

CONSULTANT AGREEMENT

PROJECT NAME: **Tooele County Traffic Impact Fee Support**

THIS AGREEMENT is made and entered into **June 18, 2015** by and between **Tooele County**, located at 47 South Main Street, Tooele, UT 84074 ("Client"); and **InterPlan Co.**, a Utah corporation, headquartered at 7719 South Main Street, Midvale, Utah 84047 ("Consultant").

WITNESSETH THAT, in consideration of the premises and covenants hereinafter set forth, the parties agree as follows:

1. **Consulting Services.** Consultant agrees to perform the consulting services described in Exhibit A, Scope of Services. Consultant shall not be compensated for any work performed in addition to that set forth in Exhibit A unless the parties specifically so agree in writing.

2. **Data To Be Furnished.** All information, data, reports, records and maps with respect to the Project which are available to Client and which Client deems reasonably necessary for the performance of work set forth in Exhibit A, shall be furnished to Consultant without charge by Client.

3. **Personnel.** Consultant agrees that it will employ, at its own expense, all personnel necessary to perform the services required by this Agreement and in no event shall such personnel be the employees of Client. All of the services required hereunder shall be performed by Consultant under the direction of **Vern Keeslar**, and all personnel engaged therein shall be fully qualified under applicable federal, state and local law to undertake the work performed by them. Consultant assumes full and sole responsibility for the payment of all compensation and expenses of such personnel and for all state and federal income tax, unemployment insurance, Social Security, Medicaid, disability insurance and other applicable taxes and withholdings.

4. **Compensation.** Client shall pay Consultant an amount not to exceed the sum of consideration for the services as set forth in Exhibit B. The fee shall include overhead and incidental expenses, for which no additional compensation shall be allowed. In order to effect timely payment to Consultant, Consultant shall submit invoices to Client on or before the first (1st) day of each month. The invoices shall describe in reasonable detail the services rendered, fees charged and expenses incurred by Consultant during the previous month. Payment of said monthly invoices shall be considered past due after thirty (30) days of receipt by Client. Thereafter, interest shall be due at the rate of eighteen percent (18%) per annum on all unpaid invoices.

5. **Time of Performance.** (a) Consultant shall commence the performance of its services under this Agreement on **June 18, 2015** and shall diligently proceed in accordance with the schedule set forth in Exhibit C. Time is of the essence with respect to the performance of this agreement. If the project scope, required data, and/or comments are delayed by the Client, the due dates in this schedule will be extended accordingly.

Consultant agrees to give Client as much notice as practicable of any foreseeable delay, caused by any reason, in the completion of Consultant's services in accordance with the schedule set forth in Exhibit C.

6. **Term.** The term of this Agreement shall commence as of the date written under time of performance and shall continue until either the work is completed as per the scope set forth in Exhibit A or upon receipt of a written notice by either party of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party. If this agreement is terminated prior to completion of the work, Client agrees to reimburse Consultant for all labor and material expenses incurred by Consultant up to the time of termination as well as additional reasonable expenses necessary to complete administrative activities and/or return project related documents.

7. **Ownership of Documents.** Consultant agrees to return to Client upon termination of this Agreement all documents, drawings, photographs and any other written, electronic, or graphic material, however produced, received from Client and used by Consultant in performance of its services hereunder. All work papers, drawings, internal memoranda of any kind, photographs and any other written or graphic material, however produced, prepared by Consultant pursuant to this Agreement shall be and shall remain the property of Consultant.

8. **Consultant's Insurance.** Consultant agrees to indemnify, defend, and hold harmless the Client from all claims, damages, losses and expenses resulting from this agreement provided that such claim, damage, loss, or expense is caused by negligent acts, errors, or omissions, or willful misconduct of the Consultant. Consultant shall procure and maintain at its own expense all necessary insurance to perform the professional services of this agreement including workers compensation insurance (as required by law), commercial liability insurance, profession liability insurance and related insurance in accordance with standard professional practice. Consultant agrees to maintain proper insurance throughout the duration of the project and shall provide written documentation of insurance as requested by the Client.

9. **No Discrimination in Employment.** In connection with the performance of this contract, Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

10. **Law Abiding.** Consultant shall observe and comply with all federal, state, and local laws or ordinances that affect those employees, or those engaged by him on the project or the materials or equipment used or the conduct of the work.

