

Log # 43863

Contract # A04189

STATE OF UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES CONTRACT

1. CONTRACTING PARTIES: This contract is between the State of Utah Department of Health and Human Services, referred to as STATE and/or DHHS, and the following CONTRACTOR:

<u>Utah Transit Authority</u>	Name	
<u>669 W 200 S</u>	Address	
<u>Salt Lake City</u>	<u>UT</u>	<u>84101</u>
City	State	Zip

LEGAL STATUS OF CONTRACTOR

LLC

Non-Profit Corporation

For-Profit Corporation

Partnership

Government Entity

Contact Person: Ryan Taylor Phone #801-287-2399 Email: rtaylor@rideuta.com

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide transportation services for Persons to access the community, employment and day supports.

3. PROCUREMENT: This contract is entered into as a result of the procurement process on Solicitation# N/A.

4. CONTRACT PERIOD: Effective date: 2/1/2024 Termination date: 1/31/2029 unless terminated early or extended in accordance with the terms and conditions of this contract.

5. CONTRACT COSTS: CONTRACTOR will be paid in accordance with Attachment C: Rate Table.

6. ATTACHMENT A: Department of Health and Human Services Client Service Terms
ATTACHMENT B: Scope of Work
ATTACHMENT C: Rate Table

7. Each signatory below represents that he or she has the requisite authority to enter into this contract.

The parties sign and cause this contract to be executed. This contract is not fully executed until the State of Utah Approving Authorities have signed this contract.

UTAH TRANSIT AUTHORITY

DEPARTMENT OF HEALTH AND HUMAN SERVICES

By: _____

By: _____

Jay Fox Date
Executive Director

Tracy S. Gruber Date
Executive Director

By: _____

Cherryl Beveridge Date
Chief Operating Officer

DocuSigned by:
By: Michael Bell 1/26/2024
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Michael Bell Date
Assistant Attorney General
UTA Counsel

Attachment A: Utah Department of Health and Human Services Public Entity Terms

1. Definitions:

"Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors, or other agents of the Contractor who need to access State Data to enable the Contractor to perform its responsibilities under this contract.

"Contract Signature Page(s)" means the DHHS cover page(s), including the page(s) signed by the parties.

"DHHS" means the Utah Department of Health and Human Services.

"Goods" means all types of tangible personal property (commodities), including but not limited to materials, supplies, Work Product, and equipment that Contractor is required to deliver to DHHS. To the extent this contract entails delivery or performance of services (including maintenance, installation, or product support) such services will be deemed "Goods" within the meaning of the Utah Uniform Commercial Code when reasonable to do so.

"Person" means any governmental entity, business, individual, union, committee, club, other organization, or group of individuals.

"Services" means the furnishing of labor, time, or effort by the Contractor pursuant to this contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code.

"State" 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.

"State Data" means all confidential information, non-public data, personal data, and protected health information that is created or in any way originating with the State whether such data or output is stored on the State's hardware, the Contractor's hardware, or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor. State Data includes any federal data that DHHS controls or maintains, that is protected under federal laws, statutes, and regulations. DHHS may identify, during and after this contract, additional reasonable types of categories of information that must be kept confidential under federal and State laws.

"Subcontractor" 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 the Contractor's manufacturers, distributors, and suppliers.

"Uniform Guidance" means Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards for the specified federal awarding agency set forth in Title 2 of the Code of Federal Regulations.

"Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, deliverable, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection), that is specifically made, conceived, discovered, or reduced to practice by the Contractor or the Contractor's Subcontractors (either alone or with others) pursuant to this contract. Work Product will be considered a work made for hire under federal, State, and local laws; and all interest and title will be transferred to and owned by DHHS. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any DHHS intellectual property, the Contractor's intellectual property (that it owned or licensed prior to this contract) or third party intellectual property.

