



Professional Services Agreement

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement"), made effective as of the date signed by the Weber County Commission Chair _____, is entered into by and between Weber County ("Client"), with principal place of business at 2380 Washington Blvd # 320, Ogden, UT 84401, and Innovative Emergency Management, Inc. ("IEM"), a corporation organized and existing under the laws of the State of Louisiana, with its principal place of business at 2801 Slater Road, Suite 200, Morrisville, North Carolina, 27560-8477. The Client and IEM are hereinafter referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, the Client desires to obtain the professional services of IEM in connection with the services as described in Schedule A of this Agreement; ("Work") and

WHEREAS, IEM has represented to the client that it is qualified and capable of providing such services in a competent and professional manner; and

WHEREAS, the Client desires to contract with IEM to provide such services and IEM desires to provide such services to the Client under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

1. Definitions. As used herein, the following terms shall have the meanings set forth below.

- 1.1. Person. "Person" means any natural person, corporation, limited liability company, association, cooperative, partnership, trust, estate, joint venture, or any other legal entity, including a governmental authority or agency.
- 1.2. Representative. "Representative" means a Party's employee, officer, director, manager, agent, or professional advisor.
- 1.3. Third Party. "Third Party" means a Person that is not a Party to this Agreement.
- 1.4. Deliverables. "Deliverables" shall mean all work products, whether tangible or intangible, in any format and whether or not copyrightable or patentable, that are delivered to the Client by IEM pursuant to this Agreement or in performance of the Work thereunder.

2. Term. This Agreement shall commence as of the date signed by the Weber County Commission Chair and shall continue until the plan has been developed and approved by both the State of Utah DEM and FEMA with a final draft completed to submit for adoption by the jurisdictions/agencies included in the plan and to include the critical benchmark date of July 31, 2024 for submitting a completed draft plan to the State of Utah DEM for approval. This "Term", unless sooner terminated in accordance with the provisions of this Agreement. The Term may not be altered, modified, or amended, in whole or in part, except in writing signed by duly authorized Representatives of both Parties.

3. Termination.

- 3.1. Termination for Default. If either Party materially defaults in the performance of, or materially fails to perform, any of its material obligations under this Agreement, the non-defaulting Party shall have the right to terminate this Agreement fifteen (15) business days after giving written notice to the breaching party reasonably describing the breach, if the breaching party fails to cure the breach to the non-defaulting party's reasonable satisfaction within such fifteen (15) business day period. In the event of termination for default, IEM shall be entitled to payment for Work in progress, to the extent the Work has been performed satisfactorily.
- 3.2. Termination for Convenience. Either Party may terminate this Agreement for convenience upon the giving of ninety (90) calendar days written notice to the other Party of its intention to terminate. In the event of termination for convenience, IEM shall be entitled to payment for Work in progress, to the extent the Work has been performed satisfactorily.

4. Compensation.

Itemized Statements. IEM shall submit to the Client itemized statements of fees and incurred expenses in a form satisfactory to the Client. Statements shall be submitted to the Client at the following email address:

*Weber County Sheriff's Office
Attn: Julie Stoddard
1400 Depot Drive
Ogden, Utah 84404*

AND

*Via Electronic Communication:
jstoddard@webercountyutah.gov*

- 4.1. Payment of Fees and Expenses. Fees and incurred expenses shall be paid to IEM within thirty (30) calendar days of delivery of an itemized statement to the Client.

5. Engagement.

- 4.1. Agreement to Perform Services. IEM agrees to perform the Work for the Client.



