUITY DETERMINED FROM CONTRACTOR FINANCIAL INFORMATION

- A = CONTRACTOR PERFORMANCE FACTOR
(Project Engineer Rating on Individual Project
Minimum of 3 ratings in 3 years)
- B = EXPERIENCE RATING FACTOR
(Yearly Finaled Contract Performance Rating)
- C = FINANCIAL RATING FACTOR
(Comptroller Computation using Financial)
- D = ADDITIONAL EXPERIENCE FACTOR
(Prequalification Board)

- 4. Companies proposing to bid UDOT heavy highway construction projects with an advertised estimate of \$3,000,000 or more must file and gain approval from the below office **PRIOR TO** bidding on a project requiring prequalification. A minimum of 10 working days is required for processing and approval of a prequalification application packet.

UTAH DEPARTMENT OF TRANSPORTATION
 PREQUALIFICATION BOARD
 4501 South 2700 West, Salt Lake City UT 84119
 Box 148220, Salt Lake City UT 84114-8220
 (801)965-3835

To obtain a copy of the prequalification application:
www.udot.utah.gov/index.php/m=c/tid=321

5. UTAH CONTRACTOR'S LICENSE

Each prequalified applicant must comply with the laws of Utah relative to the licensing of contractors. The applicable contractor's license is required prior to the submission of a bid, except that a contractor may submit a bid on a federal-aid highway project without having first obtained a license, provided that such contractor, prior to undertaking any construction under that bid (ten days from notice to proceed), shall be licensed in Utah. Failure to do so will result in forfeiture of award.

A CONTRACTOR'S COMMERCIAL LICENSE TO PERFORM WORK IN UTAH IS REQUIRED. A LICENSE WILL BE REQUIRED IN THE APPLICABLE CLASSIFICATION TO PROCEED WITH WORK. ALL LICENSE REQUIREMENTS AND APPLICATION TO PERFORM HEAVY HIGHWAY CONSTRUCTION IN THE STATE OF UTAH ARE GOVERNED BY:

UTAH DEPARTMENT OF COMMERCE
 Occupational/Professional Licensing
 P O Box 146741
 Salt Lake City UT 84114-6741
 Phone (801)530-6628 (Contractor Licensing)
 Phone (801)359-4417 (Contractor Application)

COMPLETE THE FOLLOWING IF CURRENTLY IN POSSESSION OF A UTAH LICENSE.

 UTAH CONTRACTOR LICENSE NUMBER

 CLASSIFICATION TITLE/CODE

 LICENSE EXPIRATION DATE

6. QUALIFICATION PERIOD

The duration of prequalification is no more than eighteen (18) months beyond the end of the fiscal year to which the financial statements apply. Extensions may be granted up to sixty (60) days, if necessary, upon written request by the contractor and receipt of written approval from the Prequalification Board Specialist.

7. NOTIFICATION OF ACTION TAKEN BY PREQUALIFICATION BOARD

The Prequalification Board Specialist will notify the applicant in writing after the application has been approved of both the amount and type of work the applicant will be eligible to bid and the time period for which the applicant will be prequalified.

8. REVISION OF PREQUALIFICATION

A request for revision of prequalification will be considered at any time, provided credentials showing increased assets, equipment or ability to perform work are submitted along with all other previously required information, including a renewed application. The Prequalification Board may at any time require the submission of additional certified statements regarding financial condition or any other material pertinent to prequalification.

9. JOINT BIDDING

Two or more companies who have prequalified separately and desire to enter a joint bid on a single project may do so by submitting a letter of intent in the name of the Joint Venture to the Prequalification Board Specialist a minimum of FOUR (4) working days prior to the project's bid opening. The letter should contain the notarized signatures for each company and indicate the proposed administrative partner, address, phone, fax, e-mail address. The prequalification of each company will then be considered and consolidated for the bid. Prior to submitting a bid, the joint venture name must obtain the appropriate Utah license, Surety 2000 bid bond, UDOT Contractor ID and annual registration.

10. SUBMISSION OF BID PROPOSAL

The applicant must possess an approved prequalification prior to bidding on a project requiring prequalification.