2. **Governing Law and Venue:** This contract is governed by the laws, rules, and regulations of Utah. Any action or proceeding arising from this contract must be brought in a court of competent jurisdiction in the State. Venue is in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **Amendments:** This contract may only be amended by mutual written agreement signed by both parties.
4. **No Automatic Renewals:** This contract will not automatically renew.
5. **Scope Changes:** Any changes to the scope of Goods or Services required under this contract must be executed by written amendment signed by the parties.
6. **Laws and Regulations:** The Contractor shall comply with all applicable federal, state, and local 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 take precedence over any conflict with this Attachment A.
7. **Independent Contractors:** The Contractor shall ensure that any Subcontractors act in an independent capacity and not as officers, employees, or agents of DHHS.
8. **Invoicing:** Unless otherwise stated in the scope of work, the Contractor shall submit invoices along with any supporting documentation within 20 days following the last day of the month in which the Services were provided or within 20 days of the delivery of the Goods to DHHS. The Contractor shall list this contract number on all invoices, freight tickets, and correspondence relating to this contract. The prices paid by DHHS will be those prices listed in this contract, unless the Contractor offers a prompt payment discount on its invoice. DHHS may adjust or return any invoice reflecting incorrect pricing. The Contractor shall submit all final billings under this contract within 14 days of expiration or termination of the contract, regardless of the Contractor's billing period. Notwithstanding the foregoing, the Contractor shall submit all billings for Services performed or Goods delivered on or before June 30th of a given fiscal year no later than July 14th of the following fiscal year, regardless of Contractor's billing period or the expiration or termination date of this contract.
9. **Payment:**
 - 9.1. DHHS shall pay the contracted amounts, less amounts collected by the Contractor from any other Person not a party to this contract legally liable for the payments for the Goods and Services.
 - 9.2. DHHS shall make payments within 30 days after a correct invoice is received.
 - 9.3. If funding to DHHS is reduced due to an order by the legislature or the governor, or is required by State law, or if applicable federal funding is not provided to DHHS, DHHS shall reimburse the Contractor for Goods delivered and Services performed through the date of cancellation or reduction, and DHHS will not be liable for any future commitments, penalties, or liquidated damages.
 - 9.4. Upon 30 days written notice, the Contractor shall reimburse DHHS for funds DHHS is required to reimburse a third party funding source resulting from the actions of the Contractor or its Subcontractors.
10. **Nonappropriation of Funds, Reduction of Funds, or Changes in Law:** Upon 30 days written notice delivered to the Contractor, DHHS may terminate this contract in whole or in part, or proportionately reduce the Goods and Services due and the amounts due, if DHHS 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) a change in appropriations, available funds, or budgets affects DHHS'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, DHHS shall pay the Contractor for the Goods and Services properly ordered until the effective date of said notice. DHHS will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

- 11. Suspension of Work:** DHHS shall give the Contractor written notice should DHHS suspend the Contractor's responsibilities under this contract. The Contractor's responsibilities may be reinstated upon advance written notice from DHHS.
- 12. Indemnification:**
- 12.1. If the Contractor is a governmental entity, the parties agree that each party assumes liability for the negligent and wrongful acts committed by its own agents, officials, or employees, regardless of the source of funding for this contract. Neither party waives any rights or defenses otherwise available under the Governmental Immunity Act.
- 12.2. 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.
- 13. Intellectual Property Indemnification:** The Contractor shall indemnify and hold DHHS harmless from and against any and all damages, expenses (including reasonable legal fees), claims, judgments, liabilities, and costs in any action or claim brought against DHHS 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 the Contractor's liability, such limitations of liability will not apply to this section.
- 14. Debarment:** DHHS may immediately terminate this contract if DHHS determines that the Contractor has been debarred, suspended, or otherwise lawfully excluded from participating in any agreement issued by a governmental entity, including but not limited to, being determined ineligible as a subcontractor of any governmental entity. The Contractor certifies that it is not currently suspended, debarred, or otherwise prohibited to enter this contract. The Contractor shall immediately notify DHHS if the Contractor becomes suspended, debarred, or otherwise ineligible for this or any other agreement issued by a governmental entity.
- 15. Termination and Default:**
- 15.1. **Termination for Convenience.** DHHS may terminate this contract without cause, upon 30 days written notice to the Contractor. If the Contractor terminates this contract without cause, DHHS may treat the Contractor's action as a default under this contract.
- 15.2. **Termination for Cause.** Each party may terminate this contract with cause. If the cause for termination is due to the default of a party, the non-defaulting party shall give written notice to the defaulting party of its intent to terminate. The defaulting party may cure the default within 10 days of the notice. If the default is not cured within the 10 days, the party giving notice may terminate this contract 40 days from the date of the initial notice of default or at a later date. Time allowed for cure will not diminish or eliminate the Contractor's liability for damages.
- 15.3. **Payment After Termination.** DHHS shall pay the Contractor for the Goods delivered and Services properly performed under this contract up to the effective date of the notice of termination. The Contractor agrees that in the event of termination, the Contractor's sole remedy and monetary recovery from DHHS or the State is limited to full payment for all Goods delivered and 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 the Contractor having to terminate other contracts necessarily and appropriately entered into by the Contractor pursuant to this contract. In the event of such termination, the Contractor shall promptly deliver to the State all Work Product, which includes but is not limited to all manuals, forms, contracts, schedules, reports, and any and all documents produced by the Contractor under this contract up to the date of termination.
- 15.4. **Cover.** If DHHS terminates this contract for cause, DHHS may procure replacement Goods or Services upon terms and conditions necessary to replace the Contractor's obligations. If the termination is due to the Contractor's failure to perform, and DHHS procures replacement Goods or Services, the Contractor agrees to pay any excess costs associated with obtaining the replacement Goods or Services.

