

ATTACHMENT A

Standard Terms and Conditions

1. Employment of CONSULTANT.

WFRC hereby agrees to engage CONSULTANT, and CONSULTANT hereby agrees to perform the services identified in Attachment B based on the budget in Attachment C.

2. Scope of Services by CONSULTANT.

Consultant shall perform these services at the direction of WFRC in accordance with commonly accepted professional standards and to WFRC's satisfaction without increase or decrease in cost or fee payable to Consultant. WFRC reserves the right to refine or amend these work tasks, as necessary.

3. Contract Changes.

Changes to this Contract may be made at any time with the written approval of both parties. In the event that a proposed change in scope proposed by either party will result in an increase or decrease in the agreed contract price, Consultant will notify WFRC before performing or amending such work. The parties will negotiate an appropriate price adjustment and will execute a modification to this contract before commencing or amending such work.

4. Project Oversight.

WFRC will be responsible for supervisory project management, including approval of schedules and schedule changes, approval of Consultant work, payment of invoices, and coordination with other Project participants. WFRC Project Manager assigned to this Project is XXXXXX, XXXXX@wfr.utah.gov.

5. Data and Services to be Furnished by WFRC.

WFRC staff may work closely with CONSULTANT to provide necessary project data, documents and requirements so that this work can be completed efficiently.

6. Personnel.

Consultant represents that it has, or will obtain at its own expense, all personnel required to perform the services under this Agreement and all personnel engaged in the work shall be fully qualified and shall be authorized under State and local laws to perform such services.

7. Subcontractors.

Consultant shall not employ additional subcontractors in performance of this work unless approved in the agreed upon scope of work or in writing by WFRC. Subcontractors shall be subject to the same requirements regarding reimbursement for meals and incidentals set forth in section 9, Compensation.

8. Time Performance.

The services of Consultant are to commence immediately after the execution of this Agreement and shall be completed

by the termination date of this Agreement unless this date is extended by contract amendment. In the event Consultant's services are suspended, delayed, or interrupted for the convenience of the WFRC, no additional cost shall accrue and no additional compensation shall be made as a result of such suspension, delay or interruption.

9. Compensation.

It is hereby understood and agreed that CONSULTANT will complete the scope of work in Attachment B for a lump sum of/ not to exceed \$0000000. For purposes of consultant travel, reimbursement for meals and incidentals will be in accordance with [GSA guidelines](#). All consultant travel must be authorized in writing by the WFRC project manager prior to expenses being incurred, and must be for the purpose of visiting the project site and/or client.

10. Method of Payment.

Consultant shall submit an electronic copy of the monthly invoice to WFRC project manager XXXXX, XXXX@wfrc.utah.gov. For all services and materials pertinent hereto, CONSULTANT shall bill WFRC monthly for the completed percentage of the tasks outlined in the scope of work within 30 days of the last day of the work period. All invoices must be numbered, and must be submitted with a monthly progress report outlining the deliverables and tasks completed to the invoice. Invoices must identify costs by key project milestones and the portion of each milestone completed. Labor hours shall be directly traceable and supported by monthly time sheets, and such documentation shall be made available to the WFRC upon request. Copies of itemized receipts, bills, sub consultant invoices, or other documentation supporting direct charges shall be made available to the WFRC upon request. To avoid imposing undue hardship on CONSULTANT, the WFRC shall pay CONSULTANT for all undisputed accounts, shown on the invoice, within 60 days after receiving the invoice. All invoices for work through the end of the WFRC fiscal year (June 30) are due to WFRC by the second week in July; this includes the work of all subconsultants and any direct expenses.

11. Records.

CONSULTANT shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be maintained on a generally accepted accounting basis and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to such pertinent portions of books and records to the representatives of the WFRC at all proper times. WFRC shall have the right to examine and audit the same, and to make transcripts therefrom as necessary and to allow inspection of all work data, documents, proceedings, sub consultant transactions, and activities related to this Agreement for a period of three (3) years from the date of final payment under this Agreement. All accounting records shall readily provide a breakdown of costs charged to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

12. Products.

This contract is for such time and materials as may be necessary to complete the tasks identified in Attachment B. All final products and project presentations become the property of WFRC.

13. Disputes.

It is WFRC's desire and intent to resolve any issues arising during the Project through informal means rather than through a formal process. If CONSULTANT and the WFRC Project Manager are unable to satisfactorily resolve an issue, it shall be referred to the WFRC Executive Director for resolution prior to commencing any formal disputes resolution.

The federal Contract Disputes Act of 1978, as amended (41 U.S.C. 7101-7109) will govern all formal disputes. Formal disputes or claims will be submitted in writing to the WFRC Executive Director. All disputes will be adjudicated by WFRC. After exhausting these steps, CONSULTANT may proceed with litigation.

14. Termination of Agreement.

- a) Termination for convenience: WFRC shall have the right to terminate this Agreement by giving written notice to CONSULTANT of such termination and specifying the effective date thereof. In the event of termination or upon completion of contractual obligation, all finished documents, data, studies, surveys, drawings, maps, photographs, and records prepared by CONSULTANT shall become the WFRC's property, and CONSULTANT shall be entitled to receive just and equitable compensation for any work completed to WFRC's satisfaction on such documents and other materials. Said payment to CONSULTANT or reimbursement to the WFRC (whichever the case may be) shall be based upon the time and expense records required to be kept by CONSULTANT in accordance with paragraph 10 of this Agreement.
- b) Termination for Cause: Notwithstanding Subsection (a), WFRC may immediately terminate this Agreement for cause, effective upon delivery of written notice, if the CONSULTANT breaches any legal certification required herein, including but not limited to the Employment Status Verification (Utah Code § 63G-12-302). In the event of a termination for cause, WFRC reserves all rights to withhold payments, recover damages, and seek federal funding indemnification.

