

**State of Utah
Department of Natural Resources
Division of Wildlife Resources**

Contract No. 172329
Amend No.

CONTRACT INFORMATION

Date 6/5/2017

Vendor No. ITA
 Vendor Division of Oil, Gas, and Mining (DOGM)
 Address _____
 City SLC State UT Zip Code 84114

Description of work to be completed.

Cooperative Agreement with DOGM to pay vendor for WRI project #4130 - Eccles Creek Streambank Reclamation Erosion Control. DOGM will submit ITA for funding transfer.

Daniel: Make sure DOGM provides invoices & backup for this funding before approval of the line

Receivable Payable Land Acquisition MOU Easement/Right of Way

NUMBER OF FTE'S PER THIS CONTRACT:

# of AJ's	
# of AL's	
# of B's	
Total number of FTE's	0

Funding Source, if Payable Contract: WRI

DELIVERABLES (Reports, products, materials):

	Due Date:

Effective Date 5/8/2017
 Expiration Date 6/30/2017

Total Amount to be Received/Paid:

Description	Amount
	\$5,000.00
TOTAL	\$5,000.00

Charge indirects Yes No

Is this a new Project number? Yes No

A budget change form will need to be submitted with all contracts, including amendments.

Unit	Appr	Activity	Function	Program	Object	Amount	SLO Use
5735	RFF	XEHD		E4Z177A30		\$5,000.00	HCRF
TOTAL							

Contract Monitor: Daniel Eddignton

Regional Supervisor Approval: _____

Section Chief Approval: _____

Cooperative Agreement

The Utah Division of Wildlife Resources (UDWR) desires to enter into this Cooperative Agreement with Utah Division of Oil, Gas, and Mining (DOGGM) for contracting and project implementation services. These funds will be used for *Eccles Creek Streambank Reclamation Erosion Control project (WRI #4130)*.

The term of this Cooperative Agreement will begin May 8, 2017 and terminate June 30, 2017.

1. UDWR will provide \$5,000 from funds allocated to the Utah Watershed Restoration Initiative in FY2017 for *Eccles Creek Streambank Reclamation Erosion Control project (WRI #4130)*.
2. The project will be implemented according to the attached project proposal.
3. DOGM will ensure that services are provided and reporting requirements are completed as outlined in the attached work plan.

John R. Byr
 Division of Oil, Gas, and Mining/Director

5/31/17
 Date

[Signature]
 Division of Oil, Gas, and Mining/Associate Director

May 30, 2017
 Date

Paula Dupin-Zahn
 Division of Oil, Gas, and Mining/Financial Manager

5/31/17
 Date

Michael S. [Signature] **ACTING DIRECTOR**
 Division of Wildlife Resources/Director

6/14/17
 Date

[Signature]
 Division of Wildlife Resources/Financial Manager

6/12/17
 Date

JUN 19 2017

CONTRACT RECEIVED AND PROCESSED BY
DIVISION OF FINANCE

ORIGINAL

1978

1978

1978

1978

1978

1978

1978

Eccles Creek Streambank Reclamation Erosion

Project ID: 4130
Status: Current
Fiscal Year: 2017
Submitted By: N/A

Project Manager: Priscilla Burton
PM Agency: Utah Division of Oil Gas and Mining
PM Office: Price Field Office
Lead: Utah Division of Oil Gas and Mining
WRI Region: Southeastern

Description:

Install a culvert to treat highway run-off and excelsior logs along the contour of the steep streambanks of Eccles Creek to protect the soil from erosion while vegetation becomes established.

Location:

On the South side of highway 264, four miles south of Scofield.

PROJECT NEED

Need For Project:

Seven thousand cubic yards of fill and a 36 inch culvert were removed to restore the Eccles Creek channel bottom in 2015. The resulting stream banks have a slope of 2h:1v, in the narrow canyon beside the paved highway 264. Due to a bend in the highway, road run-off concentrates at the top of the reclaimed slope and has created several, deep erosion rills down the slope to Eccles Creek. Erosion of the slopes is affecting vegetation establishment. Sediment has reached the creek, affecting fish habitat.