15.5. Default. Any of the following events will constitute cause for DHHS to declare the Contractor in default of this contract: (i) the Contractor's non-performance of its requirements and obligations under this contract; or (ii) the Contractor's material breach of any term or condition of this contract. If the Contractor defaults in any manner in the performance of any obligation under this contract, or if audit exceptions are identified, DHHS may either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception. Default and audit exceptions for which payment may be adjusted or withheld include disallowed expenditures of federal or State funds as a result of the Contractor's failure to comply with federal regulations or State rules. In addition, DHHS may withhold amounts due the Contractor under this contract, any other current contract between DHHS and the Contractor, or any future payments due the Contractor to recover the funds. DHHS shall notify the Contractor of DHHS's action in adjusting the amount of payment or withholding payment. This contract is executory until such repayment is made.

16. Remedies: In addition to terminating this contract upon default or breach of the Contractor, DHHS may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) impose liquidated damages; (iii) debar or suspend the Contractor from receiving future contracts from DHHS or the State; and (iv) demand a full refund of any payment DHHS has made to the Contractor for Goods or Services that do not conform to this contract.

17. Reviews: DHHS may perform plan checks or reviews and require changes when needed. Such reviews do not waive the requirement of the Contractor to meet all of the terms and conditions of this contract.

18. Performance Evaluation: DHHS may conduct a performance evaluation of the Contractor's Services, including the Contractor's Subcontractors. DHHS may make the results of any evaluation available to the Contractor.

19. Public Information: The 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's Government Records Access and Management Act ("**GRAMA**").

20. Publicity: The Contractor shall not advertise or publicize matters relating to this contract without the prior written approval of DHHS.

21. Information Ownership: Except for confidential medical records held by direct care providers, if the Contractor uses any Subcontractors for activities arising out of this contract, the Contractor shall ensure it maintains exclusive ownership and title to all information gathered, reports developed, and conclusions reached in performance of this contract. The Contractor shall require any Subcontractors to obtain prior written consent from the Contractor prior to using or disclosing information gathered, reports developed, or conclusions reached in performance of activities arising out of this contract.

22. Information Practices: The Contractor shall establish, maintain, and practice information procedures and controls that comply with federal and state law including, as applicable, Utah Code Title 26B and the privacy and security standards promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") & the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**"). DHHS may require the Contractor to enter into a business associate agreement if applicable. The Contractor shall receive or request from DHHS only information about an individual that is necessary to the Contractor's performance of its duties and functions. The Contractor shall use the information only for purposes of this contract.

23. Secure Protection and Handling of State Data:

23.1. If the Contractor is given access to or stores State Data as part of this contract, the protection of State Data must be an integral part of the business activities of the Contractor to ensure that there is no inappropriate or unauthorized use of State Data. The Contractor shall safeguard the confidentiality, integrity, and availability of the State Data. The Contractor agrees to not copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use

such information for any purpose whatsoever other than the performance of this contract. The improper use or disclosure of confidential information is strictly prohibited.

- 23.2. Any and all transmission or exchange of State Data must take place via secure means. The Contractor shall create, store, and maintain any State Data on secure or encrypted computing devices or portable storage mediums. The Contractor agrees to protect and maintain the security of State Data with security measures including, but not limited to, maintaining secure environments that are patched and up to date with all appropriate security updates, network firewall provisioning, and intrusion detection. The Contractor agrees that any computing device or portable medium that has access to DHHS's network or stores any non-public State Data is equipped with strong and secure password protection.
- 23.3. The Contractor shall: (i) limit disclosure of any State Data to Authorized Persons who have a need to know such information in connection with the current or contemplated business relationship between the parties to which this contract relates, and only for that purpose; (ii) advise its Authorized Persons of the proprietary nature of the State Data and of the obligations set forth in this contract and require Authorized Persons to keep the State Data confidential; (iii) keep all State Data strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (iv) not disclose any State Data received by it to any third parties, except as permitted by this contract or otherwise agreed to in writing by DHHS.
- 23.4. The Contractor shall promptly notify DHHS of any misuse or misappropriation of State Data that comes to the Contractor's attention. The Contractor shall be responsible for any breach of this duty of confidentiality by any of its officers, agents, Subcontractors at any tier, and any of its respective representatives, including any required remedies or notifications under applicable law (Utah Code Ann. §§ 13- 44-101 through 301). This duty of confidentiality is ongoing and survives the term of this contract. Notwithstanding the foregoing, if there is a discrepancy between a signed business associate agreement and this provision, the business associate agreement language will take precedence.

24. Intellectual Property Ownership: DHHS and the Contractor recognize that each has no right, title, or interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by the Contractor prior to the execution of this contract, but specifically created or manufactured under this contract, is considered work made for hire, and the Contractor shall transfer any ownership claim to DHHS.