11. RIGHT RESERVED TO DECLARE BIDS NON-RESPONSIVE

Bid proposals will be declared non-responsive when the applicant's form "Status of Work" shows the sum of the amount of uncompleted work, both in and outside the State of Utah, plus the amount of the bid exceeds the amount for which the applicant is prequalified. For more information, see UDOT Standard Specifications for Road and Bridge Construction, section 00120, Instruction to Bidders.

E. GENERAL AFFIDAVITS

AFFIDAVIT FOR LIMITED LIABILITY COMPANY

STATE OF _____

ss.

COUNTY OF _____

_____, being duly sworn, deposes and says: that he/she is a member or manager of _____ and the foregoing statement of experience and financial condition and all statements, including attached documents are true and correct as of _____ 20____; grants the Department the authority to contact the listed companies and individuals provided in this application; furthermore, should the information in the application at any time cease to properly and truly represent the company's financial condition, UDOT will be immediately notified, and represents he/she has the authority to sign this application.

SWORN TO ME THIS _____ day

OF _____, 20_____

Member of Firm Signature

Name of Firm

Notary Public Signature & Seal

The foregoing statement and affidavit are hereby approved:

Remaining Members of Firm Signatures

DATE OF ORGANIZATION:

STATE NAME OF EACH MEMBER AND ADDRESS; INDICATE IF A GENERAL OR LIMITED MEMBER.

AFFIDAVIT FOR CORPORATION

STATE OF _____

ss.

COUNTY OF _____

_____, being duly sworn, deposes and says: That he/she is an officer of _____ and the foregoing statement of experience and financial condition and all statements, including attached documents are true and correct as of _____ 20____; grants the Department the authority to contact the listed companies and individuals in this application; furthermore, should the information in the application at any time cease to properly and truly represent the company's financial condition, the company will immediately notify UDOT and represents he/she has the authority to sign this application.

SWORN TO ME THIS _____ DAY

OF _____, 20_____

Corporate Officer Signature

Notary Public Signature & Seal

WHEN INCORPORATED?

IN WHAT STATE?

DULY QUALIFIED IN UTAH?

PRESIDENT'S NAME:

VICE PRESIDENT'S NAME:

SECRETARY'S NAME:

TREASURER'S NAME:

AFFIDAVIT FOR INDIVIDUAL/PARTNERSHIP

STATE OF _____

ss.

COUNTY OF _____

_____, being duly sworn, deposes and says: that the foregoing statement of experience and financial condition and all statements therein contained are true and correct as of _____ 20____; grants the Department the authority to contact the listed companies and individuals in this application; furthermore, should the information in the application at any time cease to properly and truly represent the individual's or partnership's financial condition, the company will immediately notify UDOT and represents he/she has the authority to sign this application.

SWORN TO ME THIS _____ day

Applicant Signature

OF _____, 20_____

Notary Public Signature & Seal

AFFILIATED ENTITY GUARANTY

THIS AFFILIATED ENTITY GUARANTY, dated as of _____ (“Guaranty”), made by (i) each of the undersigned (each, a “Guarantor” and collectively, the “Guarantors”) with (ii) the Utah Department of Transportation (“UDOT”) for the benefit of Applicant (“Applicant” being the person or entity referenced as “Contracting Party submitting an Application for Prequalification (“Application”) for the year _____, the “Prequalification Year”):

RECITALS AND REPRESENTATIONS:

- (1) Except as otherwise defined herein, terms used herein and defined in the Contractor Application for Prequalification (“Application”) shall be used herein as therein defined.*
- (2) This Guaranty is made pursuant to the Application.*
- (3) Each Guarantor is a direct or indirect parent or affiliated individual and/or entity of or with Applicant.*
- (4) It is a requirement under the Application that each Guarantor shall have executed and delivered this Guaranty.*
- (5) Each Guarantor will obtain benefits from the Application and any prequalification granted by UDOT pursuant to or in connection with the Application, the receipt and sufficiency of which is hereby acknowledged by each Guarantor individually and collectively and, accordingly, each Guarantor desires to execute this Guaranty in order to satisfy the requirement described in the preceding paragraph.*

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and other benefits accruing to each Guarantor, the receipt and sufficiency of which are hereby acknowledged, each Guarantor hereby makes the following representations and warranties to UDOT and hereby covenants and agrees with UDOT as follows:

Section 1. Certain Definitions. As used in this Guaranty, the following terms shall have the meanings herein specified unless the context otherwise requires:

“Guaranteed Documents” means, individually and collectively, the Application and each, every, any and all contracts for construction awarded by UDOT (“Awarded Contract”) to Applicant, or previously awarded by UDOT and in process, during the Prequalification Year.