Objectives:

The objective is to control erosion from the highway to allow establishment of vegetation on the reclaimed south facing slope (approximately 0.2 acre in area). Utah Department of Transportation will construct a roadside ditch and install a culvert at the top of the slope to remove the water from the reclamation area. Excelsior logs will be placed along the contour of the slope to slow sheet wash and fill in existing erosion rills.

This project
on Eccles
Creek will :
Stabilize a
reclaimed
site; Improve
water
quality;
Improve habitat;
Improve recreational fishing.

Threats / Risks:

Fine sediments entering the creek will reduce spawning areas and fill in fishing holes and contribute to phosphorus loading in Scofield Reservoir.

Colorado Cutthroat Trout are a species of concern in the stream. Mule deer and elk utilize the reclaimed slopes.

Relation To Management Plan:

The 2015 reclamation of Eccles Creek (WRI grant #3352) was completed to allow return the perennial flow in Eccles Creek to a stream channel, to prevent a potential hazard of a blocked culvert, to allow fish migration one mile further upstream, and to increase recreational enjoyment of the stream. (Refer to the images for pictures of the fill in the channel before this work was accomplished.)

This project will control erosion of the recently reclaimed slopes, and protect the stream while vegetation becomes established. This area is within the Deer Herd Management Plan for the Manti Unit 16B on lands that winter large herds of deer and elk.

Fire / Fuels:

The fill and culvert were removed from Eccles Creek in 2015 to allow free flow of water in the channel should there be flooding as a result of a natural disaster, such as wildfire.

Water Quality/Quantity:

This project addresses the impacts of highway run-off, in cooperation with the Utah Department of Transportation. This project will implement sediment control to improve soil infiltration and promote vegetation establishment on the slopes above the creek.

Stabilizing the reclaimed slopes is important because Eccles Creek receives mine water discharge from the

Skyline Mine (approximately 1.5 miles up stream). In the past year the discharge ranged from 2,000 - 3,000 gpm. The current rate of discharge could increase with the addition of new leases. The reclaimed stream bank must be able to withstand flows above the ordinary.

Eccles Creek waters enter Mud Creek and eventually Scofield reservoir, approximately 4 miles down stream. Eccles Creek is protected as a drinking water source and a cold water fishery. Scofield Reservoir has been listed as an impaired water body for phosphorus and dissolved oxygen. Phosphorus may adhere to soil particles in suspension or be in solution in the water.

Compliance:

The project was under Division of Oil, Gas, & Mining as part of a former coal mine site. Archaeological clearance was obtained in 1980 under the Valley Camp Belina #2 Mine. The investigation was titled, Intensive Archaeological Surface Evaluations in the Proposed Whiskey Creek Canyon. Pleasant Valley Project in Carbon County, Utah. 1980. F.R.Hauck, PhD and D.G. Weder. Archaeological Environmental Research Corporation. Paper No. 21. In. 007001 Mining and Reclamation, Appendix 411.140. No cultural or historic sites were found at this stream crossing location. This project be within the boundaries previously surveyed, on reclaimed slopes. No further survey is planned.

NEPA is no required on private property on a previously disturbed site.

Methods:

The Utah Department of Transportation will contract the work to install a road ditch (asphalt or riprap) and an 18-24 inch culvert. The ditch will parallel the highway at the top of the slope. The ditch will direct road runoff to an 18 or 24 inch culvert to be installed perpendicular to the slope. An excavator and motor grader and a laborer will be required. The Division of Oil, Gas & Mining will oversee the installation of excelsior logs at 10 foot intervals along the contour of the north facing slope. The slope is 200 ft long and 45 feet in height above the stream. Therefore, three, 200 ft lengths of excelsior logs will be required. Logs will be set six inches into the ground using shovels and picks. Logs will be anchored with wooden stakes.

Monitoring:

DOGM will inspect the site monthly during accessible times of the year (May - November). Vegetation and sediment control will be monitored. Photographs will be uploaded annually.

The DOGM water quality database will be used to monitor the water quality at Skyline Mine water monitoring points VC6 (upstream) and VC9 (downstream). Field data and lab analysis collected is as described in Table 2.3.7-1 and 2.7.7.2 of the Skyline Mining and Reclamation Plan. SKyline Mine began in 2007 conducting macro-invertebrate and cutthroat trout surveys every three years. The results of these surveys will be monitored (Skyline Mine MRP, Vol 1A, Sec 2.8, p. 2-71, 2-71A, B, &C and Table 2.8-1a).