25. Work Product Ownership: In the event that the Contractor provides Work Product to DHHS pursuant to this contract, the Contractor grants the ownership in Work Product, which has been developed and delivered by the Contractor exclusively for DHHS and is specifically within the framework of fulfilling the Contractor's obligations under this contract. Work Product will be deemed work made for hire, such that all intellectual property rights, title, and interest in the Work Product will pass to DHHS, to the extent that the Work Product is not recognized as work made for hire, the Contractor hereby assigns to DHHS any and all copyrights in and to the Work Product, subject to the following:

- 25.1. The Contractor has received payment for the Work Product,
- 25.2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("**Intellectual Property Rights**") that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the Services performed under this contract ("**Background IP**"), and
- 25.3. The Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the Services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in

performing the Services (collectively, the “Utilities”), and (b) such ideas, concepts, know-how, processes, and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of the Contractor in the course of performing the Services or creating the Work Product, other than portions that specifically incorporate proprietary or confidential information or Work Product of DHHS (collectively, the “Residual IP”), even if embedded in the Work Product.

25.4. The Contractor shall not distribute or market Work Product, not including the Contractor’s Intellectual Property Rights, Background IP, and Residual IP, without written approval by DHHS.

25.5. The Contractor agrees to grant to DHHS a perpetual, irrevocable, royalty-free license to use the Contractor’s Background IP, Utilities, and Residual IP, as defined above, solely for DHHS and the State to use the Work Product. DHHS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for DHHS’s and the State’s internal purposes, such Work Product. For the Goods or Services delivered that consist of the Contractor’s scripts and code and are not considered Work Product, for any reason whatsoever, the Contractor grants DHHS a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and create derivative works from such, without the right to sublicense, for DHHS’s and the State’s internal business operation under this contract. DHHS and the State may not participate in the transfer or sale of, create derivative works from, or in any way exploit the Contractor’s Intellectual Property Rights, in whole or in part.

26. Software Ownership: If the Contractor develops or pays to have developed computer software exclusively with funds or proceeds from this contract to perform its obligations under this contract, or to perform computerized tasks that it was not previously performing to meet its obligations under this contract, the computer software will be exclusively owned by or licensed to DHHS. If the Contractor develops or pays to have developed computer software which is an addition to existing software owned by or licensed exclusively with funds or proceeds from this contract, or to modify software to perform computerized tasks in a manner different than previously performed, to meet its obligations under this contract, the addition will be exclusively owned by or licensed to DHHS. In the case of software owned by DHHS, DHHS grants to the Contractor a nontransferable, nonexclusive license to use the software in the performance of this contract. In the case of software licensed to DHHS, DHHS grants to the Contractor permission to use the software in the performance of this contract. This license or permission, as the case may be, terminates when the Contractor has completed its work under this contract. If the Contractor uses computer software licensed to it which it does not modify or program to handle the specific tasks required by this contract, then to the extent allowed by the license agreement between the Contractor and the owner of the software, the Contractor grants to DHHS a continuing, nonexclusive license for either DHHS or a different contractor to use the software in order to perform work substantially identical to the work performed by the Contractor under this contract. If the Contractor cannot grant the license as required by this section, then the Contractor shall reveal the input screens, report formats, data structures, linkages, and relations used in performing its obligations under this contract in such a manner to allow DHHS or another contractor to continue the work performed by the Contractor under this contract.

27. Updates and Upgrades: The Contractor grants to DHHS a non-exclusive, non-transferable license to use upgrades and updates provided by the Contractor. Such upgrades and updates are subject to the terms of this contract. DHHS shall download, distribute, and install all updates as released by the Contractor. The Contractor shall use commercially reasonable efforts to provide DHHS with work-around solutions or patches to reported software problems that may affect DHHS’s use of the software during the length of this contract.

28. Technical Support and Maintenance: If technical support and maintenance is a part of the Goods or Services that the Contractor provides under this contract, the Contractor will use commercially reasonable efforts to respond to DHHS in a reasonable time when DHHS makes technical support or maintenance requests regarding the Goods or Services.

29. Equipment Purchase: The Contractor shall obtain prior written DHHS approval before purchasing any equipment, as defined in the Uniform Guidance, with contract funds.

30. Acceptance and Rejection: DHHS will have 30 days after the performance of the Services or delivery of the Goods to perform an inspection of the Goods or Services to determine whether the Goods and Services conform to the standards specified in this contract prior to acceptance of the Goods or Services by DHHS. If the Contractor delivers nonconforming Goods or Services, DHHS may, at its option and at the Contractor's expense: (i) return the Goods or Services for a full refund; (ii) require the Contractor to promptly correct or re-perform the nonconforming Goods or Services subject to the terms of this contract; or (iii) obtain replacement Goods or Services from another source, subject to the Contractor being responsible for any cover costs.

31. Record Keeping, Audits, and Inspections:

31.1. For financial reporting, the Contractor shall comply with the Uniform Guidance and Generally Accepted Accounting Principles ("GAAP").

31.2. The Contractor shall retain all records which relate to disputes, litigation, and claim settlements arising from contract performance or cost or expense exceptions, until all disputes, litigation, claims, or exceptions are resolved.