“Guaranteed Obligations” means, collectively each, any and every covenant, promise and obligation under any Awarded Contract awarded and/or in process during the Prequalification year.

“Event of Default” means any failure of Applicant to fully, properly, and timely perform each, every and all obligations under applicable contract documents for an Awarded Contract.

“Insolvency Event” means, with respect to any person or entity:

(i) the commencement of a voluntary case by such person or entity under the Bankruptcy Code or the seeking of relief by such Person under any bankruptcy or insolvency or analogous law in any jurisdiction outside of the United States;

(ii) the commencement of an involuntary case against such person or entity under the Bankruptcy Code and the petition is not controverted within 10 days, or is not dismissed within 45 days, after commencement of the case;

(iii) a custodian (as defined in the Bankruptcy Code) is appointed for, or takes charge of, all or substantially all of the property of such person or entity;

(iv) such person or entity commences (including by way of applying for or consenting to the appointment of, or the taking of possession by, a rehabilitator, receiver, custodian, trustee, conservator or liquidator (collectively, a “conservator”) of such person or entity or all or any substantial portion of its property) any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency, liquidation, rehabilitation, conservatorship or similar law of any jurisdiction whether now or hereafter in effect relating to such person or entity;

(v) any such proceeding of the type set forth in clause (iv) above is commenced against such person or entity to the extent such proceeding is consented to by such person or entity or remains undismissed for a period of 45 days;

(vi) such person or entity is adjudicated insolvent or bankrupt;

(vii) any order of relief or other order approving any such case or proceeding is entered;

(viii) such person or entity suffers any appointment of any conservator or the like for it or any substantial part of its property that continues undischarged or unstayed for a period of 45 days;

(ix) such person or makes a general assignment for the benefit of creditors or generally does not pay its debts as such debts become due; or

(x) any corporate (or similar organizational) action is taken by such person or entity for the purpose of effecting any of the foregoing.

Section 2. Guaranty by the Guarantors.

(a) Each Guarantor, jointly and severally, irrevocably and unconditionally guarantees: (i) to UDOT full, proper and prompt performance by Applicant of each, every and all covenants and obligations under each and every Awarded Contract. Such guaranty is an absolute, unconditional, present and continuing guaranty of performance of construction by Applicant, including without limitation performance in all respects in a workmanlike fashion and in full compliance with applicable project specifications, and payment of all obligations arising out of or relating to such performance, and is in no way conditioned or contingent upon, or affected in any fashion by any attempt to enforce performance, the existence of a performance bond, or any other action, occurrence or circumstance whatsoever. The obligation of this Guaranty shall be such that it includes the obligation that if an Event of Default shall occur and/or be continuing, each Guarantor will, promptly upon (and in any event no later than five business days) receipt of written notice from UDOT demanding payment and provision of financial resources to UDOT (or as otherwise directed by UDOT) of the costs and financial resources estimated by UDOT to be necessary to cure the Event of Default for the benefit of UDOT. UDOT shall have the right, but not the obligation, to cure and remedy any Event of Default not remedied within 30 days of such written notice and shall be entitled to recovery of all costs and expenses of whatsoever kind incurred by UDOT arising out of or relating to such efforts of UDOT to cure and remedy such Event of Default. Guarantor shall not have the right or option to physically perform work regarding an Awarded Contract unless specifically approved by UDOT in its reasonable discretion and in accordance with applicable law.

