CONTRACT

STATE OF UTAH
UTAH DEPARTMENT OF TRANSPORTATION
ENGINEERING SERVICES
SELECTION METHOD
FEE TYPE

CONTRACT NO. _____
EFFECTIVE DATE _____
TRACKING NO. _____

Project No.: Project No.
Location: Location
FINET Prog No.: FINET Prog No.
PIN No.: PIN No.
Work Discipline: Work Discipline

1. **CONTRACTING PARTIES:** This contract is between the Utah Department of Transportation, referred to as DEPARTMENT and,

   Consultant
   Address
   City, State, Zip

   Legal Status of Consultant: Legal Status
   Fed ID No.: Fed ID No.

   referred to as CONSULTANT.

2. **REASON FOR CONTRACT:** The DEPARTMENT does not have sufficient qualified staff to complete the work required in the suggested time frame and the CONSULTANT is professionally qualified and willing to assist the DEPARTMENT with Work Discipline services as further described in Attachment C.

3. **PROJECT/CONTRACT PERIOD:** The project/contract will terminate Date, unless otherwise extended or canceled in accordance with the terms and conditions of this contract.

4. **CONTRACT COSTS:** The CONSULTANT will be paid a maximum of Contract Amount for costs authorized by this Contract as further described in Attachment D.

5. **ATTACHMENTS INCLUDED AS PART OF THIS CONTRACT:**
   Attachment A – Certification of Consultant and Department
   Attachment B – Standard Terms and Conditions
   Attachment C – Services Provided by the Consultant
   Attachment D – Fees

The parties below hereto agree to abide by all the provisions of this contract. IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONSULTANT - Consultant

By: _____ _____
Title: Date

UTAH DEPARTMENT OF TRANSPORTATION

By: _____ _____
Title: Title Date

DEPARTMENT Comptroller's Office

By: _____ _____
Title: Contract Administrator Date

CERTIFICATION OF CONSULTANT

I hereby certify that I, _____, am a duly authorized representative of Consultant and that neither I nor the above CONSULTANT I hereby represent has:

(a) employed or retained for commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid, or agreed to pay to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Utah Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation in connection with this contract, involving participation of Federal-aid Funds, and is subject to applicable State and Federal laws, both criminal and civil.

_____ _____

Date CONSULTANT Signature/Title

CERTIFICATION OF UTAH DEPARTMENT OF TRANSPORTATION

I hereby certify that I am a duly authorized representative of the Utah Department of Transportation, and that the above CONSULTANT or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to:

(a) employ or retain, or agree to employ or retain, any firm or person, or

(b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

_____ _____

Date Title

STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in Sections 27-12-21, 107 and 108; and 63-56 U.C.A. 1953, as amended, and the Utah State Procurement Regulations, which authorizes the DEPARTMENT to make purchases in accordance with said laws and regulations.

2. **CONTRACT JURISDICTION AND COMPLIANCE WITH LAWS:** The provisions of this contract shall be governed by the laws of the State of Utah. Also, the CONSULTANT and those engaged by the CONSULTANT shall comply with all Federal, State and local laws, regulations and other legally binding requirements that pertain to the services provided under this contract. Proof of the CONSULTANT'S compliance with licensing requirements shall be furnished to the DEPARTMENT upon request.

3. **RECORDS ADMINISTRATION:** The CONSULTANT shall maintain all books, papers, documents, accounting records and other evidence to support costs billed for under this contract. These records shall be retained by the CONSULTANT for a period of at least four (4) years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later. These records shall be made available at all reasonable times during the four year period for audit and inspection by the DEPARTMENT and other authorized State and Federal auditors. The CONSULTANT'S records supporting the cost proposal shall also be retained and made available for review by authorized Federal or State staff. Copies of requested records shall be furnished to the DEPARTMENT upon request.

4. **CONFLICT OF INTEREST:** The CONSULTANT certifies that none of its officers or employees are officers or employees of the State of Utah unless disclosure has been made in accordance with Section 67-16-8, U.C.A. 1953, as amended. The CONSULTANT certifies that no engineer, attorney, appraiser, inspector, surveyor or survey crew, or other person performing services for the CONSULTANT has, directly or indirectly, a financial or other personal interest, other than his employment or retention by the DEPARTMENT, in any contract or subcontract in connection with this project (Reference 23 CFR § 1.33). An example of this situation would be the CONSULTANT subcontracts with the Contractor to perform survey work while contracted by the DEPARTMENT to perform construction engineering management services for the same project.

   The CONSULTANT further warrants that it has no financial or other interest in the outcome of the work performed under the contract. Examples of this situation would be a Consultant who owns land, options to buy land, or some business enterprise that would be financially enhanced or diminished by any project alternatives.

5. **EMPLOYMENT OF DEPARTMENT EMPLOYEES:** The CONSULTANT agrees not to engage in any way the services on this contract of any present or former Utah Department of Transportation employee who was involved as a decision maker in the selection or approval processes or who negotiated and/or approved billings or contract modification for this contract.

6. **CONSULTANT, AN INDEPENDENT CONTRACTOR:** The CONSULTANT shall be an independent contractor, and as such, shall have no authority, express or implied to bind the DEPARTMENT to any agreement, settlement, liability, or understanding whatsoever; and agrees not to perform any acts as agent for the DEPARTMENT, except as specifically authorized and set forth herein. Persons employed by the DEPARTMENT and acting under the direction of the DEPARTMENT shall not be deemed to be employees or agents of the CONSULTANT. Compensation provided to the CONSULTANT herein shall be the total compensation payable hereunder by the DEPARTMENT.