31.3. The Contractor shall comply with federal and state regulations concerning cost principles, audit requirements, and contract administration requirements, including, but not limited to, the Uniform Guidance. Unless specifically exempted in the scope of work, the Contractor shall comply with applicable federal cost principles and contract administration requirements if State funds are received. Counties, cities, towns, and school districts are subject to the State Legal Compliance Audit Guide. The Contractor shall send copies of required reports to dhhsfinancialreports@utah.gov.

31.4. If the Contractor enters into an agreement with a subrecipient, the Contractor shall report all Federal Funding Accountability and Transparency Act (FFATA) requirements to DHHS each time funding is awarded or amended.

32. Standard of Care: The Services of the Contractor and its Subcontractors must 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. The Contractor shall be liable to DHHS and the State for claims, liabilities, additional burdens, penalties, damages, or third party claims, to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.

33. Employment Practices: The Contractor shall abide by the following employment laws, as applicable: (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 C.F.R. § 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; (v) Utah Executive Order No. 2006-0012, dated December 13, 2006, which prohibits unlawful harassment in the workplace; (vi) Utah Code Ann. § 26B-7-503, Utah Indoor Clean Air Act which prohibits smoking in enclosed public places; (vii) Utah Executive Order No. 2006-0012 which prohibits all unlawful harassment in any workplace in which State employees and employees of public and higher education must conduct business; (viii) 41 CFR part 60, Equal Employment Opportunity, and the Executive Order 11246, as amended by Executive Order 11375, which implements those regulations; (ix) 45 C.F.R. part 83, which prohibits the extension of federal support to any entity that discriminates on the basis of sex in the admission of individuals to its health manpower and nurse training programs; and (x) 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5), Contract Work Hours and Safety Standards Act, for contracts that involve the employment of mechanics or laborers. The Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of the Contractor's employees or Persons served.

34. Federal Requirements: The Contractor shall abide by the following federal statutes, regulations, and requirements: 2 C.F.R. § 200.326, Agreement Provisions as applicable; 45 C.F.R. § 46, 42 U.S.C. § 2899, 21 C.F.R. 50, & 21 C.F.R. 56 Protection of Human Subject in research activities; 45 C.F.R. part 84, prohibits discrimination of

drug or alcohol abusers or alcoholics who are suffering from mental conditions from admission or treatment by any private or public hospital or outpatient facility that receives support or benefit from a federally funded program; 42 C.F.R. parts 2 and 2a which implements the Public Health Service Act, sections 301(d) and 543, which requires certain medical records that relate to drug abuse prevention be kept confidential when the treatment or program is directly or indirectly assisted by the federal government; 42 U.S.C. §§ 7401-7971q., the Clean Air Act and 33 U.S.C. §§ 1251-1387, the Federal Water Pollution Control Act, and all applicable standards, orders or related regulations; 31 U.S.C. § 1352, Byrd Anti-Lobbying Amendment; 42 U.S.C § 4331, the National Environmental Policy Act of 1969; 2 C.F.R. § 200.322, Procurement of recovered materials which outlines section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; 37 C.F.R. § 401, Rights to Inventions Made; 42 C.F.R. part 50, Subpart B, Sterilizations; 42 C.F.R. part 50, Subpart C, Abortions and Related Medical Services; 59 FR 46266, Recombinant DNA and Institutional Biosafety; 7 U.S.C. § 2131, Animal Welfare; 42 C.F.R. part 92, Misconduct in Science; 42 U.S.C. §§ 4728-4763, Merit System Standards for governmental entities only; 42 U.S.C. §§ 6101-6107 & 45 C.F.R. Part 91 Age Discrimination Act of 1975; 42 U.S.C. § 12101 et seq. & 28 C.F.R. Part 35, Part 39 Americans with Disabilities Act; 45 C.F.R. Part 80, 42 U.S.C. § 2000d et. seq. Civil Rights Act of 1964 as amended Title VI; 40 U.S.C. §§ 3701-3704 & 29 C.F.R. Part 5 Contract Work Hours and Safety Standards Act; 45C.F.R. 2543.82, 18 U.S.C. § 874 & 29 C.F.R. Part 3 Copeland Anti-Kickback Act; 40 U.S.C. § 3142 & 29 C.F.R. Part 5 Davis-Bacon Act; 41 U.S.C. § 701 through 707, Drug Free Workplace Act of 1988; 20 U.S.C. § 1681et. seq. & 45 C.F.R. Part 86, Education Amendments of 1972, Title IX; 8 U.S.C. § 1324a, Employment Eligibility Verification; 29 U.S.C. § 206(d) Equal Pay Act; 29 U.S.C. § 201 et seq. Fair Labor Standards Act; 8 U.S.C. § 1324 Immigration Control and Reform Act; 42 U.S.C. § 10801 et seq. Protection and Advocacy for Individuals with Mental Illness Act; 45 C.F.R. Part 84.53 Public Health Service Act, Section 522 and Section 526; 29 U.S.C. § 794 & 45 C.F.R. Part 84 Rehabilitation Act of 1973, as amended, Section 504; 42 U.S.C. § 6322 Energy Policy and Conservation Act; 42 U.S.C. § 4106 Flood Disaster Act of 1973 and other flood hazard provisions; 42 U.S.C. § 4321 et seq. & 40 C.F.R. Part 1500 et seq. National Environmental Policy Act of 1969; 42 U.S.C. §§ 7181-7184, Pro-Children Act of 2001; 31 U.S.C. § 3729-3733 and Chapter 38 Civil False Claims Act; Public L. 109-171 (2006) Deficit Reduction Act of 2005; P.L. 109-282, as amended by Section 6202 of P.L. 110-252 FFATA; 5 U.S.C. § 1501, et. seq. Hatch Act; 42. U.S.C. § 290dd-2; 42 C.F.R. § 2 and 2a Substance Abuse and Mental Health confidentiality; 45 C.F.R. Part 75 HHS Award requirements; and the Contractor shall include in any contracts termination clauses for cause and convenience, along with administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