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- 4.2. Coordination and Progress Reporting. IEM and the Client shall develop appropriate administrative procedures for coordinating with each other and reporting progress.
- 4.3. Methods and Means of Performing Work. IEM shall perform the Work in an honest, confidential, efficient, prompt, economical, skillful, and careful manner. IEM shall have the right to determine the order, sequence, method, manner, details, and means of performing the services.
- 4.4. Work Location. IEM shall perform the Work primarily at IEM's location or locations, except when such projects or tasks require IEM to travel off-site or to the Client's location or locations.
- 4.5. Tools and Materials. IEM shall provide the tools and materials necessary to perform the Work.
- 4.6. Client Furnished Information or Resources. The Client shall provide appropriate personnel for consultation, as required, and access to relevant facilities and material that are reasonably necessary for IEM's performance under this Agreement. IEM shall be entitled to rely upon any Client furnished information, material, or resources without independent verification, unless otherwise provided for herein. In the event that the performance of IEM under this Agreement is delayed due to the failure of the Client to provide necessary and appropriate information, material, or resources that are reasonably necessary for IEM's performance, appropriate adjustments to the delivery schedule shall be made and such a delay shall not constitute a material breach of this Agreement.
- 4.7. Inspection and Acceptance of Deliverables. The Client's acceptance of a Deliverable shall be deemed to have occurred upon successful completion of a plan that is approved by the Client and fully accepted by the State of Utah Division of Emergency Management and FEMA.
5. Independent Contractor.
- 5.1. Nature of Relationship. It is the intention of the Parties that IEM be an independent contractor and not an employee, agent, or partner of the Client. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee; co-employee; partnership; principal and agent; or joint venture between the Client and IEM. In addition, the Parties acknowledge that neither Party has, or shall be deemed to have, the authority to bind the other Party in any way.
- 5.2. Non-exclusivity. IEM shall retain the right to perform the same or similar services for others during the Term of this Agreement.
- 5.3. Subcontractors. IEM may enter into subcontracts with Third Parties for the performance of any part of the Work. IEM shall remain the Client's sole point of contact for all subcontractor work. Any subcontractor used by IEM must be contracted in accordance to local, state and federal procurement requirements.
6. Technical Representative. Regarding technical matters relating to this Agreement, the Parties hereby appoint the below-listed representatives. The Client's Technical Representative, or his/her duly authorized designee, is authorized to issue technical direction to IEM. Such direction may include instructions that provide details regarding, or otherwise clarify, the Work. This direction shall not constitute new assignments, or changes, modifications, or amendments, which justify any change to the Agreement terms and conditions, or price.
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|------------------------------------|-------------------------------------|
| FOR IEM: | FOR CLIENT: |
| Keith Reynolds | Lisa Schwartz Gosline |
| Manager of Contract Administration | Weber County Emergency Manager |
| IEM International, Inc. | Weber County Sheriff's Office |
| 2801 Slater Road, Suite 200 | 1400 Depot Drive, Ogden, Utah 84404 |
| Morrisville, NC 27560 | 801-778-6682 |
| (919) 990-8191 | Lschwartz@webercountyutah.gov |
| contracts@iem.com | |
7. Confidential Information.
- 7.1. Definitions. For the purposes of this Agreement, "Confidential Information" shall mean any information that is treated as confidential by a Party, including without limitation trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. Confidential Information shall not include information that: (a) is already known to the Party receiving or acquiring it, directly or indirectly, under this Agreement ("Receiving Party") without restriction on use or disclosure prior to receipt of such information from the Party disclosing Confidential Information under this Agreement ("Disclosing Party"); (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a Third Party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.
- 7.2. Obligations of the Parties. The Receiving Party agrees that it: (a) shall treat the Confidential Information as confidential and shall take reasonable precautions to prevent unauthorized disclosure or use of the Confidential Information, such precautions taken being at least as great as the precautions taken to protect its own proprietary information (but in no case less than reasonable care); (b) shall not disclose the Confidential Information to any Third Party without the Disclosing Party's prior written authorization; (c) shall not use the Confidential Information except for the purpose of providing services or fulfilling obligations under this Agreement; (d) shall promptly return the Confidential Information to the Disclosing Party upon request and upon expiration or termination of this Agreement; and (e) shall limit disclosure



of Confidential Information to those Persons requiring such disclosure to perform services under this Agreement. The Receiving Party acknowledges that any violation of this Section 7 shall result in irreparable injury to the Disclosing Party and thus if the Receiving Party should breach or threaten to breach any provision of this Section 7, the Disclosing Party shall be entitled, in addition to any other remedies it may have at law or in equity, to a restraining order, injunction, specific performance or other similar remedy in order to enforce this Agreement without the posting of bond.

7.3. Required Disclosure.

- 7.3.1. Notwithstanding the foregoing restrictions on disclosure, this Agreement shall not preclude the disclosure of Confidential Information if:
- 7.3.1.1. Such disclosure is required by law or legal process ("Legal Order");
 - 7.3.1.2. Such disclosure is required by the U.S. Government; or
 - 7.3.1.3. The Proposed Transaction requires such disclosure, and the Disclosing Party consents in writing prior to such disclosure (which consent shall not be unreasonably conditioned, withheld, or delayed).
- 7.3.2. Regarding a disclosure pursuant to Section 7.3.1.1 of this Agreement, the Receiving Party required to disclose shall give prompt, prior notice to the Disclosing Party (to the extent permitted by the Legal Order) and, at the request and expense of the Disclosing Party, shall reasonably cooperate with the Disclosing Party to obtain a protective order or other form of confidential protection, if available. If, after providing such notice and assistance as required herein, the Receiving Party remains subject to the Legal Order to disclose any Confidential Information, the Receiving Party (or its Representatives or other persons to whom the Legal Order is directed) shall limit the disclosure to only those portions of the Confidential Information required by the Legal Order.
- 7.3.3. Regarding a disclosure pursuant to Section 7.3.1.2 of this Agreement, the Receiving Party required to disclose shall give prompt, prior notice to the Disclosing Party and the Confidential Information must be disclosed with any original restrictive legends and such other markings as may be required under U.S. Government regulations to preserve its proprietary nature and the Disclosing Party's rights therein.
- 7.3.4. Regarding a disclosure pursuant to Section 7.3.1.3 of this Agreement, the Receiving Party required to disclose shall give prompt, prior notice to the Disclosing Party of the required disclosure.