7. **INDEMNITY - LIABILITY:** CONSULTANT agrees to hold harmless and indemnify the UTAH DEPARTMENT OF TRANSPORTATION, its officers, employees and agents (indemnities) from and against all claims, suits and cost, including attorneys' fees for injury or damage of any kind, arising out of CONSULTANT'S negligent acts, errors or omissions in the performance of this contract, and from and against all claims, suits and cost including attorney's fees for injury or damage of any kind, arising out of indemnities failure to inspect, discover, correct or otherwise address any defect, dangerous condition or other condition created by or resulting from CONSULTANT'S negligent acts, errors or omissions in the performance of this contract.

The CONSULTANT is an independent contractor contracted with the DEPARTMENT. Any periodic plan and specification review or construction inspection performed by the DEPARTMENT arising out of the performance of the contract, does not relieve the CONSULTANT of its duty in the performance of the contract, or ensure compliance with acceptable standards.

8. **SEPARABILITY:** The declaration by any court, or other binding legal source, that any provision of this contract is illegal and void and shall not affect the legality and enforceability of any other provision of this contract, unless said provisions are mutually dependent.

9. **INSURANCE:** Services to be provided by the CONSULTANT under this contract are required to be covered by insurance. The CONSULTANT shall furnish the DEPARTMENT a Certificate of Insurance applying to this contract for each type of insurance required, to be approved by the DEPARTMENT, before the CONSULTANT begins work under this contract. The CONSULTANT'S insurer must be authorized to do business in Utah and must meet the specified A.M. Best rating or better at the time this contract is executed. The following insurance shall be maintained in force until all activities which are required by this contract or as changed by contract modification are completed and accepted by the DEPARTMENT:

(a) General Liability and Automobile Liability insurance with a limit of not less than $1,000,000 per occurrence and not less than $2,000,000 aggregate and having an A.M. Best rating of A-class VIII or better. The limit if different for this contract will be as designated in Attachment C to this contract. If this coverage is written on a claims-made basis, the Certificate of Insurance shall so indicate.

The CONSULTANT represents that as long as commercially available the insurance shall remain in effect such that claims reported up to three (3) years beyond the date of substantial completion of this contract are covered.

(b) Architect and/or Engineers Professional Liability (errors and omissions) insurance having an A.M. Best rating of A-class VIII or better, is required at the coverage amount of $1,000,000 per claim and $2,000,000 aggregate. If this coverage is written on a claims-made basis, the Certificate of Insurance shall so indicate. The CONSULTANT represents that as long as commercially available the insurance shall remain in effect such that claims reported up to three (3) years beyond the date of substantial completion of this contract are covered (on construction contracts or modifications for construction management the insurance, shall remain in effect for one (1) year after completion of the project).

(c) Valuable Papers & Records Coverage and/or Electronic Data Processing (Data and Media) Coverage for the physical loss or destruction of the work product including drawings, plans, specifications and electronic data and media. Such insurance shall be of a sufficient limit to protect the CONSULTANT, its sub-consultants and the DEPARTMENT from the loss of said information.

(d) Aircraft Liability in the amount of $1,000,000 per occurrence if aircraft are utilized in connection with this contract.

(e) The CONSULTANT shall provide evidence that his employees and sub-consultant employees are covered by Workers Compensation. If they are covered by Workers Compensation Fund of Utah, then the A.M. Best rating is not required in this area.

(f) The CONSULTANT shall require the insurance company that issues the Certificates of Insurance for the evidence of the required insurance coverage to endeavor to provide the DEPARTMENT with 30 days written notice in the event that coverage is canceled before the policy expiration date stated in the Certificate. The CONSULTANT further agrees to provide the DEPARTMENT with 30 days written notice prior to making an alternation or material change to the required insurance coverage.

Policies referred to in 9(a) and 9(d) above are required to be endorsed naming UDOT and the State of Utah as Additional Insureds and, on General Liability and Aircraft Liability, indicate they are primary and

not contributing coverage. All required policies, endorsements, insurance companies issuing same, and self insured programs are subject to review and approval by the State of Utah, Risk Manager.

10. **PROGRESS:** The CONSULTANT shall begin the work required by this contract within one week following official notification by the DEPARTMENT to proceed. The CONSULTANT shall prosecute the work diligently and to the satisfaction of the DEPARTMENT. If Federal Funds are used on this contract the work will be subject to periodic review by the Federal Highway Administration.

The CONSULTANT will prepare monthly progress reports following the format established by the DEPARTMENT in sufficient detail to document the progress of the work and support the monthly claim for payment. Payments will not be made without a supporting progress report. In addition, the CONSULTANT will update the DEPARTMENT'S "electronic Program Management" (ePM) system bi-weekly to reflect the status of the project.

Progress conferences will be held periodically. The CONSULTANT will prepare and present written information and studies to the DEPARTMENT so it may evaluate the features and progress of the work. Either party may request a conference; to be held at the office of either, or at a place designated by the DEPARTMENT. The conferences shall also include inspection of the CONSULTANT'S services and work products when requested by the DEPARTMENT.

The CONSULTANT will be required to perform such additional work as may be necessary to correct errors caused by the CONSULTANT in the work required under the contract without undue delays and without additional cost to the DEPARTMENT.

At any time the CONSULTANT determines the contract work cannot be completed within the specified time or budget, the DEPARTMENT shall be immediately notified in writing. The DEPARTMENT may, at its sole discretion, extend the contract by written modification.

The DEPARTMENT may terminate this contract in accordance with termination provisions of this contract including failure of the CONSULTANT to make satisfactory progress of the contract work.