35. **Waiver:** A waiver of any right, power, or privilege will not be construed as a waiver of any subsequent right, power, or privilege.
36. **Subcontracts:** The Contractor retains ultimate responsibility for performance of all terms, conditions, and provisions of this contract that are subcontracted or performed by a Subcontractor. When subcontracting, the Contractor agrees to use written subcontracts that conform to federal and State laws. If any Subcontractor is a subrecipient, the Contractor shall comply with all federal regulations governing subrecipients as set out in 2 CFR Part 200. If the Contractor enters into an agreement with a subrecipient, the Contractor shall notify DHHS of its compliance with 2 CFR Part 200 in the manner required by DHHS.
37. **Force Majeure:** Neither party will be held responsible for delay or default caused by fire, riot, acts of God, or war which is beyond the party's reasonable control. DHHS may terminate this contract after determining that the delay or default will likely prevent successful performance of this contract.
38. **Severability:** The invalidity or unenforceability of any provision, term, or condition of this contract will not affect the validity or enforceability of any other provision, term, or condition of this contract, which will remain in full force and effect.
39. **Survival of Terms:** Termination or expiration of this contract will not extinguish or prejudice DHHS's right to enforce this contract with respect to any default or defect in the Services that has not been cured.
40. **Notice:** Notice must be in writing and sent to dhhscontracts@utah.gov.

- 41. Order of Precedence:** The terms of this contract will be reasonably interpreted and construed to avoid any conflict among the provisions. If there is any conflict between this contract's terms, the order of precedence (listed in order of descending precedence) among the terms is: (1) Contract Signature Page(s); (2) this Attachment A; (3) DHHS scope of work; (4) Any other attachments.
- 42. Time is of the Essence:** The Contractor shall complete Services or deliver Goods by any deadline stated in this contract. For all Goods and Services, time is of the essence. The Contractor shall be liable for all reasonable damages to DHHS and the State, and anyone to whom the State may be liable, as a result of the Contractor's failure to timely perform the Services required under this contract.
- 43. Contractor Contact Information:** The Contractor shall ensure that DHHS has accurate contact information for the Contractor at all times throughout the duration of this contract and throughout the duration of the Contractor's record retention responsibilities. The Contractor shall immediately notify DHHS of any changes to contact information.
- 44. 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: 11/16/2023)

ATTACHMENT B: SCOPE OF WORK

Article 1 GENERAL REQUIREMENTS

1.1 **Purpose.** The purpose of this contract is to provide transportation services for Persons to access the community, employment and day supports.

1.2 **Definitions.** In this contract, the following definitions apply:

"**Person**" means an individual who has Intellectual Disabilities, Related Conditions ("ID.RC") or Acquired Brain Injury ("ABI") as defined in Utah Administrative code, Rule R539-1, and found eligible to receive services by the Utah Department of Health and Human Services, Division of Services for People with Disabilities ("DHHS"), or an individual who is a DHHS client and has been approved by DHHS to receive services under this contract.

"**SC**" means support coordinator. An SC is an individual who provides assistance, coordination, and monitoring of funding and services for the Person.

"**Staff**" means any individual hired by the Contractor to provide services or who has access to the Person's identifying information.

"**USTEPS**" means DHHS Utah System for Tracking Eligibility, Planning, and Services. USTEPS is a web-based case management system used by DHHS employees and SCs.

"**UPI**" means USTEPS Provider Interface. UPI is used by DHHS contracted providers.

"**1056**" means a document that outlines each Persons' authorized service type, the maximum service unit, dollar amount and time frame allowed.

1.3 **Qualifications.** The Contractor shall ensure all Staff providing transportation services maintain a current commercial driver license as required by Utah law.

Article 2 ADMINISTRATIVE REQUIREMENTS

2.1 **Medicaid Enrollment.** The Contractor shall be enrolled as an approved Medicaid Provider with the Division of Integrated Healthcare ("DIH"). The approval process is administered by the DHHS contracts team.