Partners:

On November 15, 2016, Priscilla Burton (soil scientist) and Keenan Storrar (hydrologist) with the Division of Oil Gas & Mining met at the site with Jim Chandler, P.E. and Brian Nielsen from the Utah Department of Transportation to discuss a means of controlling road runoff from highway 264. At this meeting, UDOT agreed to install a hardened road ditch and culvert (as described above). DOGM agreed to find a source of funding to pay for the excelsior logs and their installation. All the work will be put out for bid under the same contract.

Darin Caine is the representative of the Oman Family Trust which owns the land. Mr. Caine is an absentee landowner. The fill was removed from Eccles Creek at the request of Mr. Caine and with the concurrence of UDOT (email from Jim Chandler, 1/27/2014). Priscilla Burton has kept Mr. Caine informed of the reclamation work by email and text message/photo.

Future Management:

There is no grazing of these slopes. There will be no further logging of the surrounding land owned by the Oman Trust (Darin Caine).

Domestic Livestock Benefit:

Water quality in Mud Creek and Scofield benefits livestock.

BUDGET		WRI/DWR	Other	Budget Total	In-Kind Total	Grand Total
		\$5,000.00	\$9,000.00	\$14,000.00	\$5,000.00	\$19,000.00
Item	Description	WRI	Other	In-Kind	Year	
Personal Services (permanent employee)	project management by DOGM and UDOT and one year monitoring.	\$0.00	\$0.00	\$5,000.00	2018	
Contractual Services	labor to install excelsior logs: cut trench, stake logs in place.	\$2,500.00	\$0.00	\$0.00	2018	
Contractual Services	mobilization and demobilization and operation cost of excavator and motor	\$0.00	\$6,500.00	\$0.00	2018	

Item	Description	WRI	Other	In-Kind	Year
	grader w/operator.				
Materials and Supplies	purchase, deliver and install 45 ft of 18 inch culvert.	\$0.00	\$2,500.00	\$0.00	2018
Materials and Supplies	4 pallets, 12" x 10 ft. excelsior logs 5 bundles 24" wooden stakes freight	\$2,500.00	\$0.00	\$0.00	2018

FUNDING	WRI/DWR	Other	Funding Total	In-Kind Total	Grand Total
	\$5,000.00	\$9,000.00	\$14,000.00	\$5,000.00	\$19,000.00

Source	Phase	Description	Amount	Other	In-Kind	Year
UDOT		UDOT will pay the costs of heavy equipment operators to construct the road ditch and install the culvert. UDOT will monitor the contractor's work (shown as in-kind funding).	\$0.00	\$9,000.00	\$2,500.00	2018
UDOGM		Monitor project during installation. Provide photographs and water quality data.	\$0.00	\$0.00	\$2,500.00	2018
Habitat Council Account	HCRF	UWRI request will pay for excelsior logs, wooden stakes and their installation.	\$5,000.00	\$0.00	\$0.00	2017

Allocation	Percent of Total
Big Game	0%
Upland Game	0%
Waterfowl	0%
Sport Fish	100%
Nongame Fish	0%
Nongame Wildlife	0%

EXPENSE	WRI/DWR	Other	Expense Total	In-Kind Total	Grand Total
	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Source	Phase	Description	Amount	Other	In-Kind	Year
UDOT		N/A	\$0.00	\$0.00	\$0.00	
UDOGM		N/A	\$0.00	\$0.00	\$0.00	
Habitat Council Account	HCRF	N/A	\$0.00	\$0.00	\$0.00	

Allocation	Percent of Total
Big Game	0%
Upland Game	0%
Waterfowl	0%
Sport Fish	100%
Nongame Fish	0%
Nongame Wildlife	0%

SPECIES

Species	"N" Rank	HIG/F Rank
Mule Deer		1

Species	"N" Rank	HIG/F Rank
Threat		Impact
Roads – Transportation Network		High
Storms and Flooding		Medium
Elk		2
Threat		Impact
Roads – Transportation Network		Medium
Bonneville Cutthroat Trout	N4	1
Threat		Impact
Soil Erosion / Loss		Low
Stormwater Runoff		Low
Colorado River Cutthroat Trout	N2	1
Threat		Impact
Roads – Transportation Network		High
Storms and Flooding		Medium

HABITATS

Habitat

Mountain Shrub

Threat	Impact
Not Listed	NA

PROJECT COMMENTS

Comment 01/12/2017 Type: Project Commenter Scott Gibson

Sounds like a good project with a chance to enhance water quality. This will certainly have a positive impact on amphibians in the area. I'm unfamiliar with what species inhabit Eccles Creek and the surrounding area, but I would guess that N. Leopard Frogs (a WAP species) can be found there, and possible others. You could contact Dan Keller (danielkeller@utah.gov) our Native Aquatics Biologist.