7.4. Survival of Obligations. The Parties' obligations under the terms of this Section 7 shall survive the termination or expiration of this Agreement for a period of three (3) years.

8. Indemnification. Each Party shall mutually indemnify, defend, and hold the other harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable attorney's fees) arising out of or relating to any claims, causes of actions, lawsuits, or other proceedings, regardless of legal theory, that result, in whole or in part, from each other's officials', officers', agents', employees', contractors', and subcontractors' (a) intentional misconduct, negligence, or fraud; or (b) products or services including, without limitation, any claims that such products or services infringe any United States patent, copyright, trademark, trade secret or any other proprietary right of any Third Party.
9. Non-Solicitation. During the term of this Agreement and for a period of one (1) year thereafter, neither Party shall, directly or indirectly, in any manner solicit or induce for employment any individual who is then in the employment of the other Party. A general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the Internet, shall not be construed as a solicitation or inducement for the purposes of this Section 9, and the hiring of any such employees or independent contractors who freely respond thereto shall not be a breach of this Section 9.
10. Works for Hire; Ownership. Upon payment in full of all monies owed to IEM, the Client shall own all rights, title, and interest in and to all Deliverables. Ownership does not extend to copyrighted or proprietary information, or to other data in IEM's lawful possession prior to execution of this Agreement.
11. Costs and Expenses. Except as otherwise provided for in this Agreement, each Party shall bear all costs and expenses incurred by it in complying with this Agreement.
12. Limitation of Liability. In no event shall either Party be liable to the other or to any Third Party for any loss of use, revenue or profit or for any consequential, incidental, indirect, exemplary, special or punitive damages whether arising out of breach of contract, tort (including negligence) or otherwise, regardless of whether such damage was foreseeable and whether or not such party has been advised of the possibility of such damage. Notwithstanding the foregoing, nothing herein shall limit either party's liability under Sections 7 or 8 of this Agreement.
13. Dispute Resolution.
- 13.1. Except as set forth in Section 13.2 herein, in the event of any dispute, claim, question, or disagreement arising out of or relating to this Agreement, or the interpretation, validity, scope, or breach thereof, the Parties shall use their best efforts to settle such dispute, claim, question, or disagreement. To this effect, the Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the Parties do not reach such solution within a period of thirty (30) calendar days, then, upon written notice by either Party to the other, all such disputes, claims, questions, or disagreements shall be finally



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settled by mediation. If the dispute cannot be resolved through mediation, the parties may seek relief in a court proceeding.

