

PURCHASING
COPY



UTAH DEPARTMENT OF CORRECTIONS

CONTRACT #

UDC FILE # 00A-884-IO

066028

1. **CONTRACTING PARTIES:** This contract is between the Utah Department of Corrections (hereafter, "UDC"), 14717 S. Minuteman Drive, Draper, Utah 84020, Utah State Prison, Draper Site (hereafter "USP") 14425 South Bitterbrush Lane, Draper, Utah 84020, and:

NAME:	Anago of Utah	<u>LEGAL STATUS OF CONTRACTOR</u>
		[] Sole Proprietor
ADDRESS:	5505 South 900 East Ste. 115 Salt Lake City, UT 84117-3526	[] Non-Profit Corporation
TELEPHONE	(801) 327-0496	[X] For-Profit Corporation
CONTACT:	Eric J. Contreras	[] Partnership
E-mail:	e_j_contreras@yahoo.com	[] Government Agency

Hereafter referred to as "CONTRACTOR."

1. **ACCOUNTING INFORMATION:** Fund **100**, Agency **410**, Low Org **3541** Appropriation Unit **MCJ**, Object Code **6142**, Utah Vendor **#90036-A**, Commodity Code **91039**, Federal Tax ID # **20-1246423**

2. **GENERAL PURPOSE OF CONTRACT:** To provide custodial services for the Draper Site Transportation Building.

3. **PROCUREMENT:** This contract is entered into as a result of the procurement process on bid #RF5152-2, requisition #410 53000000007, FY05.

4. **CONTRACT PERIOD:** Effective Date July 1, 2005. Termination Date December 31, 2010 unless terminated early or extended in accordance with the terms and conditions of this contract.

5. **CONTRACT COSTS:** Contractor will be paid a maximum of NINETEEN THOUSAND EIGHT HUNDRED DOLLARS AND ZERO CENTS (\$19,800.00) for costs authorized by this contract.

6. **ATTACHMENT A:** Utah Division of Purchasing Standard Terms and Conditions
ATTACHMENT B: Utah Department of Corrections Special Terms and Conditions
ATTACHMENT C: Scope of Work

Any conflict between Attachment A and other Attachments will be resolved in favor of Attachment A.

7. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**

- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.

- b. Utah State Procurement Code, Procurement Rules, and contractor's response to RF5152-2 dated June 24, 2005.

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated

damages.

14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution, and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