Comment 01/17/2017 Type: Project Commenter Daniel Keller

I lean towards not including leopard frog. I haven't seen any amphibians in Eccles Creek, to be fair I haven't specifically looked for them there, so they could be around. Considering the habitat I feel it's unlikely, from what I remember, it is quite steep, fast moving water with little vegetation; it lacks stream side marsh, slow moving wetland, or similar "frog like" habitat. Your project will benefit water quality for sure which benefits all aquatic life however I don't see a direct benefit to amphibians, unless you have plans to slow down the water, create marsh, or enhance aquatic vegetation.

Comment 01/17/2017 Type: Project Commenter Priscilla Burton

Thank you Mr. Keller.

Comment 01/17/2017 Type: Project Commenter Priscilla Burton

Thank you for that suggestion Scott. I emailed Mr. Keller to ask about amphibians.

Comment 01/17/2017 Type: Project Commenter Clint Wirick

I don't see any mention of planting/seeding. Often planting/seeding/re-vegetation is key to holding soil and structures in

Comment 01/17/2017 Type: Project Commenter Priscilla Burton

Hello Clint,
Reclamation of Eccles Creek in 2015 was supported in part by the WRI under project #3352. Seeding of the slopes was accomplished under that project, in the Fall 2015. Grasses and forbs have sprouted, but concentrated flow from the pavement at the top of the south facing slope has created erosion rills down the slope.

Comment 01/17/2017 Type: Project Commenter Clint Wirick

The proposal submission date is after the deadline I believe. That might need to be addressed.

Comment 01/17/2017 Type: Project Commenter Priscilla Burton

The proposal was submitted on Friday, January 6, 2017. I did add photographs after the deadline (on January 10th and

Comment 01/18/2017 Type: Project Commenter Makeda Hanson

Please change Bonneville Cutthroat Trout to Colorado River Cutthroat Trout in order for this project to move forward to

Comment 01/18/2017 Type: Project Commenter Priscilla Burton

Hello Makeda,
I made your requested change. I noticed that the itemized threats to the Colorado River Cutthroat Trout were different than those itemized for the Bonneville Cutthroat. So I made changes to the threats as well. I did not include the threats of dams and diversions, since the removal of both was accomplished 2015.

Comment 01/23/2017 Type: Project Commenter Daniel Keller

It's accurate that you left Bonneville Cutthroat trout on the species list as we currently stock Bonneville Cutthroat (Bear Lake Strain) into Scofield Reservoir, however Colorado River Cutthroat are the native species in the drainage and would be the species used if restoration efforts occur in the future. Technically you could add Yellowstone Cutthroat as they were historically stocked in the drainage. However, I suggest leaving it how you have it as I don't see Yellowstone Cutthroat being a focus of future management.

Comment 01/23/2017 Type: Project Commenter Priscilla Burton

Hello Daniel,
I will be sure to ask the local fishermen what they are catching this summer. Thank you for that information.

Comment 01/23/2017 Type: Project Commenter Priscilla Burton

In response to a question posed by the review committee, UDOT uses a 1:1 mixture of road salt and lava rock on State

COMPLETION

Start Date:

End Date:

FY Implemented:
2017

FY Completed:

Final Methods:
N/A

Project Narrative:
N/A

Future Management:
N/A

Map Features

ID	Feature Category	Action	Treatment/Type
1147	Water control structure	Reconstruction	N/A



Paula Dupin-Zahn <pauladupinzahn@utah.gov>

Re: Coding Eccles Creek WRI project 4130

1 message

Priscilla Burton <priscillaburton@utah.gov>

Wed, May 24, 2017 at 1:10 PM

To: Paula Dupin-Zahn <pauladupinzahn@utah.gov>

Cc: Dana Dean <danadean@utah.gov>, Daron Haddock <daronhaddock@utah.gov>

I will code my time to White Oak inspection 100 560 2410 RED GFWH GCINSPENF.