- 13.2.A Disclosing Party shall not be subjected to the negotiation and arbitration requirements of Section 13.1 in the event of an actual, threatened, or alleged breach by the Receiving Party of the Confidential Information obligations herein. In such event, the Disclosing Party may immediately seek relief in a court proceeding. Any such proceeding must be instituted and maintained in the state courts of North Carolina located in Wake County or the United States District Court for the Eastern District of North Carolina, Raleigh Division. The Parties hereby irrevocably consent to jurisdiction and venue in such courts for this purpose, and the Parties waive objection to the jurisdiction and venue being in such courts.
14. Choice of Language; Choice of Law. All documentation, correspondence, and communications relating to this Agreement shall be made in the English language. This Agreement, and any dispute or controversy arising out of or relating to this Agreement, shall in all respects be governed by and construed according to the laws of the State of North Carolina, without giving effect to any principles of conflict of law or choice of law of such State or any other jurisdiction.
15. Force Majeure. If at any time during the existence of this Agreement, any Party is unable to perform whole or in part any obligation under this Agreement because of war; hostility; military operations of any character; civil commissions; sabotage; quarantine restrictions; acts of government; fire; floods; explosions; epidemics; strikes or other labor trouble embargoes; and any other matter beyond human control/capability, then the date of any obligation shall be postponed during the time which such circumstances are operative.
16. Severability. If any part or provision of this Agreement is, for any reason, held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, then such part or provision shall be severable from this Agreement, shall not affect any other part or provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable part or provision had never been contained herein. The remaining part or provisions hereof shall remain effective and fully enforceable to the maximum extent permitted by law.
17. No Waiver. The waiver by any Party hereto of any default hereof or of any breach of any covenant, agreement, or condition contained herein shall not be construed to constitute a waiver of any other default or breach hereof, similar or otherwise. No waiver of this Agreement or any portion thereof shall be binding upon any Party unless made in writing signed by a duly authorized Representative of such Party, and no failure or delay in enforcing any right shall be deemed a waiver.
18. Notices. All notices authorized or required to be given pursuant to this Agreement shall be in writing and either delivered by hand; mailed by registered or certified first class mail, postage prepaid; or sent by electronic communication as follows:
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| <p>TO IEM:</p> <p>IEM
ATTN: Contract Management
2801 Slater Road, Suite 200
Morrisville, NC 27560
(919) 990-8191
contracts@iem.com</p> | <p>TO CLIENT:</p> <p>Weber County Emergency Management
ATTN: Lisa Schwartz Gosline
1400 Depot Drive
Ogden, Utah 84404
lschwartz@webercountyutah.gov</p> |
|--|---|
- Any such notice shall be deemed to have been given and received, if delivered or sent by electronic communication, on the day on which it was delivered or sent and, if mailed, on the fifth (5th) business day following the day it was mailed, subject to the provisions of Section 15 of this Agreement. Any electronic communication sent after 3:00 p.m. Eastern Time shall be deemed to have been sent at 9:00 a.m. Eastern Time on the following business day.
19. Parties in Interest; No Assignment. This Agreement is solely for the benefit of the Parties and shall not be deemed to confer upon or give to any Person any remedy, claim of liability or reimbursement; cause of action; or other right. This Agreement shall be binding on the Parties and their respective successors and permitted assigns. No Party may assign, transfer, or delegate its rights or obligations contained herein without the prior written consent of the other Parties, which consent shall not be unreasonably conditioned, withheld, or delayed. Any change of control of a Party shall be deemed an assignment of this Agreement that requires the prior written consent of the other Parties. For the purposes of this Agreement, "change of control" means any merger; consolidation; sale of all or substantially all of the assets; or sale of a substantial block of stock of a Party.
20. Headings; Construction. The headings in this Agreement are for convenience of reference only and shall not in any way define, limit, or describe the scope or intent of any provisions or sections of this Agreement. The Parties have negotiated the provisions of this Agreement, and this Agreement shall be deemed to have been drafted by all Parties hereto.
21. Entire Agreement; Amendments. This Agreement, including all attachments hereto, reflects the complete understanding between the Parties regarding the subject matter hereof and constitutes their entire agreement, superseding all prior negotiations, representations, agreements, understandings, and statements, whether oral or written, regarding the subject matter hereof. This Agreement may not be altered, modified, or amended, in whole or in part, except in writing signed by duly authorized Representatives of each Party. No statement by any Representative of any Party may be construed as amending this Agreement in any way.
22. Method of Execution. This Agreement may be executed in multiple counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. If any signature is delivered by facsimile transmission or by electronic mail delivery of a file in Portable Document Format (PDF), such signature shall create a valid and



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binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

IN WITNESS WHEREOF, each Party represents that it has read this entire Agreement, comprising 5 pages (including Schedule A), and agrees to perform in accordance with the terms and conditions contained herein. Each Signatory to this Agreement warrants by affixing his or her signature below that he or she is duly authorized to bind the Party whom such Signatory represents.

FOR CLIENT:

FOR IEM:

James H. Harvey
Weber County Commission Chair

DocuSigned by:
Brad Tiffie
76F9874E260741A...
3/22/2024
Brad Tiffie
IEM International, Inc. Chief Administrative Officer

Date

Date

SCHEDULE A: SCOPE OF SERVICES

Weber County Invoice Schedule					
				Monthly	Cumulative
Firm Fixed Price Contract			\$95,081.22		
	85%		\$80,819.04		
Mar-24				\$16,163.81	
Apr-24				\$16,163.81	\$32,327.61
May-24				\$16,163.81	\$48,491.42
Jun-24				\$16,163.81	\$64,655.23
Jul-24				\$16,163.81	\$80,819.04
After approval				\$14,262.18	\$95,081.22

IEM understands the planning services to Weber County (County) project's objectives and requirements included in carrying out tasks required to complete the planning process outlined in the Scope of Work. IEM has grouped the RFP requirements into the following six tasks:

- Task One: Planning Process
- Task Two: Hazard Identification and Risk Assessment
- Task Three: Capability Assessment
- Task Four: Hazard Mitigation Strategies
- Task Five: Draft Plan with Public Input and Maintenance Procedures
- Task Six: Develop and Adopt Final Plan

The approach to be used by IEM in developing the Weber County Pre-Disaster Mitigation Plan (PMP) will include all tasks and requirements outlined in the RFP.