Should the DEPARTMENT desire to suspend the work, but not terminate the contract, this will be done by verbal notification followed by written confirmation from the DEPARTMENT. The work may be reinstated upon 30 days advance written notice from the DEPARTMENT.

Unless extended or terminated in writing, this contract will terminate on the expiration date, or at the end of the specified calendar days.

11. **REVIEW AND INSPECTION OF WORK:** It is expressly understood and agreed that authorized representatives of the DEPARTMENT and, when Federal Funds are used, the Federal Highway Administration shall have the right to review and inspect the work in process, and the CONSULTANT'S facilities, at any time during normal business hours or by appointment.

12. **NON DISCRIMINATION PROVISIONS:** The CONSULTANT agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35 U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 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; and further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive order 11375 and as supplemented in Department of Labor Regulations (41CFR Part 60), which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap. The CONSULTANT agrees to abide by Utah's Executive Order, dated June 30, 1989, which prohibits sexual harassment in the work place. Sections 49 CFR 21 through Appendix H and 23 CFR 710.405(b) are applicable by reference in all contracts and subcontracts financed in whole or in part with Federal-aid highway funds. The CONSULTANT further agrees to furnish reports to the DEPARTMENT upon request for the purpose of determining compliance with these statutes identified in this section. The CONSULTANT shall comply with the Americans With Disabilities Act (ADA).

13. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS: The CONSULTANT agrees to abide by the requirements of 49 CFR Part 29. By signing this contract the CONSULTANT certifies that to the best of their knowledge and belief that it or its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had civil judgment against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in subparagraph 13(b) of this certification; and

(d) Have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

Where the CONSULTANT is unable to certify to any of the statements in this certification, the CONSULTANT shall attach an explanation to this contract. Exceptions will not necessarily result in denial of award, but will be considered in determining CONSULTANT'S responsibility. Any exceptions noted shall identify to whom it applies, the initiating agency, and dates of the action. Providing false information may result in criminal prosecution or administrative sanctions.

14. CERTIFICATION OF COMPLIANCE ON LOBBYING RESTRICTIONS: The CONSULTANT agrees to conform with the lobbying restrictions established by Section 319 of Public Law 101-121 (Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990) for contracts exceeding $100,000 in Federal Funds. The CONSULTANT certifies, by signing this contract, to the best of their knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The CONSULTANT also agrees by signing this contract that they shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.

15. OWNERSHIP OF DOCUMENTS: All tracings, plans, manuscripts, specifications, data, maps, etc., prepared or obtained by the CONSULTANT, as a result of working on this contract, shall be delivered to

and become the property of the DEPARTMENT. All documents and data pertaining to work required by this contract shall be the property of the DEPARTMENT and shall be delivered to the DEPARTMENT within 10 working days after termination of the contract, regardless of the reason for termination; and without restriction or limitation on their further use. Costs of all the above items shall be considered as included in the basic contract compensation for the work as described in ATTACHMENT C.

The CONSULTANT shall not be responsible for another party's application of information contained in the contract documents to other projects, or for uses other than that for which the information was intended. Should patentable discoveries or inventions result from work required by this contract, all rights to them shall be the sole property of the CONSULTANT. Except, the CONSULTANT agrees to grant to the United States Government and the State of Utah a non exclusive, non transferable, paid up, license to use the discovery or invention. The CONSULTANT is permitted to copyright reports and other contract products provided that the DEPARTMENT and the Federal Highway Administration have a royalty free, non exclusive, irrevocable right to reproduce, publish, or otherwise use and authorize others to use for governmental purposes.

16. **ASSIGNMENT AND SUBCONTRACTING:** The CONSULTANT shall not subcontract any of the work required by this contract, or assign monies to be paid to the CONSULTANT hereunder, without the prior written approval of the DEPARTMENT. The amount billed to the DEPARTMENT for subcontractor costs shall be the same amount the CONSULTANT actually pays subcontractor for services required by this contract. All payments made by the CONSULTANT to the subcontractor for services required by this contract shall be subject to audit by the DEPARTMENT. All subcontracts must include all the same terms and conditions and provisions included in this contract. However, the prime CONSULTANT is responsible for ensuring that all work performed by sub-consultants is insured under their insurance policy, or they require that the sub-consultants meet the insurance provisions required under this contract.

The CONSULTANT must perform work valued at not less than percentage of the total contract amount, excluding specialized services, with its own staff. Specialized services are those services or items that are not usually furnished by a consultant performing the particular type of service contained in this contract.

17. **KEY PERSONNEL/STAFFING PLAN:** Any change in personnel from that specifically identified in Attachment C of this contract, must be submitted to the DEPARTMENT Project Manager and Consultant Services in writing and is subject to prior approval by the DEPARTMENT. Invoices submitted for payment with unauthorized personnel will not be paid.

18. **DISPUTES:** Claims for services, materials, or damages not clearly authorized by the contract, or not ordered by the DEPARTMENT by prior written authorization, will not be paid. The CONSULTANT shall notify the DEPARTMENT in writing, and wait for written approval, before it begins work not previously authorized. If such notification and approval is not given or the claim is not properly documented, the CONSULTANT shall not be paid the extra compensation. Proper documentation alone shall not prove the validity of the claim. The parties agree to use arbitration or mediation after exhausting applicable administrative reviews to resolve disputes arising out of this contract where the sole relief sought is monetary damages $100,000 or less, exclusive of interest and costs.