Section 3. Guarantors’ Obligations Absolute. The obligations of each Guarantor under this Guaranty shall be absolute and unconditional, shall not be subject to any counterclaim, setoff, deduction or defense based on any claim such Guarantor may have against any other Person, including, without limitation, UDOT or any other Guarantor, and shall remain in full force and effect without regard to, and shall not be released, suspended, abated, deferred, reduced, limited, discharged, terminated or otherwise impaired or adversely affected by any circumstance or occurrence whatsoever, other than full and complete performance of all of the Guaranteed Obligations together with any and all modifications of the Guaranteed Obligations, including without limitation:

(a) any waiver, consent, extension, indulgence or other action or inaction (including, without limitation, any lack of diligence, any failure to mitigate damages or marshal assets, or any election of remedies) under or in respect of any Awarded Contract or any obligation thereunder;

- (b) any Insolvency Event relating to the Applicant or to any of its properties or assets;
- (c) any lack of notice to, or knowledge by, any Guarantor of any of the matters referred to above; or
- (d) to the fullest extent permitted under applicable law now or hereafter in effect, any other circumstance or occurrence, whether similar or dissimilar to any of the foregoing, that could or might constitute a defense available to, or a discharge of the obligations of, a guarantor or other surety.

Section 4. Waivers. Each Guarantor unconditionally waives, to the maximum extent permitted under any applicable law now or hereafter in effect, insofar as its obligations under this Guaranty are concerned, (a) notice of any event of default under and Awarded Contract, Event of Insolvency and any of the matters referred to in Section 3, (b) all notices required by statute, rule of law or otherwise to preserve any rights against such Guarantor hereunder, including, without limitation, any demand, presentment, proof or notice of dishonor or non-payment or non-performance of any Guaranteed Obligation, notice of acceptance of this Guaranty, notice of the incurrence of any Guaranteed Obligation, notice of any failure on the part of the Issuer, any of its Subsidiaries or Affiliates, or any other Person, to perform or comply with any term or provision of the Note Purchase Agreement, any other Guaranteed Document or any other agreement or instrument to which the Issuer or any other Person is a party, or notice of the commencement of any proceeding against any other Person or any of its property or assets, (c) any right to the enforcement, assertion or exercise against the Issuer or against any other Person or any collateral of any right, power or remedy under or in respect of the Note Purchase Agreement, the other Guaranteed Documents or any other agreement or instrument, and (d) any requirement that such Guarantor be joined as a party to any proceedings against the Issuer or any other Person for the enforcement of any term or provision of the Note Purchase Agreement, the other Guaranteed Documents, this Guaranty or any other agreement or instrument.

Section 5. Subrogation Rights. Until such time as the Guaranteed Obligations have been fully and completely performed, each Guarantor hereby irrevocably waives all rights of subrogation that it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the Bankruptcy Code, or otherwise) to the claims of UDOT against Applicant, any other Guarantor or any other guarantor of or surety for the Guaranteed Obligations and all contractual, statutory or common law rights of reimbursement, contribution or indemnity from the Issuer or any other Guarantor that it may at any time otherwise have as a result of this Guaranty.

Section 6. Separate Actions. A separate action or actions may be brought and prosecuted against any Guarantor whether or not action is brought against any other Guarantor, any other guarantor or the Applicant, and whether or not any other Guarantor, any other guarantor of the Applicant or the Applicant be joined in any such action or actions.

Section 7. Guarantors Familiar with Applicant's Affairs. Each Guarantor confirms that an executed (or conformed) copy the Application has been made available to its principal executive officers, that such officers are familiar with the contents thereof and of this Guaranty, and that it has executed and delivered this Guaranty after reviewing the terms and conditions of the Application and this Guaranty and such other information as it has deemed appropriate in order to make its own credit analysis and decision to execute and deliver this Guaranty. Each Guarantor confirms that it has made its own independent investigation with respect to the creditworthiness and ability to perform Awarded Contracts of the Applicant and its other subsidiaries and affiliates and is not executing and delivering this Guaranty in reliance on any representation or warranty by UDOT or any other person acting on behalf of UDOT as to such creditworthiness and ability to perform. Each Guarantor expressly assumes all responsibilities to remain informed of the financial condition and ability to perform of the Applicant and its other subsidiaries and affiliates and any circumstances affecting the Applicant's ability to perform obligations under any Awarded Contracts to which it is or may become a party, and each Guarantor further agrees that UDOT shall have no duty to advise any Guarantor of information known to it regarding such circumstances or the risks such Guarantor undertakes in this Guaranty.