2.2 **Training Requirements.**

- (a) The Contractor shall ensure its Staff complete and achieve competency as determined by the Contractor in the following training areas within 30 days of employment hire and prior to working with Persons without supervision:

- (1) emergency procedures, including when to call 911 in the case of an emergency;
 - (2) incident reporting requirements;
 - (3) orientation to Persons;
 - (4) catastrophic emergency and civil crisis procedures;
 - (5) legal rights of Persons, including human rights as found in Utah Administrative code R539-3;
 - (6) abuse, neglect, exploitation, and mandatory reporting laws;
 - (7) DHHS Provider Code of Conduct, signed and dated annually by each Staff and maintained in the Staff's record;
 - (8) confidentiality and Health Insurance Portability and Accountability Act ("HIPAA");
 - (9) the Contractor's policies, philosophies, and mission related to transportation services; and
 - (10) provisions of the law that regulate transportation services, including but not limited to, the Americans with Disabilities Act ("ADA").
- (b) If a Staff works with a Person prior to completing training and background screening approval through DHHS, the Staff is required to have direct line-of-sight supervision from a Staff who has completed all training and has an approved background screening from DHHS. Training must be completed by trainers with knowledge and experience in providing services to Persons.
- (c) The Contractor shall participate in all related DIH and DHHS Medicaid training.

2.3 Use of UPI. The Contractor shall:

- (1) have a current active UPI account;
- (2) comply with UPI requirements and electronic access and process changes as they develop;
- (3) ensure that access to UPI is granted only to Staff that need to know the information in UPI to provide or coordinate transportation services;
- (4) conduct and document an annual review of all Staff with UPI access to ensure correct and current UPI access;
- (5) submit to DHHS the "0-9 USTEPS Provider Interface (UPI) Provider Company Designee Access Form";

- (6) submit to DHHS the "0-8 USTEPS Provider Interface (UPI) Individual User Access Form" for each UPI user;
- (7) accept or reject the DHHS form "1056" through UPI within 15 business days of the creation of a new or adjusted 1056;
- (8) if it rejects the 1056, coordinate with the Person's SC to adjust the 1056;
- (9) use the UPI "Provider Organization" section to create and maintain a Contractor organizational group structure that restricts UPI users who are not required to provide or coordinate transportation services from seeing a Person's information, by:
 - (A) verifying that UPI users are assigned to the appropriate organizational groups(s) with current email and notification preferences;
 - (B) removing terminated Staff from the "Provider Organization" within 1 day of termination; and
 - (C) removing a Person from the "Provider Organization" within 1 business day after the Contractor is no longer providing or coordinating transportation services, or payment for services;
- (10) notify the DHHS USTEPS team in writing within 1 business day after termination of Staff with UPI access.

2.4 **Incident Reporting.** The Contractor shall provide proper notice and documentation as required by the most current DHHS Incident Report Reference Guide and per UAC R501-1. (<https://drive.google.com/file/d/1vQLiOs6bYbsxZxSXMhJSTmm-bllmZ0AU/view>)

2.5 **Policies and Procedures.**

- (a) The Contractor shall have and comply with its written policies and procedures. DHHS may review and require the Contractor to adjust its policies and procedures at any time. The Contractor shall ensure that its policies and procedures are current, maintained, and available to Staff and Persons.
- (b) The Contractor shall have a quality monitoring process. The Contractor shall have an internal agency self-assessment or quality assurance monitoring process for transportation services that may be externally validated by DHHS. At a minimum, this process must include an established method for responding to and resolving concerns identified by the Contractor's internal monitoring efforts.
- (c) The Contractor shall have an external quality monitoring process. The Contractor shall cooperate with review requirements from DHHS. If DHHS identifies a deficiency that requires a corrective action plan from the Contractor, the Contractor shall: (1) submit to DHHS a written corrective action plan that responds to each identified deficiency according to the

instructions provided by DHHS; (2) submit the response within the required timeframes identified by DHHS; and (3) submit a revised corrective action plan within 5 business days if the Contractor's response is determined unacceptable by DHHS. If a revised corrective action plan is determined to be unacceptable by DHHS, the Contractor may receive sanctions. The Contractor may appeal sanctions in writing to DHHS within 30 days from the imposition of the sanctions.

- (d) The Contractor shall have a safety-driven removal process. The Contractor shall have policies and procedures for when Person's disruptive behavior creates an unsafe situation while receiving transportation services that results in the suspension or removal of the Person for the safety of the Person, other passengers, and the Staff.
- (e) The Contractor shall maintain current policies and procedures that include contingency planning approved by DHHS. The Contractor's policies and procedures must include contingency planning for vehicle trouble and weather.