19. **CLAIMS - DELAYS AND EXTENSIONS:** The CONSULTANT agrees to proceed with the work previously authorized by the contract, or in writing, continually and diligently, and will make no charges or claims for extra compensation for delays or hindrances within its control during the progress of this contract. The DEPARTMENT may allow an extension of time for the contract, for a reasonable period as agreed by the parties, should a delay or hindrance occur. The DEPARTMENT shall not waive any of its rights under the contract by permitting the CONSULTANT to proceed with the contract after the established completion date.

20. **CONSULTANT'S ENDORSEMENT ON PLANS, ETC.:** The CONSULTANT (if a firm, the responsible principal) is required to endorse and affix its seal to plans, reports, and engineering data furnished to the DEPARTMENT under this contract.

21. **CONTRACT MODIFICATIONS:** This contract may be amended, modified, or supplemented, as it is mutually agreed to by the parties by written contract modification, executed by the parties hereto and

attached to the original signed contract. If there is Federal funding as part of the revenue for this contract, the Federal Highway Administration must approve all changes.

Claims for services furnished by CONSULTANT, that are not specifically authorized by this contract or by appropriate modification, shall not be paid by the DEPARTMENT. When a contract modification has been agreed to by the parties no claim for the extra work done or material furnished shall be made by the CONSULTANT until the written modification has been fully executed. Any verbal agreements not confirmed in writing are non-binding.

22. TERMINATION: This contract may be terminated as follows:

(a) Mutual agreement of the parties; in writing and signed by the parties.

(b) By either party for failure of the other party to fulfill its obligations, as set forth with the provisions of this contract and in particular with Attachment C, "Services Provided by the CONSULTANT" or Section 36, "Duties of the DEPARTMENT". Reasonable allowances will be made for circumstances beyond the control of the CONSULTANT and the DEPARTMENT. Written notice of intent to terminate is required and shall specify the reasons supporting termination.

(c) By the DEPARTMENT for the convenience of the State upon written notice to the CONSULTANT.

(d) Upon satisfactory completion of required contract services.

On termination of this contract all accounts and payments will be processed in accordance with contract terms. An appraisal of the value of work performed to the date of termination shall be made to establish the amount due to or from the CONSULTANT. Upon determining the final amount due the CONSULTANT, or to be reimbursed by the CONSULTANT, in the manner stated above, the final payment will be processed in order to close out the contract.

23. DESIGN/CONSTRUCTION: The CONSULTANT will utilize all current DEPARTMENT standards and be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the CONSULTANT under this contract. The CONSULTANT will, without additional compensation, correct or revise any errors or omissions in its design, drawings, specifications and other services. This contract may remain open for modifications for any unforeseen work that may be deemed necessary by the DEPARTMENT going into the construction phase to accommodate future work by the prime CONSULTANT or sub-consultant. CONSULTANT will perform the services in accordance with the customary standard of professional care.

24. ELECTRONIC PLAN ROOM DOCUMENTATION: All consultants will be expected to adhere to the current DEPARTMENT development standards on the web site. It is the CONSULTANTS responsibility to provide all plans, specifications, surveys, and associated data in the DEPARTMENT acceptable electronic formats on one or more CD's. All project data will be organized in the DEPARTMENT'S project directory structure as specified in the DEPARTMENT'S current CADD Standards. It is the CONSULTANT'S responsibility to be aware of all DEPARTMENT requirements and formats. The DEPARTMENT CADD standards are available at the Engineering Technology Services (ETS) sub-page of the DEPARTMENT website www.udot.utah.gov/ets.

Computer Aided Drafting and Design acceptable formats are as follows:

(a) Drafting: MicroStation Design format (.dgn) by Bentley Systems Inc., version 8.5 or higher.

(b) Civil Design: InRoads by Bentley Systems Inc. version 8.8 or higher acceptable formats are as follows: Geometry files (.alg), Surface or digital terrain models (.dtm), Template libraries (.itl), and Roadway Designer files (.ird).

(c) Survey and Photogrammetry: InRoads Survey format (.fwd) by Bentley Systems Inc. version 8.8 or higher. Raw survey files will be in ASCII format, (point number, Northing, Easting, Elevation and code). Survey points will be coded using the DEPARTMENT feature codes located in the DEPARTMENT preference file (.xin) and Raster Images (aerial photos) will be in MicroStation

compatible formats. Design and Survey work will adhere to the DEPARTMENT CADD Standards and “Mapping & Aerial Photogrammetry” Guide.

(d) Plotting: In order for the project to be published into the DEPARTMENT Electronic Plan Room (EPR) system, the CONSULTANT will prepare a file to direct the DEPARTMENT’s plotting software, InterPlot, by Bentley Systems Inc. to produce the correct output. This is the InterPlot Organizer’s plot-set file (filename.ips). This file contains specifications for each sheet in the plan set and controls the order and name of each sheet as they will appear in the EPR system. Instructions for preparing this file can be found at the DEPARTMENT Engineering Technology Services (ETS) website as stated above.

(e) Responsibility: Region Designers/Consultants, Action - When submitting electronic files for advertising, Region or consultant designers must deliver to the DEPARTMENT the design files on CD’s in the established project directory structure. The following files must be included in the submittal: 1) Major design files, including roadway design, structure, striping, signing, signals, and profiles (Microstation format), 2) Existing topography and existing utilities (Microstation format), 3) Existing and proposed surfaces (dtm format), 4) InRoads alignments (alg), templates (itl), roadway designer files (ird) and preference files (xin), 5) Configuration and resource files including font and linestyle resource files.

(f) Placement: Action – Project data must be delivered to the DEPARTMENT on CD’s in the established project directory structure.

The CONSULTANT will be responsible for the accuracy of the translated data.