Priscilla Burton, MS, CPSSc
Environmental Scientist III
Utah Division of Oil, Gas & Mining
Price Field Office
phone: 435-613-3733

On Wed, May 24, 2017 at 11:02 AM, Paula Dupin-Zahn <pauladupinzahn@utah.gov> wrote:

The next signing meeting is June 5. No need for you to come up for the 5 minutes it takes for John to sign. I have printed the packet you sent me and can just pass it around the old fashion way and then if Dana feels that we need to conference call you for an explanation for John then we will. I need to know if this should be coded back to the Coal grant? Where are you coding your time and that is where we will refund the grant.

Sorry you call early in the morning and I don't get here till after 9. I am usually here till 6, but today I have a dr appt and will be leaving at 3 so if you get back and need to talk to me, I am here till 3.

On Wed, May 24, 2017 at 9:16 AM, Priscilla Burton <priscillaburton@utah.gov> wrote:

Good morning Paula,

Since next Monday is a holiday, when will the next signing meeting be? I will come up to give a presentation. There is no direct cost to the Division other than the in-kind expense of overseeing the work.

Does the message below answer your questions on coding?

Priscilla.

----- Forwarded message -----

From: **Alison Whittaker** <alisonwhittaker@utah.gov>

Date: Wed, May 3, 2017 at 11:17 AM

Subject: Project #4130 - Eccles Creek

To: Priscilla Burton <priscillaburton@utah.gov>

Cc: Nicole Nielson <nicolenielson@utah.gov>, Makeda Hanson <makedatrujillo@utah.gov>, Daniel Eddington <danieleddington@utah.gov>

Priscilla - We have decided to fund this project in FY17. I have created the budget change form to set up the budget for this project.

Here is the program number for this project.

1000 5735 E4Z177A30

Daniel will be working with you to get these funds transferred.

Alison Whittaker



Paula Dupin-Zahn <pauladupinzahn@utah.gov>

Re: Fwd: Project #4130 - Eccles Creek

1 message

Paula Dupin-Zahn <pauladupinzahn@utah.gov>

Mon, May 22, 2017 at 5:42 PM

To: Dana Dean <danadean@utah.gov>

Cc: Priscilla Burton <priscillaburton@utah.gov>, Daron Haddock <daronhaddock@utah.gov>, Gordon Brown <gordonbrown@utah.gov>

This missed the directors signing meeting today. I didn't realize that I was supposed to do something with it! Normally the project manager brings it to Dana and then to the meeting. The document also needs a line for OGM/Associate Director and OGM/Financial Manager to sign on.

We no longer just bring things in for the director to sign. He requires all documents that he needs to sign to be brought to the weekly signing meeting and the information explained to him and why you are requesting his signature. This also gives all a chance to ask questions of the project. Priscilla you may want to call in during the next signing meeting to give John the information on this project. I can print the document and bring it to the meeting.

Also I have some questions: What is the in-kind costs that we (OGM) will incur? Does wildlife want us to initiate the ITA? What coding/project do you want this to be a refund of expenditure to? You say this has to be done in FY17, but all the paperwork says 2018?

On Tue, May 16, 2017 at 3:19 PM, Dana Dean <danadean@utah.gov> wrote:

Hi Paula,

I had not heard of this before, but think it is a great partnership. This will help better protect the work we did last year.

Thanks
Dana

Dana Dean, P.E.
Associate Director - Mining
Utah Division of Oil, Gas and Mining

ogm.utah.gov

Like us on Facebook! <https://www.facebook.com/utahoilgasandmining>

On May 16, 2017 2:32 PM, "Priscilla Burton" <priscillaburton@utah.gov> wrote:

Hello Paula,

The Watershed Restoration Initiative has provided \$5,000 for implementing sediment control along the Eccles Creek reclaimed slopes (White Oak Mine 0070001). Attached is the paperwork for transfer of funds from DWR to DOGM for this work. Would you please route this document to John Baza for his signature? The signed document should be returned to the DWR through Daniel Eddington. Please copy me as well. Thank you.