2.6 **Record Keeping.** The Contractor shall:

- (1) maintain complete, accurate supporting documentation of all requirements of this Contract, including but not limited to driver personnel and training records, transportation service records, pick-up and delivery sheets, and time sheets recording the delivery of transportation services;
- (2) make all supporting documentation available at Contractor's business location or as agreed for State or Federal audit and review purposes within 24 hours of request;
- (3) document all transportation services including:
 - (A) the name of the Person served;
 - (B) the name of the Staff driving the vehicle;
 - (C) the vehicle used;
 - (D) the specific DHHS service code provided to the Person;
 - (E) the duration (number of service units) of the service;
 - (F) the pick up and drop off locations;
 - (G) the pick up and drop off times;
 - (H) restrictions or accommodations needed in the vehicle including items like wheelchair lifts or seatbelt locks; and
 - (I) an individual note about the transportation service, including if there were any concerns or issues during the transportation.

Article 3
DIRECT SERVICE REQUIREMENTS

3.1 **Direct Service Requirements.** The Contractor shall:

- (1) provide transportation services that do not exceed the amount and frequency scheduled by the Person and authorized by the Person's 1056;
- (2) not leave Persons unattended in the vehicle without line of sight of the driver;
- (3) if Persons are left unattended in the case of an emergency, report the incident to DHHS within 24 hours;
- (4) ensure Persons remain seated while the vehicle is in motion;
- (5) ensure Persons do not access the vehicle operating controls while the vehicle is running;
- (6) use seat belts or locking mechanisms for all Persons in wheelchairs to immobilize wheelchairs during travel and safe use of a mechanical lift;
- (7) transport Persons using safety restraint seats when required by Utah State law;
- (8) use vehicles that have working doors and ensure that doors are closed while the vehicle is moving;
- (9) ensure the Person arrives safely at the scheduled time and destination; and
- (10) not leave a Person alone along the way to or from day supports, even in emergency situations, or when the health and safety of others may be in question.

3.2 **Limitations.**

- (a) Notwithstanding any statute, regulation, or policy that permits the termination of services to Persons, including but not limited to 49 CFR 37.5, the Contractor shall NOT suspend services for safety without first completing a review with the DHHS Director or designee to ensure due process.
- (b) The Contractor shall NOT provide transportation services in privately owned vehicles. The Contractor shall only provide services in transit vehicles, as defined in Utah Code § 17B-2a-802.
- (c) The Contractor shall NOT become the legal guardian or conservator of any Person.
- (d) The Contractor shall NOT bill DHHS for any services otherwise covered by the Utah Medicaid State Plan, including transportation to medical appointments or a medical facility.

Article 4
OUTCOMES

- 4.1 **Outcome.** Persons will receive transportation services to access community and day supports.
- 4.2 **Outcome Measurements.** The Contractor shall maintain complete and accurate supporting documentation of all requirements of this Contract, including, but not limited to, driver personnel and training records, transportation service records, pick-up and delivery sheets, and time sheets recording the delivery of transportation services.
- 4.3 **Outcome Reporting.** The Contractor shall provide requested outcome measurements to DHHS during their contract review.

Article 5
BILLING INFORMATION

- 5.1 **Medicaid Match.** The Contractor shall pay the Medicaid match seed funds from funds generated by local sales and taxes. As consideration for the Contractor providing the local Medicaid match, DHHS will annually negotiate the rates for transportation services, as approved by DHHS, DIH, and the Centers for Medicare and Medicaid Services (“CMS”).
- 5.2 **Billing Requirements.**
- (a) The Contractor will be paid for Medicaid services in accordance with Medicaid rules and procedures and DHHS billing requirements.
 - (b) The Contractor shall submit billings using the “Electronic 520 Billing” process by entering billing data directly into UPI, or uploading the billing data file directly into UPI in a format approved by the DHHS USTEPS team. The Contractor may submit a paper 520 billing form if the Contractor cannot use the Electronic 520 Billing process.
 - (c) This contract has a monthly billing period. The Contractor shall submit all billings and claims for services rendered during a given billing period within 20 days after the last date of that billing period; EXCEPT that the Contractor shall submit all billings for services performed on or before June 30th of a given fiscal year no later than July 14th of the following fiscal year. The State fiscal year is from July 1st through June 30th.
 - (d) The Contractor shall notify DHHS of any unpaid billings submitted to DHHS for payment within 45 calendar days from the date the billings were submitted. If the Contractor fails to notify DHHS within 45 days, DHHS may deny the payment of the unpaid bill.
 - (e) If DHHS notifies the Contractor of any claims that have been denied by DIH, the Contractor shall submit any necessary correction or adjustments to DHHS within 14 calendar days of the notifications. If the Contractor fails to submit the necessary correction or adjustment within this time frame, DHHS may deny or recoup payment of the claim for the Contractor.

ATTACHMENT C: RATE TABLE

Service Name	Service Code	Unit of Service	Rate
Paratransit Daily Fare	UTP	Daily	\$25.11
Adult Monthly Pass	UTA	Monthly Pass	\$132.81
Paratransit Trip Fare	UTA	Trip/Ticket	\$5.33
Route Deviation	UTD	Trip/Ticket	\$1.59
Trip + Route Deviation	UTF	Trip/Ticket	\$6.93