Technical and Standards support will be provided to the CONSULTANT through the Engineering Technology Services Group of the Project Development Division at UDOT.

25. REQUIREMENTS FOR COMPUTER ELEMENTS: Hardware, firmware and/or software elements that the CONSULTANT procures, furnishes, licenses, sells, integrates, creates and/or enhances for the DEPARTMENT under this contract shall achieve the specific objectives specified in the work plan. These elements shall be free of defects, or "bugs," that would prevent them from achieving the objectives specified in the work plan.

Computer software and applications created and/or enhanced under this contract shall include as deliverables; user instructions, program documentation, program listings, source code and executables in specified compiled formatted files. The program documentation shall include flow charts and detailed treatment of decision algorithms and their technical basis. Appropriate DEPARTMENT individuals will review "user instructions" and "program documentation" for acceptability. Formal sign-offs will record such events and be part of the project repository. Software development and operating system platforms shall be approved by the DEPARTMENT and specified in the work plan. Changes to these platforms shall only be allowed by written authorization by the DEPARTMENT.

26. COST PRINCIPLES: Regardless of the funding source, the costs allowable for reimbursement will be governed by the Federal Acquisition Regulations, Title 48, Part 31, as modified by Utah State law, administrative rules, and regulations on contract provisions.

27. RIGHT OF WAY SUBMITTAL REQUIREMENTS: As of April 1st 2004, the following information is to be submitted by the Right of Way Design Firm for each Right of Way package submitted. These requirements should be included in each Right of Way Design firms contract for services.

Submit the following information to the Region for review and processing.

Send in all five hard copies of the right of way package.

Send a CD with the following folders and content for each right of way summary.

(a) Ownership Folder with all electronic Ownerships for this package in "**Word**" format.

(b) Office Copy Folder with electronic Office Copies of deeds in "**Word**" for Office copies in this summary).

(c) Signature Copies Folder with electronic copies of the Signature Deeds in "**Word**" for Signature copies in this summary.

(d) Summary (RW-53) in "**Word**" for parcels submitted in this summary.

(e) E-Summary containing the electronic summary spreadsheet in "**Excel**" in the format shown above for the parcels in this summary.

Submit approximately 10 Ownerships (with the deeds for that ownership) on each Summary or E-SUMMARY.

File names for E-SUMMARIES must be capitalized. Example; **E-SUMMARY-54P.xls** (UDOT will convert the spreadsheet file to another format and use the same name in lower case e-summary-54p)

Parcel numbering on **CD**

Summary (RW-53) Same as old way	
Office	**001_Off.doc**
Signature	**001_Sig.doc**
Ownership	**001_Own.doc**

28. GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT: Pursuant to the Government Records Access and Management Act, Title 63G, Chapter 2, Utah Code Annotated, the CONSULTANT understands that if it believes that any records it submits to the DEPARTMENT should be considered confidential for business purposes under Utah Code Ann. §63G-2-309, it must attach written notice of that opinion to the record when it first submits it. The CONSULTANT understands that the DEPARTMENT will not treat any such record as confidential under Section 63G-2-309 absent such written notification. Additionally, the CONSULTANT agrees that neither the State of Utah, the DEPARTMENT, nor any of their agents or employees are responsible for disclosure of any record that the CONSULTANT considers confidential if either the State Records Committee or a court orders it released.

29. WORK ACCEPTANCE:

(a) All work performed under this contract shall be performed in accordance with Standards, Specifications, Manuals of Instruction, Policies and Procedures established by the DEPARTMENT. All work shall be subject to the approval of the DEPARTMENT through its designated representatives. When the work is Federally funded, the DEPARTMENT will coordinate with the Federal Highway Administration (FHWA) to obtain concurrence in the work.

(b) Reviews and Quality Assurance: All contracts require a quality control / quality assurance plan and checklist. For design projects specifically, the CONSULTANT shall deliver a project specific QC/QA plan that meets or exceeds the DEPARTMENT'S standard QC/QA plan located on the DEPARTMENT web page at http://www.udot.utah.gov/index.php/m=c/tid=650. If the CONSULTANT elects to use their own QC/QA plan, that plan shall, as a minimum, contain the requirements of the DEPARTMENT'S plan and be approved by the DEPARTMENT'S Project Manager. In addition to the QC/QA checklists and certifications, back up documentation of the QC/QA plan shall be maintained. The back up documentation shall include, but not be limited to the following items:

(1) Check prints and calculations
(2) Comment resolution forms
(3) Written records of the findings of the Quality Control check
(4) Peer review letters, memoranda, etc.
(5) Any other correspondence regarding the Quality Control activities involving the task.

30. GENERAL CONTROL AND INSPECTIONS: The CONSULTANT shall be represented at progress review meetings as may be scheduled by the DEPARTMENT. The CONSULTANT shall accompany

DEPARTMENT personnel and other representatives on field inspections and at conferences as may be required.

31. **IF THIS CONTRACT IS FOR DESIGN:** The design consultant will be retained to answer and clarify any questions on the design during construction. The consultants will be required to include this task in their cost proposal. The Construction Project Engineer will call on the CONSULTANT as he needs him. If the work required from the CONSULTANT is due to errors in the design, the CONSULTANT will not be reimbursed. To enhance the communication between the DEPARTMENT and Consultants, the DEPARTMENT is requiring that the CONSULTANT attend the following meetings: kickoff meeting, preconstruction meeting, and the final inspection meeting. These meetings should be included in the detail work plan.