Section 8. Solvency. Each Guarantor represents and warrants to UDOT that as of the date such Guarantor has become a party to this Guaranty: (i) such Guarantor has received consideration that is the reasonable equivalent value of

the obligations and liabilities that such Guarantor has incurred in connection with this Guaranty; (ii) such Guarantor has capital sufficient to carry on its business and transactions and all business and transactions in which it is about to engage and is solvent and able to pay its debts as they mature; and (iii) such Guarantor owns property having a value, both at fair valuation and at present fair salable value, greater than the amount required to pay its debts.

Section 9. Continuing Guaranty; Remedies Cumulative. This Guaranty is a continuing guaranty, all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon, and this Guaranty shall remain in full force and effect until terminated as provided herein. No failure or delay on the part of UDOT in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly specified are cumulative and not exclusive of any rights or remedies that UDOT would otherwise have. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of UDOT to any other or further action in any circumstances without notice or demand. It is not necessary for, and UDOT does not undertake, any obligation or duty to, inquire into the capacity or powers of the Applicant or the officers, directors, partners or agents acting or purporting to act on its behalf, and any obligation made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

Section 10. Successors and Assigns. This Guaranty shall be binding upon each Guarantor and its successors and assigns, and shall inure to the benefit of UDOT and Applicant.

Section 11. This Guaranty represents the final agreement among the parties with respect to the subject matter hereof and thereof, supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof and thereof, and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements among the parties. There are no unwritten oral agreements among the parties. It is expressly intended and agreed by the parties hereto that no Guarantor is or will be a third-party beneficiary of any Awarded Contract.

Section 12. Amendments; Additional Guarantors. No amendment or waiver of any provision of this Guaranty and no consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by UDOT.

Section 13. Headings Descriptive. The headings of the several Sections of this Guaranty are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Guaranty.

Section 14. Severability. Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 15. Right of Setoff. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default, UDOT is hereby authorized at any time or from time to time, without notice to any Guarantor or to any other person or entity, any such notice being expressly waived, to the fullest extent permitted under applicable law now or hereafter in effect, to set off and to appropriate and apply any indebtedness or cost of curing or remedying an Event of Default under this Guaranty against any amount or obligation which may otherwise be due to any Guarantor, irrespective of whether or not UDOT shall have made any demand hereunder and although said obligations, liabilities, deposits or claims, or any of them, shall be contingent or unmatured, or arise out of or related to unrelated transactions or agreements.

Section 16. Notices. Except as otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing and mailed, sent by electronic means or delivered, (a) if to any Guarantor, at

the address specified for it in the _____, with a courtesy copy to the Applicant at its address specified in the _____, (b) if to UDOT, at _____; or in any case at such other address as any of party may hereafter notify the others in writing. All such notices and communications shall be mailed, sent via electronic means, sent by overnight courier or delivered, and shall be effective when received.

Section 17. General Limitation on Claims by Guarantors. NO CLAIM MAY BE MADE BY ANY GUARANTOR AGAINST UDOT FOR ANY DAMAGES OTHER THAN ACTUAL COMPENSATORY DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS GUARANTY OR ANY OF THE OTHER GUARANTEED DOCUMENTS, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH GUARANTOR HEREBY, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, WAIVES, RELEASES AND AGREES NOT TO SUE OR COUNTERCLAIM UPON ANY SUCH CLAIM FOR ANY SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

Section 18. Counterparts. This Guaranty may be executed in any number of counterparts and by the different parties hereto on separate counterparts including, by way of facsimile transmission or other electronic transmission capable of authentication, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

Section 19. Governing Law; Venue; Waiver of Jury Trial

(a) THIS GUARANTY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF UTAH WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS GUARANTY MAY BE BROUGHT IN THE COURTS OF THE STATE OF UTAH SITTING IN SALT LAKE CITY, AND BY EXECUTION AND DELIVERY OF THIS GUARANTY, EACH GUARANTOR CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH GUARANTOR IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF *FORUM NON CONVENIENS* THAT IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS GUARANTY OR OTHER DOCUMENT RELATED THERETO. EACH GUARANTOR WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS THAT MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF SUCH STATE.

(c) EACH GUARANTOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS GUARANTY OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS GUARANTY, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH GUARANTOR HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS GUARANTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

IN WITNESS WHEREOF, each Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

UDOT

GUARANTOR

Date: _____

Date: _____