This is an FY17 grant. The funds and work must be completed by June 30, 2017. I have contacted a Utah Corrections Inc. (approved contractor with State of Utah) and they will get the sediment control logs installed in that time.

Please call if you have any questions.
Priscilla Burton, MS, CPSSc
Environmental Scientist III
Utah Division of Oil, Gas & Mining
Price Field Office
phone: 435-613-3733

----- Forwarded message -----

From: **Daniel Eddington** <danieleddington@utah.gov>
Date: Mon, May 8, 2017 at 5:05 PM
Subject: Re: Project #4130 - Eccles Creek
To: Priscilla Burton <priscillaburton@utah.gov>
Cc: Nicole Nielson <nicolenielson@utah.gov>

Hi Priscilla,

Attached is a draft agreement for the Eccles Creek project. Please review and if there are no changes please return a signed copy.

Thanks

Daniel Eddington
Habitat Conservation Coordinator
Utah Division of Wildlife Resources
1594 W North Temple, Suite 2110
Salt Lake City, UT 84114-6301
801 538-4766
435 820-6024
danieleddington@utah.gov

On Fri, May 5, 2017 at 10:07 AM, Nicole Nielson <nicolenielson@utah.gov> wrote:

Are you doing the cooperative agreement? Or should I have someone in our office do it?

Nicole Nielson
Restoration Biologist
Utah Division of Wildlife Resources
319 N. Carbonville Rd. Suite A
Price, UT 84501
435-820-0687

----- Forwarded message -----

From: **Alison Whittaker** <alisonwhittaker@utah.gov>
Date: Wed, May 3, 2017 at 11:17 AM
Subject: Project #4130 - Eccles Creek
To: Priscilla Burton <priscillaburton@utah.gov>
Cc: Nicole Nielson <nicolenielson@utah.gov>, Makeda Hanson <makedatrujillo@utah.gov>, Daniel Eddington <danieleddington@utah.gov>

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Daniel will be working with you to get these funds transferred.

Alison Whittaker
Habitat Conservation Programs Biologist
Division of Wildlife Resources
1594 W North Temple
Salt Lake City, UT 84116

Office - (801)538-4809
Mobile - (385)228-3067

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR SERVICES

This is for a contract for services (including professional services) meaning the furnishing of labor, time, or effort by a contractor.

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
 - a) "**Confidential Information**" means information that is deemed as confidential under applicable state and federal laws, including personal information. The State Entity reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
 - b) "**Contract**" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" may include any purchase orders that result from this Contract.
 - c) "**Contract Signature Page(s)**" means the State of Utah cover page(s) that the State Entity and Contractor sign.
 - d) "**Contractor**" means the individual or entity delivering the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
 - e) "**Services**" means the furnishing of labor, time, or effort by Contractor pursuant to this Contract. Services include, but are not limited to, all of the deliverable(s) (including supplies, equipment, or commodities) that result from Contractor performing the Services pursuant to this Contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code.
 - f) "**Proposal**" means Contractor's response to the State Entity's Solicitation.
 - g) "**Solicitation**" means the documents used by the State Entity to obtain Contractor's Proposal.
 - h) "**State Entity**" means the department, division, office, bureau, agency, or other organization identified on the Contract Signature Page(s).
 - i) "**State of Utah**" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - j) "**Subcontractors**" means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the State Entity to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, and State Entity staff, access to all such records.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State Entity or the State of Utah, unless disclosure has been made to the State Entity.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State Entity or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the State Entity and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the State Entity. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.