32. **IF THIS CONTRACT IS FOR CONSTRUCTION ENGINEERING MANAGEMENT:**

(a) Construction Administration
Administration of any construction project delegated to the CONSULTANT. The CONSULTANT will perform activities for Construction Administration as identified and defined in the *UDOT Construction Manual of Instruction*. Deliverables and checklists for the project are based on project specifications. The CONSULTANT is required to comply with DEPARTMENT partnering requirements and oversee contractor participation. This includes but is not limited to attending DEPARTMENT training, leading the partnering effort on the project along with the contractor, participating in weekly updates on the partnering website, and monitoring and measuring partnering on the project. The CONSULTANT is responsible for required documentation for any item addressed in the project specifications and Construction contract. Items will include, but not be limited to, Materials Testing, Materials Certifications, Change Orders, Project and Materials Inspection, Civil Rights requirements, Engineer's Diary, Subcontracts, Payrolls, Meeting Minutes, Project Scheduling and Process Review summaries.

(b) Materials Testing and Inspection
The CONSULTANT will perform materials testing and inspection in accordance with the requirements of the project Construction contract. These requirements include the Materials Acceptance and Independent Assurance Programs, as outlined in the *UDOT Materials Manual of Instruction (MOI)*. The Materials Acceptance Program defines requirements for acceptance testing and verification testing. The Independent Assurance Program defines requirements for independent assurance testing, personnel qualifications and laboratory qualifications.

(c) Acceptance Testing/Inspection
Acceptance testing/inspection will be performed in accordance with the project specifications and *UDOT Minimum Sampling and Testing Requirements (MS&T)*. Minimum frequencies for materials acceptance testing and inspection are defined in the UDOT MS&T and are the absolute minimum for the identified materials, regardless of special provision requirements.

(d) Independent Assurance Testing
Requirements for Independent Assurance testing are outlined in the UDOT Materials MOI and project level requirements will be performed and documented by the CONSULTANT at the project level. Documentation will be provided for IA test results, personnel qualifications and laboratory qualifications. Documentation for personnel and laboratory qualification will be performed prior to any sampling or testing being performed on the project.

(e) Project Inspection
Project Inspection is a combination of the presence of the CONSULTANT, and the documentation of the project's daily activities. The CONSULTANT will perform inspection in accordance with project specifications and documentation will include, at a minimum, Inspector's Daily Reports, materials placement inspection reports, project diaries, measurement and payment information, and project visual reviews for items such as traffic control placement and conformance, etc.

(f) Project Closeout
Project information obtained through contract administration, materials testing and project inspection will be collated and reviewed by the CONSULTANT to assure that all of the necessary documents are present to demonstrate compliance with the plans, specifications and

Construction contract. Closeout will be performed in accordance with the comprehensive checklist in the UDOT Construction MOI and will include at a minimum, all C-106 forms, the project C-196 form, all change orders and all administrative requirements, such as payrolls and Civil Rights requirements.

(g) The DEPARTMENT's Construction Manual of Instruction and Materials Manual of Instruction can be obtained from Central Construction and Materials Division 801-965-4346 or available at the sub-page of the DEPARTMENT website www.udot.utah.gov/ets.

33. INSPECTION OF INTELLIGENT TRANSPORTATION SYSTEMS (ITS) AND ELECTRICAL CONSTRUCTION: In order to ensure complete impartiality in the performance of construction inspection, any consultant engineering companies who are concurrently performing ITS or electrical construction work under contract to UDOT will not be considered eligible to perform construction inspection of ITS or electrical work on any projects as part of a consultant contract.

Consultants who are selected to do ITS or electrical construction inspection as part of a consultant contract will be requested to affirm that they currently are not performing any electrical or ITS construction work for UDOT and will not for the duration of the relevant consulting contract.

For the purposes of this provision, ITS or electrical construction is defined as follows:

Work involving the installation or repair of underground electrical conduit, electrical cables, fiber-optic cable, or any other construction work involving 120 volt (or greater) current for which an electrician's license is required. Field work taking place inside an electrical cabinet, or involving low voltage detection or data circuits, will *not* be considered ITS or electrical construction. Diagnosis, testing, calibration, aiming, resplicing, or repair of low voltage detection circuits, fiber-optic cable, or detection equipment will *not* be considered ITS or electrical construction.

Consultant engineering companies who also perform ITS or electrical construction work under contract to UDOT *will* be eligible to perform the following types of consulting work, provided that the work is on completely different projects, with no possibility for conflict of interest: design work, ITS system integration, software development.

34. NO THIRD PARTY BENEFICIARIES: The parties enter in to this contract for the sole benefit of the parties, in exclusion of any third party, and no third party beneficiary is intended or created by the execution of this contract.

35. COORDINATION WITH DEPARTMENT FUNCTIONAL MANAGERS: In order to ensure programmatic consistency, if the project requires, the CONSULTANT will coordinate decisions with the Region and/or Central Functional Managers in addition to the DEPARTMENT Project Manager. It is important for consultants to seek input into decisions from the technical experts within the DEPARTMENT.

36. DUTIES OF THE DEPARTMENT:

(a) Guarantee Access: The DEPARTMENT shall guarantee access to and make all provisions for the CONSULTANT to enter upon all lands, both public and private which in the judgment of the parties hereto are necessary to carry out such work as may be required.

(b) Prompt Consideration: The DEPARTMENT shall give prompt consideration to all reports, plans, proposals and other documents presented by the CONSULTANT.

(c) Documents: The DEPARTMENT shall furnish Standards, Specifications, Manuals of Instruction, Policies and Procedures, and other available information, including any material previously prepared for this work. Specific materials related to this contract that will be furnished by the DEPARTMENT.