11. **Written Reports.** Consultant agrees to submit their written reports in electronic format. Direct printing and distribution costs are not included in this contract but may be added, without markup, upon mutual agreement of Client and Consultant.

12. **Attorneys' Fees/Arbitration.** Consultant and Client agree to negotiate in good faith to resolve any disputes or differences arising from this agreement. In the event that such disputes cannot be resolved by good faith negotiations, any and all disputes shall be resolved by way of binding Arbitration utilizing a single Arbitrator. Arbitration shall take place under the auspices of the American Arbitration Association or other mutually agreed upon format. The prevailing party shall also be entitled to be reimbursed for any and all Arbitration expenses incurred.

13. **Notices.** Any notice or demand affecting this agreement, or the timely completion of services to be provided under this agreement shall be given hereunder in writing.

14. **Waivers.** Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.

15. **Modification.** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing.

16. **Assignment.** Consultant shall not assign, transfer or otherwise dispose of this Agreement in whole or in part to any individual or corporation without the prior written consent of Client. Sub-consulting of specific work tasks proposed at the time of this agreement are outlined in Exhibit A. Subject to the provisions of the preceding sentence, this Agreement shall be binding upon the respective successors and assigns of the parties.

17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

18. **Entire Agreement.** This Agreement sets forth the entire understanding between the parties as to the subject matter of this Agreement and merges all prior discussions, negotiations, letters of understanding or other promises, whether oral or in writing.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT the day and year first-above written.

InterPlan Co.  
"Consultant"

Tooele County  
"Client"

Dated: 8/4/15

Dated: 22 July 2015

By: Andrea Olson  
Printed

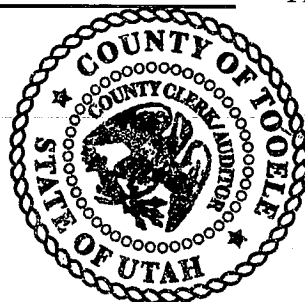
By: WADE B. BITNER  
Printed

By: *Andrea Olson*  
Signed

By: *Wade B. Bitner*  
Signed

Title: President

Title: Commissioner



ATTEST:

*Marilyn K. Gillette*  
MARILYN K. GILLETTE  
TOOELE COUNTY CLERK/AUDITOR

## EXHIBIT A

### SCOPE OF WORK

#### **Introduction**

The following brief scope and budget is offered at the request of Tooele County in order to support their efforts to create traffic impact fees for development. Tooele County needs to develop a capital facilities plan to support the impact fee program for transportation. InterPlan offers this cost proposal to support the efforts of Tooele County in the development of transportation impact fees and the associated transportation element of the capital facilities plan.

#### Key Assumptions

In the development of the following scope of work, several assumptions have been made based on the status of other related on-going efforts in Tooele County with the development of a general plan and the transportation element of the general plan. The term "consultant" in these assumptions and in the scope of work refers to assumed efforts of InterPlan.

- Tooele County will be developing a transportation element as part of the general plan that describes capacity needs and planned or programmed transportation capacity improvement projects for the next 10 years, or at timeframes consistent with other planning efforts. Additional travel modeling will be necessary to determine the existing and forecasted use of transportation facilities by Tooele County land uses.
- Land use types will be provided by Tooele County. Consultant efforts may include adjustments to land use assumptions into equivalent residential units, or other land use types, to facilitate the development of fair share trip rates.
- It is assumed that Tooele County will encompass a single "impact fee zone" such that impact fees will not be expected to vary based on the geography of development within the County. InterPlan does not guarantee that this analysis will justify the creation or increase of a traffic impact fee.

#### 1. Coordinating Land Use Assumptions

InterPlan will review land use growth assumptions provided by others to ensure consistency across all plans. InterPlan efforts will include adjustments of land use assumptions to units that can be used to offer a fair share assessment of transportation impacts.