9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and is subject to the remedies listed below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the State Entity, upon thirty (30) days written termination notice being given to the Contractor. The State Entity and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Services ordered prior to date of termination.
- Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State Entity or the State of Utah is limited to full payment for all Services properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract. In no event shall the State Entity be liable to the Contractor for compensation for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State Entity's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State Entity for any damages or claims arising under this Contract.
13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the State Entity, if the State Entity reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State Entity's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.
- If a written notice is delivered under this section, the State Entity will reimburse Contractor for the Services properly ordered until the effective date of said notice. The State Entity will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.
14. **SUSPENSION OF WORK:** Should circumstances arise which would cause the State Entity to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the State Entity.
15. **SALES TAX EXEMPTION:** The Services under this Contract will be paid for from the State Entity's funds and used in the exercise of the State Entity's essential functions as a State of Utah entity. Upon request, the State Entity will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the State Entity's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
16. **INSURANCE:** Contractor shall at all times during the term of this Contract, without interruption, carry and maintain commercial general liability insurance from an insurance company authorized to do business in the State of Utah. The limits of this insurance will be no less than one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) aggregate. Contractor also agrees to maintain any other insurance policies required in the Solicitation. Contractor shall provide proof of the general liability insurance policy and other required insurance policies to the State Entity within thirty (30) days of contract award. Contractor must add the State of Utah as an additional insured with notice of cancellation. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.
17. **WORKERS' COMPENSATION INSURANCE:** Contractor shall maintain during the term of this Contract, workers' compensation insurance for all its employees as well as any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction. Contractor acknowledges that within thirty (30) days of contract award, Contractor must submit proof of certificate of insurance that meets the above requirements.
18. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of

Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.

19. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State Entity, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.
20. **ACCEPTANCE AND REJECTION:** The State Entity shall have thirty (30) days after the performance of the Services to perform an inspection of the Services to determine whether the Services conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Services by the State Entity.

If Contractor delivers nonconforming Services, the State Entity may, at its option and at Contractor's expense: (i) return the Services for a full refund; (ii) require Contractor to promptly correct or reperform the nonconforming Services subject to the terms of this Contract; or (iii) obtain replacement Services from another source, subject to Contractor being responsible for any cover costs.
21. **INVOICING:** Contractor will submit invoices within thirty (30) days of Contractor's performance of the Services to the State Entity. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the State Entity will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. The State Entity has the right to adjust or return any invoice reflecting incorrect pricing.
22. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the State Entity, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the State Entity within ten (10) business days of receipt of final payment, shall release the State Entity and the State of Utah from all claims and all liability to the Contractor. The State Entity's payment for the Services shall not be deemed an acceptance of the Services and is without prejudice to any and all claims that the State Entity or the State of Utah may have against Contractor. The State of Utah and the State Entity will not allow the Contractor to charge end users electronic payment fees of any kind.
23. **TIME IS OF THE ESSENCE:** The Services shall be completed by any applicable deadline stated in this Contract. For all Services, time is of the essence. Contractor shall be liable for all reasonable damages to the State Entity, the State of Utah, and anyone for whom the State of Utah may be liable as a result of Contractor's failure to timely perform the Services required under this Contract.
24. **CHANGES IN SCOPE:** Any changes in the scope of the Services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of Services.
25. **PERFORMANCE EVALUATION:** The State Entity may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.
26. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract. Contractor shall be liable to the State Entity and the State of Utah for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
27. **REVIEWS:** The State Entity reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the State Entity.
29. **REMEDIES:** Any of the following events will constitute cause for the State Entity to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The State Entity may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the State Entity may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the State Entity or the State of Utah; or (v) demand a full refund of any payment that the State Entity has made to Contractor under this Contract for Services that do not conform to this Contract.

30. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The State Entity may terminate this Contract after determining such delay will prevent successful performance of this Contract.
31. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the State Entity of any potential or actual misuse or misappropriation of Confidential Information.
- Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the State Entity and the State of Utah, including anyone for whom the State Entity or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.
- Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the State Entity or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
32. **PUBLICITY:** Contractor shall submit to the State Entity for written approval all advertising and publicity matters relating to this Contract. It is within the State Entity's sole discretion whether to provide approval, which must be done in writing.
33. **CONTRACT INFORMATION:** Contractor shall provide information regarding job vacancies to the State of Utah Department of Workforce Services, which may be posted on the Department of Workforce Services website. Posted information shall include the name and contact information for job vacancies. This information shall be provided to the State of Utah Department of Workforce Services for the duration of this Contract. This requirement does not preclude Contractor from advertising job openings in other forums throughout the State of Utah.
34. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the State Entity and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the State Entity or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
35. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically created or manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the State Entity.
36. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
37. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
38. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
39. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The State Entity, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the State Entity appoints such an expert or panel, State Entity and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
40. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the State Entity or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
41. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default or defect in the Services that has not been cured.
42. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
43. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

Revised March 24, 2017