(d) Services: The DEPARTMENT will perform standard services relating to this contract

SERVICES PROVIDED BY THE CONSULTANT

1. SCOPE SUMMARY:

Scope Summary

2. SCOPE DOCUMENTS:

Following are the scope items contained in this attachment pages 2 through:

(a) Approval Memo

(b) Detailed Work Plan

(c) Personnel/Staffing Plan

(d) Schedule

(1) Completion: All work shall begin within seven (7) days of notice to proceed and shall be completed by Date.

(2) Project/Contract Period: The project/contract will terminate Date, unless otherwise extended or canceled in accordance with the terms and conditions of this contract. If additional time is required beyond the project completion date, the CONSULTANT shall submit a "Contract Time Extension Modification" to the DEPARTMENT'S Project Manager for approval and processing.

(e) Certificate of Insurance

FEES

LUMP SUM

1. **LUMP SUM:** For all services and materials pertinent hereto and/or specifically described herein, except as otherwise explicitly cited, the DEPARTMENT agrees to pay the CONSULTANT the sum of Contract Amount**.** In developing the Lump Sum amount, the actual allowable costs will be limited to the costs which are allowable under the Federal Acquisition Regulations in Title 48, CFR Part 31, as modified by Utah State law, administrative rules, regulations, or contract provisions.

2. **MODIFICATIONS**: In the event the DEPARTMENT requires changes of services which materially affect the scope of work or work plan, with a resulting material increase in cost to the CONSULTANT, a contract modification for additional compensation and time for completion shall be entered into by the parties hereto prior to making such change. Any such work done without prior DEPARTMENT agreement shall be deemed **ineligible** for reimbursement for additional compensation.

3. **PROGRESS PAYMENTS**: Progress payments are based upon the approved percentage of work completed and are made pursuant to certified invoices received. **Five percent** (5%) of the amount invoiced shall be retained in a DEPARTMENT approved escrow account until such time as all of the services are completed, approved, properly invoiced, and full agreement has been reached by both parties on the termination of the contract.

4. **INVOICES:** Invoices are to reflect charges as they apply to the appropriate contract, project and account number, and must be certified and executed by an official legally authorized to bind the firm. The invoice must be substantiated with supporting documentation that is reviewed and approved by the DEPARTMENT'S Project Manager and subject to a final review by the DEPARTMENT'S Comptroller's Office.

5. **FINAL PAYMENT:** Retention will be released only after all materials and services associated with this contract have been reviewed and approved by the DEPARTMENT'S Project Manager and subject to final review by the DEPARTMENT'S Comptroller's Office. The Retention Fee will not be released until a project evaluation form has been completed by a DEPARTMENT Project Manager and submitted to Consultant Services and the DEPARTMENT'S Comptroller's Office.

   The DEPARTMENT'S Project Managers and the Comptroller's Office have the right to hold the final retention payment on certain projects when design and construction are performed by two separate Consultants or if there is a potential possibility of a design or construction error.

6. **FINANCIAL SUMMARY:** The total maximum amount of disbursement pertinent to this contract is Contract Amount. The Overhead and Fixed Fee rates have already been reviewed and determined and are included as part of the total maximum amount of this contract. Contract overruns will not be paid.

7. **COST PROPOSAL:** Prepared by the CONSULTANT and/or sub-consultant, if applicable, and reviewed and approved by the DEPARTMENT is found in Attachment D of this contract, pages through.

FEES

COST PLUS A FIXED FEE
WITH FIXED TOTAL ADDITIVE RATE

1. **COST PLUS A FIXED FEE:** For all services and materials pertinent hereto and/or specifically described herein, except as otherwise explicitly cited, the DEPARTMENT agrees to pay the CONSULTANT for the actual allowable cost and the FIXED additives plus a fixed fee. Overhead rates have been reviewed, approved, and are limited to the costs which are allowable under Federal Acquisition Regulations, contained in Title 48 CFR, Part 31.

   The contract cost includes direct labor expense, payroll additives; indirect costs and other direct non-salary costs as outlined below.

   Guest meals (meals paid by a consultant or a consultant's employee for someone other than his/her self) shall not be eligible for reimbursement unless previously approved in writing by the DEPARTMENT Project Manager.

   (a) The direct labor expense is the actual salary expense for professional and technical personnel and principals for the time they are productively engaged in work necessary to fulfill the terms of this contract. The payroll additives and indirect costs are FIXED as Fixed Overhead Percentage of the direct salary expense.

   (b) If necessary and DEPARTMENT approved, any additional direct expenses incurred in fulfilling the terms of this contract, including but not limited to travel and lodging, reproduction, telephone, equipment, supplies and fees of outside CONSULTANTS or sub-consultants will be reimbursed at actual costs.

   If the CONSULTANT'S normal accounting practice is to include some of these costs as indirect expenses, then this contract will be consistent with that practice. These types of costs must be disclosed as part of your accounting practices and in conformance to Federal Cost Principles.

   (c) The fixed fee has been determined and agreed upon as Fixed Fee Percentage of the combined estimated direct labor and the Overhead amount, which represents the CONSULTANT'S profit of Fixed Fee Amount. The fixed fee percentage is not a floating percent and should not be billed as a percent of labor. Rather, the fixed fee payment will be prorated and paid regularly in proportion to the percentage of work completed as reflected by the periodic invoices; that is, on the same ratio as the invoice cost bears to the originally estimated total for CONSULTANT'S actual cost which is the maximum amount payable minus the fixed fee. Any portion of the fixed fee payment not previously paid in the periodic payment will be covered in the final payment.