15. Law Abiding.

CONSULTANT shall observe and comply with all federal, state and local laws, ordinances and regulations affecting their employees, or those engaged by CONSULTANT on the project, and for any claims arising out of any acts of CONSULTANT occurring during this contractual relationship. CONSULTANT will procure all necessary licenses and permits for the materials or equipment used or for the conduct of the work.

16. Trust.

CONSULTANT represents that it has not employed or retained any company or person and that it has not paid, or agreed to pay, any company or person any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from award or making of this Agreement. For breach or violation of this warranty, the WFRC shall have the right to annul this Agreement without liability.

17. Certification Regarding Debarment, Eligibility, Indictments, Convictions or Civil Judgments.

CONSULTANT represents that it or any person associated therewith in the capacity of director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal Funds, except as may be noted, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency, nor has been in the last three years.

18. Certification Regarding Restrictions on Lobbying.

CONSULTANT represents that no appropriated federal funds will be used for activities precluded by Title 31 U.S.C, Section 1352. CONSULTANT hereby certifies compliance with this provision under this Project.

19. Interest of Members of WFRC and Others.

No officer, member or employee of the WFRC and no member of its governing body, and no other public official of the governing body of the locality or localities in which the Project is situated or being carried out who exercised any functions or responsibilities in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

20. Confidentiality of Findings.

No reports, information, data, or other Project materials given to, prepared, or assembled by CONSULTANT shall be made available to any individual or organization by CONSULTANT without the prior written approval of the WFRC, except as required by law or subpoena.

21. Publication, Reproduction and Use of Material.

No reports, maps or other documents produced under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT. WFRC shall have the authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Agreement for this project or for program communications purposes. Original documents and related source files, methodological explanations, drawings, designs, and reports generated by this Agreement shall belong to and be the property of WFRC. All files associated with the completion of the scope must be provided to WFRC upon completion of the scope prior to the payment of the final invoice.

22. Limitation of Rights.

The services to be performed by CONSULTANT are intended solely for the benefit of the WFRC. Nothing contained herein shall confer any rights upon, or create any duties on, the part of CONSULTANT toward any person or persons not a party to this Agreement, including, but not limited to, any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them.

23. Hold Harmless.

CONSULTANT shall indemnify and save harmless the WFRC, and its officers and employees, from and against damages to property or injuries to or death of any person or persons, including property and employees of the WFRC, for claims, demands, suits, actions, or proceedings, including workers' compensation claims, to the extent they are caused by the negligent acts, errors, or omissions of CONSULTANT, its officers, employees or others for whom the CONSULTANT is legally liable.

WFRC shall indemnify and save harmless CONSULTANT, and its officers and employees, from and against damages to property or injuries to or death of any person or persons, including property and employees of CONSULTANT, for claims, demands, suits, actions, or proceedings, including workers' compensation claims, to the extent they are caused by the negligent acts, errors, or omissions of the WFRC officers or employees.

24. Insurance.

CONSULTANT maintains, at its own expense, workers compensation, commercial general liability (professional liability @ \$500,000 per claim), and automobile liability insurance policies with limits at or above that which is reasonably required in the industry for comparable planning studies and will, upon request, furnish certificates of insurance to the WFRC. CONSULTANT is fully responsible and liable for all work done under the Agreement, including any work performed by subcontractors or third parties.

25. Independent Contractor.

CONSULTANT shall be an independent contractor in the performance of services herein.

26. Representative of WFRC.

WFRC's representative in the performance, implementation, and administration of this Contract shall be the member of the WFRC staff designated to act on behalf of the Executive Director as Project Manager for this Project as identified in paragraph 4 (Project Oversight) above. All direction and official communication regarding scope, budget, and contract with the CONSULTANT from WFRC shall be from such single source.

27. Title VI Provisions

Where Title VI APPENDICES A in the remainder of this section use "contractor", substitute CONSULTANT. Where the Title VI APPENDICES A in the remainder of this section use "recipient", substitute WFRC.

APPENDIX A: During the performance of this contract, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- A. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), Federal Transit Administration (FTA), or Federal Aviation Administration (FAA) as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- B. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, FTA, or FAA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required

of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, FTA, or FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

- E. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. canceling, terminating, or suspending a contract, in whole or in part.
- F. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

28. Disadvantaged Business Enterprise (DBE).

The CONTRACTOR shall take the following measures to facilitate participation by disadvantaged business enterprises (DBE) in the Project.

- A. The CONTRACTOR agrees to comply with USDOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26; and
- B. The CONTRACTOR agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any third-party contract, or sub agreement supported with Federal assistance derived from the USDOT or in the administration of its DBE program or the requirements of 49 CFR Part 26. The CONTRACTOR agrees to take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of all third-party contracts and sub-agreements supported with Federal assistance derived from the USDOT.
- C. If the CONTRACTOR issues a purchase order or subcontracts any portion of this contract, the CONTRACTOR agrees to follow the procurement procedures in FTA Circular 4220.1G, which sets forth the requirements a CONTRACTOR must adhere to in the solicitation, award and administration of third-party contracts using FTA grant funding.
- D. This CONTRACT is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation of Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. A separate contract goal for DBE has not been established for this procurement.
- E. The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this CONTRACT or such other remedy as Department deems appropriate. Each subcontract the CONTRACTOR signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

29. Compliance With Data Privacy Requirements:

CONTRACTOR is subject to the data privacy requirements in the Government Data Privacy Act as described in Utah Code §63A-19-401.4. CONTRACTOR shall comply with these data privacy requirements to the same extent as WFRC. Any personal data contained within this CONTRACT is classified as a public record under Utah Code §63G-2-301 and may be available to the public as provided by Utah Code §63G-2-201.