

UTAH COUNTY
PUBLIC WORKS DEPARTMENT
2855 South State Street
Provo, Utah 84606
(801) 851-8600

INVITATION TO BID
for
RESTROOM COUNTER AND FLOOR REMODELS
ITB # 2018-5

CLOSING DATE
FOR RECEIPT OF BIDS: Wednesday, February 7, 2018

TIME: 3:00 p.m. (Mountain Time)
Bids will be opened at 3:15 p.m.

PLACE: Office of the Utah County Purchasing Agent
100 East Center Street
Room 3600
Provo, Utah 84606

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1. INVITATION TO BID

1.1 INTENT

Through this Invitation to Bid (ITB), Utah County intends to select a qualified Contractor to remodel the counter tops, floor tile, and wall tile in 8 restrooms in the Utah County Administration Building in Provo, Utah.

The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the terms hereof.

If a Contractor is selected pursuant to this ITB, an agreement will be executed with Utah County, a sample copy of which is attached as Exhibit C.

1.2 PROCEDURE

A. The procedure for response to this ITB, evaluation of bids, and selection of a Contractor is as follows:

1. Interested entities will prepare and submit their bids prior to the specified Closing Date for Receipt of Bids.
2. Utah County and/or its representatives will evaluate all submitted bids to determine acceptance or rejection of the bids.
3. The selected Contractor will be required to sign an agreement with the County.

1.3 PRE-BID SITE VISIT

Each bidder is responsible to visit the work site prior to submitting a bid to examine conditions and determine exact quantities.

1.4 BID ORGANIZATION

A. The bid must include:

1. Completed Contractor's Cost Proposal (Attachment B)
2. Completed Contractor Information Form (Exhibit A).
3. Completed Certificate of Non-Collusion (Exhibit B).
4. A copy of the bidder's current local business license.
5. A copy of the bidder's current Contractor License issued by the Utah Department of Commerce, Division of Occupational and Professional Licensing.
6. Proof of required insurance.
7. Vendor W-9 Form.

1.5 BID SUBMISSION

A. Each respondent must submit TWO (2) copies of its SEALED bid to the Utah County Purchasing Agent. The envelope containing the bid must be clearly labeled "SEALED BID – RESTROOM COUNTER AND FLOOR REMODELS, ITB # 2018-5".

The bid must be delivered to

Utah County Purchasing Manager
100 East Center, Room 3600
Provo, Utah 84606

B. LATE BIDS WILL NOT BE ACCEPTED EXCEPT AS SET FORTH IN UTAH COUNTY PROCUREMENT RULES AND REGULATIONS.

1.6 QUESTIONS AND CLARIFICATIONS

All questions regarding this ITB must be submitted through the SciQuest web site. The deadline for submission of questions is specified on the SciQuest web site.

1.7 ACCEPTANCE OF BID

- A. Utah County reserves the right to reject any or all bids or waive minor irregularities when to do so would be in the best interests of Utah County. Minor irregularities are those which will not have a significant adverse effect on overall competition or performance levels.
- B. The responding party agrees that Utah County may terminate this procurement procedure at any time, and Utah County shall have no liability or responsibility to the responding party for any costs or expenses incurred in connection with this ITB, or such party's response.

1.8 DISPOSITION OF BIDS

All bids (and the information contained therein) shall become the property of Utah County. No bid shall be returned to the respondent regardless of the outcome of the selection process.

1.9 DISQUALIFICATION OF BID

The occurrence of any of the following may result in disqualification of a bid:

- A. Failure to respond within the established timetable.
- B. Failure to completely answer all questions presented in the ITB.
- C. Use of any other type of form or format other than those indicated in the ITB.
- D. Failure to provide requested documentation at the time of bid submission.
- E. Illegible responses.
- F. If the bidder adds any provisions reserving the right to accept or reject an award or to enter into an agreement pursuant to an award, or any other unauthorized conditions, limitations or provisions.
- G. If the bidder is unable to evidence a satisfactory record of integrity.
- H. If the bidder is not qualified legally to contract.
- I. If the bid at the opening does not contain a signed bid, and a signed certificate of non-collusion.
- J. Utah County reserves the right to reject any or all bids.