   Overruns in the costs of the work do not warrant an increase in the fixed fee, but significant changes to the Scope of Work may require adjustment of the fixed fee in the contract as evidenced by a contract modification.

2. **MODIFICATIONS:** In the event the DEPARTMENT requires changes of services which materially affect the scope or work plan, with a resulting material increase in cost to the CONSULTANT, a contract modification for additional compensation and time for completion shall be entered into by the parties hereto prior to making such change. Any such work done without prior DEPARTMENT agreement shall be deemed ineligible for reimbursement by the DEPARTMENT.

3. **PROGRESS PAYMENTS:** Progress payments are based upon the approved percentage of work completed and are made pursuant to certified invoices received. Five percent (5%) of the amount invoiced shall be retained in a DEPARTMENT approved escrow account until such time as all of the services are completed, approved, properly invoiced, and full agreement has been reached by both parties on the termination of the contract.

4. **INVOICES:** Invoices are to reflect charges as they apply to the appropriate contract, project, and account number, and must be certified and executed by an official legally authorized to bind the firm. The invoice must be substantiated with supporting documentation that is reviewed and approved by the

DEPARTMENT'S Project Manager and subject to final approval by the DEPARTMENT'S Comptroller's Office.

5. **FINAL PAYMENT:** Retention will be released only after all materials and services associated with this contract have been reviewed and approved by the DEPARTMENT'S Project Manager and finalized by the DEPARTMENT'S Comptroller's Office. The retention fee will not be released until a project evaluation form has been completed by the DEPARTMENT'S Project Manager and submitted to Consultant Services and the Comptroller's Office.

The DEPARTMENT'S Project Managers and the Comptroller's Office have the right to hold the final payment on certain projects when design and construction are performed by two separate Consultants or if there is a potential possibility of a design or construction error.

6. **FINANCIAL SUMMARY:** The total maximum amount of disbursement pertinent to this contract shall not exceed Contract Amount Contract overruns will not be paid.

7. **COST PROPOSAL:** The overhead rate shown in the CONSULTANT'S and/or sub-consultant's cost proposal has been determined and agreed upon by the parties and is included in this contract. The CONSULTANT will invoice the DEPARTMENT using the actual Wage Rates, FIXED Overhead, prorated Fixed Fee, and any additional Direct Costs. Invoices submitted to the DEPARTMENT must reflect the staffing plan and associated hourly wage rates, labor hours used, and other costs submitted in the CONSULTANT cost proposal.

The Cost Proposal for the CONSULTANT and/or sub-consultant, if applicable, may be found in Attachment D, pages through.

FEES

UNIT PRICE

1. **UNIT PRICE:** For all services and materials pertinent hereto and/or specifically described herein, except as otherwise explicitly cited, the DEPARTMENT agrees to pay the CONSULTANT for the work performed at the unit prices reviewed and approved by the DEPARTMENT'S Project Manager. Unit Prices include Direct Labor Expenses, Payroll Additives, Indirect Expenses, and Direct Non-salary Expenses and Profit.

   The costs included in the Unit Price have been reviewed and limited to the costs which are allowable under the Federal Acquisition Regulations contained in Title 48 CFR, Part 31 as modified by Utah State law, administrative rules, regulations, or contract provisions.

   Guest meals (meals paid by a Consultant or Consultant's employee for someone other than his/her self shall NOT be reimbursed unless previously approved in writing by the DEPARTMENT'S Project Manager.

2. **MODIFICATIONS:** In the event the DEPARTMENT requires changes of services which materially affect the scope of work or work plan, with a resulting material increase in cost to the CONSULTANT, a contract modification for additional compensation and time for completion shall be entered into by the parties hereto prior to making such change. Any such work done without prior agreement shall be deemed **not** covered in the compensation and time herein provided.

3. **PROGRESS PAYMENTS:** Progress payments are based upon the approved completed units and are made pursuant to certified invoices received. **Five percent** (5%) of the amount invoiced shall be retained in a DEPARTMENT approved escrow account until such time as all of the services are completed, approved, properly invoiced, and full agreement by both parties has been reached on the termination of the contract.

4. **INVOICES:** Invoices are to reflect charges as they apply to the appropriate contract, project, and account number, and must be properly certified and executed by an official legally authorized to bind the firm. The invoice must be substantiated with supporting documentation that is reviewed and approved by the DEPARTMENT'S Project Manager and subject to final approval by the DEPARTMENT'S Comptroller's Office.

5. **FINAL PAYMENT:** Retention will be released only after a project evaluation form has been completed, all materials and services associated with this contract have been reviewed and approved by the DEPARTMENT'S Project Manager and finalized by the DEPARTMENT'S Comptroller's Office.

   The DEPARTMENT'S Project Managers and the DEPARTMENT'S Comptroller's Office have the right to hold the final retention payment on certain projects when design and construction are performed by two separate Consultants or if there is a potential possibility of a design or construction error.

6. **FINANCIAL SUMMARY:** The total maximum amount of disbursement pertinent to this contract is Contract Amount. Contract overruns will **not** be paid.

7. **COST PROPOSAL:** The Cost Proposal prepared by the CONSULTANT and reviewed and approved by the DEPARTMENT'S Project Manager can be found in Attachment D, pages through.

   The Unit Price rates shown in the CONSULTANT'S Cost Proposal were negotiated and agreed upon by both parties of this contract. The CONSULTANT will invoice the DEPARTMENT using the negotiated unit price rates agreed upon and shown in the CONSULTANT Cost Proposal. These unit rates will be fixed for the period of this contract. Any changes must be approved by the DEPARTMENT and by written contract modification.