ATTACHMENT B

UTAH DEPARTMENT OF CORRECTIONS SPECIAL TERMS AND CONDITIONS

1. **ASSIGNMENT AND DELEGATION.** Neither party shall assign any right or delegate any duty under this contract without the express written and signed consent of the other party.
2. **ATTORNEY'S FEES.** If either party brings an action, in law or equity, to compel the performance of, or to recover for the breach of, any agreement, covenant, or promise contained in this contract, the non-prevailing party shall pay the prevailing party's reasonable attorney's fees, the amount of any judgment, and all costs incurred.
3. **CONTRACT FORMATION.** No legally enforceable rights or duties shall arise between the parties under this contract until: (a) the respective representatives of CONTRACTOR and UDC sign the contract; and (b) the contract is approved and signed by the respective representatives of the UDC Office of Administrative Services, the UDC Bureau of Financial Services, and the State of Utah's Divisions of Purchasing and Finance.
4. **CONTRACTOR ACCESS TO UDC FACILITIES.** UDC shall have the right to deny CONTRACTOR'S agents and employees--or the agents and employees of its subCONTRACTORS (if any)--access to any premises controlled, held, leased, or occupied by UDC if, in the sole judgment of UDC, such personnel pose a threat to any of UDC legitimate security interests. Contractor will submit to all security checks that UDC deems necessary; including, but not limited to, searches of person and equipment. No one under the age of 18 will be allowed on property.
5. **CRIMINAL CONVICTION INFORMATION.** Upon written request by UDC, CONTRACTOR shall provide (at its own expense) UDC with sufficient personal information about its agents or employees--and the agents and employees of its subCONTRACTORS (if any)--who will enter upon premises controlled, held, leased, or occupied by UDC during the course of performing this contract so as to facilitate a criminal record check, at state expense, on such personnel by UDC.
6. **FORMER FELONS.** CONTRACTOR, in executing any duty or exercising any right under this contract, shall not cause or permit any of its agents or employees--or the agents or employees of its subCONTRACTORS (if any)--who have been convicted of a felony to enter upon any premises controlled, held, leased, or occupied by UDC. A given crime shall be deemed a felony if defined as such by the jurisdiction where the conviction occurred.
7. **INTEGRATION.** The parties declare this contract to be the final and complete expression of their agreement, and it shall not be contradicted, supplemented, or varied by any prior or contemporaneous oral or written agreements, representations, or understandings. **No modifications of this agreement will be binding on either party, unless made in writing and signed by persons authorized to sign agreements on behalf of the CONTRACTOR and UDC.**
8. **NON-APPROPRIATION OF FUNDS.** UDC continued performance after the start of the State of Utah's next fiscal year is expressly contingent upon funds for this contract being appropriated, budgeted, or otherwise made available. If funds are not made available for the next fiscal years, this contract will automatically terminate at the end of the current fiscal year.
9. **OCCUPATIONAL SAFETY AND HEALTH.** (This clause will be considered a part of this contract only if required by law, rule, or regulation). CONTRACTOR represents that it is in compliance with Occupational Safety and Health Administration (OSHA) standards on blood borne pathogens set forth in 29 CFR 1910.1030, for any of the CONTRACTOR'S employees who provide services to UDC pursuant to this contract.
10. **PARAGRAPH AND SECTION HEADINGS.** Paragraph and section headings throughout this contract are used for the sole purpose of facilitating the quick location of various contract provisions. Consequently, such headings do not create contractual rights or obligations, nor are they to be construed as a substantive part of the paragraphs or sections to which they belong.
11. **PUBLIC ACCESS TO CONTRACT INFORMATION.** This contract is a public document, and both CONTRACTOR and UDC shall allow members of the general public to inspect a copy of the same during their regular business hours. Interested parties may obtain a copy of this contract at their own expense.
12. **MONITORING AND REVIEW OF CONTRACT/AGREEMENT:** UDC, either itself or through a designated third-party, will monitor and review CONTRACTOR'S delivery of services and compliance with the contract/agreement. Monitoring shall include, but not be limited to, verification that specified duties are being properly performed, that appropriate documentation exists, that charges submitted are properly substantiated, and that payments are made in accordance with agreement costs. Monitoring of CONTRACTOR'S records related to this contract/agreement may be performed with or without prior notification by UDC or it's designee.
13. **IMMUNITY ACT:** No Provision of this contract shall be construed to bring contractors or their agents, employees, or subcontractors (if any) within the coverage of the Utah Governmental Immunity Act, Utah Code Ann. § 63-30-1 et seq., as amended.

14. **WORKERS' COMPENSATION:** CONTRACTOR shall be responsible to provide Workers' Compensation Insurance for itself and its agents and/or employees or the agents and employees of its subcontractor. Contractor will defend, indemnify, and hold UDC harmless from any claim or liability arising out of CONTRACTOR'S or its agents' and/or employees' workers' compensation claims or its subCONTRACTOR'S employees' and/or agents' worker's compensation claims.
15. **CONTRACTOR AN INDEPENDENT CONTRACTOR:** CONTRACTOR acknowledges and agrees that it is providing its services and the services performed by its employees and/or agents as an independent contractor and not as an employee of UDC or the State of Utah. CONTRACTOR acknowledges and agrees that it is not entitled to any benefits, wages, or rights to which employees of UDC are entitled, including but not limited to retirement, medical/dental, leave, and overtime benefits. As an independent contractor, CONTRACTOR is solely responsible to pay appropriate federal and state taxes, FICA and FUTA on payments received by it and its employees and/or agents. CONTRACTOR agrees to indemnify UDC for all losses arising out of CONTRACTOR'S or subCONTRACTORS' tax liabilities, including any and all penalties, assessments, and/or claims against UDC.
16. **WAIVER OF CLAIMS:** CONTRACTOR and/or his agents/employees expressly and knowingly waive(s) any claim to wages, employment benefits and/or rights entitled to employees of UDC. By waiving its claims, CONTRACTOR agrees that neither it nor its employees/agents will file claims for wages and/or employment benefits entitled to employees of UDC, including but not limited to claims arising under the Federal Labor and Standards Act (FLSA) and/or State employment laws. CONTRACTOR agrees to indemnify, defend, and hold the UDC harmless against claims for employee wages, benefits, and/or rights otherwise entitled to employees of UDC.