#### 2. Create Capital Facilities Plan and Travel Modeling

InterPlan will create the roads Capital Facilities Plan as developed in of the transportation element of the general plan. InterPlan will work with Tooele County staff to distinguish and identify existing needs versus needs created by new growth and development. Further, InterPlan will work with Tooele County staff to identify the transportation needs added by cities related to traffic entering, leaving, or passing through Tooele on non-state highways based on available traffic counts and traffic forecasts. InterPlan will work with Tooele County staff to document the transportation Capital Facilities Plan so that it meets the requirements of the Impact Fee Facilities Plan (IFFP) by Utah Code. InterPlan will update the regional travel demand model provided by UDOT to reflect improved calibration of the lower functioning streets in Tooele County and will

use the model as a guide to reflect the impact of new growth in Tooele County on specific roadways called out in the IFFP.

3. Relate Land Use Growth to Traffic Impact Units

InterPlan will work with Tooele County staff to coordinate traffic impact assessment with other growth and economic development strategies of the County. Traffic impacts are typically assessed by "daily trips" but it is not uncommon to assess impact by vehicle miles of travel (VMT), peak hour trips, or other units in order to better reflect the transportation burden offered by new development based on development type and location.

4. Develop Fee Schedule for Land Uses

Based on the unit of transportation impact developed in task 3, InterPlan will develop a table of traffic impact fees for various development types anticipated by Tooele County. It is assumed that no more than 20 land use types will be estimated and will be based on commonly anticipated and available land use proposal units such as housing units, gross square feet of various development types, etc. The fee schedule shall properly eliminate the possibility of double counting impacts that might begin and end in Tooele County as well as unique transportation issues such as "pass-by" traffic impacts, internal capture of multiple uses, etc. The actual Impact Fee Analysis (IFA) will be determined by Tooele County staff.

5. Documentation and Coordination

InterPlan will work as an extension of the Tooele County staff to offer sufficient documentation to adequately describe the methodology, data inputs, and other information used to develop transportation impact fees. The IFFP will be within the transportation element of the general plan and will include sufficient mapping to identify transportation improvement projects and sufficient documentation to fully describe costs, improvement types, and other pertinent information. It is not anticipated that all of InterPlan's work will be documented the general plan, but various elements of the work will be documented as needed to support the work of others and to be incorporated as a useful tool for Tooele County. It is assumed that three meetings will be necessary with Tooele County staff for coordination.

**EXHIBIT B**

**COMPENSATION**

Tooele County, Utah											
Traffic Impact Fee Facilities Plan											
InterPlan Cost Estimate											
	Person	Andrea Olson	Vern Keeslar	Charles Allen	Tim Sullivan	Kai Tohinaka	Suellen Heath	Jen Black	TOTAL	TOTAL COST	
Task	Description	Principal	Project Manager	QAQC	Engineer	Planner	Planning Tech	Support	HOURS		
	<b>Total Labor</b>	4	46	14	28	120	6	6	224	\$ 21,940.00	
1	Coordinating Land Use Growth Assumptions	0	4	0	6	12	0	1	23	\$ 2,215.00	
2	Develop Capital Facility Plan and Travel Modelling	0	18	6	6	44	1	1	76	\$ 7,350.00	
3	Relate Land Use Growth to Traffic Impact Units (Trips)	0	6	1	6	32	1	1	47	\$ 4,195.00	
4	Developing Fee Schedule for Land Uses	0	6	1	2	12	2	1	24	\$ 2,320.00	
5	Documentation and Coordination and QAQC	4	12	6	8	20	2	2	54	\$ 5,630.00	
	Direct Costs	(assumed 400 miles at \$0.575 per mile)									\$ 230.00

*The following budget represents a not-to-exceed cost. Actual costs will be billed monthly based on hourly rates of each staff person, inclusive of overhead, profit, and other direct costs. Hours by task are estimated only and may vary by staff person or task within the total cost value.*

**EXHIBIT C**

**SCHEDULE**

<b>Tooele County</b>						
<b>Traffic Impact Fee Support</b>						
<b>InterPlan Schedule</b>						
<b>Task</b>	<b>Description</b>	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>
1	Coordinating Land Use Growth Assumptions					
2	Develop Capital Facility Plan and Travel Modeling					
3	Relate Land Use Growth to Traffic Impact Units (Trips)					
4	Developing Fee Schedule for Land Uses					
5	Documentation and Coordination					

*The proposed schedule is provided to estimate the flow of work over time. This schedule may be updated during the duration of the project with the approval of all affected parties. Certain components of the schedule reflect decision points or work provided by the Client and may vary under circumstances not controlled by the Consultant.*