Revision 4-12-05

-----END OF ATTACHMENT B-----

ATTACHMENT C

SCOPE OF WORK

I. SERVICES:

The USP will provide all equipment and cleaning supplies deemed necessary for the performance of the job.

Contractor shall:

Daily Duties:

1. empty all trash containers;
2. clean desks and other office furniture upon request of USP staff member only;
3. dust and spot clean all other furniture located in conference rooms, hallways and other office areas;
4. vacuum hallways, entries, offices and sweep corners;
5. sanitize and polish drinking fountains;
6. sweep all entries to the drip line;
7. empty and thoroughly clean all ashtrays located at the front and back entry ways;
8. reset chairs to standard position in meeting rooms;
9. spot clean all carpet/upholstery, if needed;
10. wipe down break room tables and chairs;
11. sanitize sinks and countertops in break room;
12. sanitize restrooms to include mirrors, fixtures, floors, walls, toilets, tables, partitions and ledges;
13. keep area around trash dumpster clean;
14. clean around light switches, doors and door frames;
15. shake all entry mats;
16. fill all paper towel containers, toilet paper racks and fill soap dispensers;
17. dust and clean all surface areas and walls for dust and cob webs, etc.;
18. clean door windows to include entry doors; and
19. sweep the utility/maintenance room.

Quarterly Duties - January, April, July, October

1. dust and vacuum diffusers and grills from the heating/air conditioner vents;
2. strip and wax bathroom floors;
3. clean interior windows.

Semi-Annual Duties - May, November

1. clean blinds;
2. clean light fixtures; and
3. clean walls.

Cleaning will begin Monday, Wednesday and Friday at 8:00 am. Adjustments to the time may be approved by DIO supervisor and may be flexible (9:00AM).

The floor plan for the building is a security issue and cannot be published but there is an estimated 1600 square feet to be cleaned.

II. COSTS:

- A. Contractor shall provide services as described in Scope of Work. Charges per month will be **\$299.00** and will be billed on a monthly basis.
- B. Contractor is not entitled to any other benefits and will only be paid per the above.

III. Payment:

A. Time of Payment:

- 1. Reimbursement under this contract shall be made on a fee for delivered services as defined in contract.
- 2. UDC will make payment upon CONTRACTOR'S submission of an invoice up to the contract limit. Monthly invoices shall identify the contract number and vendor account number.
- 3. reimbursement must be made with funding allocated for the fiscal year in which the services and/or products were delivered. Billing for June services received after July 10, deadline does not have to be reimbursed unless funding can be utilized from the appropriate fiscal year.

B. All payments made by UDC to CONTRACTOR shall be made in accordance with the Utah Prompt Payment Act, Utah Code Ann. §§ 15-6-1 et. seq. upon receipt of an invoice.

C. All payments by UDC to CONTRACTOR shall be sent to CONTRACTOR'S address appearing in page 1, ¶ 1 above-entitled "CONTRACTING PARTIES."

IV. Licenses/Insurance:

- A. CONTRACTOR agrees to maintain for the duration of the contract period all licenses necessary to lawful performance of the services covered by this contract. A copy of CONTRACTOR'S business licenses shall remain on file in the DIO Contract Coordinator's office. CONTRACTOR further agrees to advise UDC immediately in writing of any limitation, cancellation, or other termination of such licenses.

- B. CONTRACTOR shall provide proof of performance bond. The CONTRACTOR shall bear responsibility for liability insurance as well Worker's Compensation insurance. CONTRACTOR will have a valid "Certificate of Insurance" sent to UDC from the insurance carrier.