1.10 EVALUATION CRITERIA

All bids will be evaluated by authorized representatives of Utah County for compliance with the terms and conditions contained in this ITB and the resulting agreement awarded to the lowest responsive and responsible bidder.

1.11 GENERAL

- A. Utah County will award a contract in reliance upon the information contained in bids submitted in response to the ITB. Utah County will be legally bound only when and if there is a signed agreement entered into between Utah County and the awarded bidder.
- B. It is vitally important that any person who signs a bid or agreement on behalf of a respondent certifies that he or she has the authority to so act. The bidder who has its bid accepted may be required to answer further questions and provide further clarification of its bid and responses.
- C. Receiving this ITB or responding to it does not entitle any entity to participate in services or transactions resulting from or arising in connection with this ITB. Utah County shall have no liability to any person or entity under or in connection with this ITB, unless and until Utah County and such person have executed and entered into an agreement pursuant to the terms of this ITB.
- D. By responding to this ITB each responding party acknowledges that neither Utah County nor any of its representatives is making or has made any representation or warranty, either

express or implied, as to the accuracy or completeness of any portion of the information contained in this ITB. The responding party further agrees that neither Utah County nor any of its representatives shall have any liability to the responding party or any of its representatives as a result of this ITB process or the use of the information contained in this ITB. Only the terms and conditions contained in an agreement when, as, and if executed, and subject to such limitations and restrictions as may be specified therein, may be relied upon by the respondent in any manner as having any legal effect whatsoever.

1.12 INTERPRETATION OF ITB

The invalidity of any portion of this ITB shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this ITB are for convenience only and do not constitute a part of the provisions hereof.

1.13 PROPRIETARY INFORMATION

The Contractor shall mark proprietary information contained in the bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bids. Pricing and service elements of the successful bid will not be considered proprietary.

1.14 RULES OF PROCUREMENT

- A. This procurement shall conform to and is governed by The Utah County Division of Purchasing, Procurement Rules and Regulations.
- B. For this procurement, all bids must be submitted in the bid format outlined herein.
- C. All prospective bidders must meet the required criteria as of the date of submission. Respondents must provide all information requested in the Contractor Information Form.
- D. Utah County has established certain requirements with respect to bids to be submitted by respondents. The use of "shall", "must", or "will", in this ITB indicates a requirement or condition from which a material deviation will not be approved by Utah County.

**SPECIFICATIONS
RESTROOM COUNTER AND FLOOR REMODELS**

S.1 LOCATION

The project is located in the Utah County Administration Building, 100 East Center, Provo, Utah 84606., and includes eight (8) public restrooms (4 Men's and 4 Women's, one of each on 4 floors of the building).

S.2 QUANTITIES AND SITE CONDITIONS

- A. Contractor shall have SOLE responsibility for examining the project locations, determining all necessary measurements, estimating the quantities of materials needed, and determining all other site conditions that will affect the work.
- B. Bid Prices shall include all applicable costs.
- C. The quantities specified herein are only estimates used for bid evaluation purposes. Actual payment will be based upon inspection records kept by the County, and the actual work completed, approved, and accepted by the County.

S.3 COMPLETION DATE

All work must be completed on or before June 29, 2018.

S.4 STORAGE AND CLEANUP

All areas on County property used by Contractor for storage of materials and equipment shall be approved by County prior to use. These areas shall be cleaned up upon completion of the project, and shall be approved by County prior to final payment. All related costs for storage and cleanup are the responsibility of Contractor and shall NOT be paid as a separate item.

S.5 PHASING

The restrooms on floors LL and 2 of the building may be closed for work at the same time. The restrooms on floors 1 and 3 of the building must remain operational while those on floors LL and 2 are closed. Once that work is completed, the restrooms on floors 1 and 3 may be closed for work and those on floors LL and 2 must remain operational.

S.6 DEMOLITION

- A. County shall remove the existing sinks, cabinets, and counter tops.
- B. Contractor shall remove existing floor tile to limits determined by County (see TILE, and ADD ALTERNATE below).
- C. Contractor and County shall coordinate all demolition activities to maintain restroom availability in accordance with PHASING above.

S.7 PRODUCT AND COLOR SELECTION

The manufacturers, models, and colors of all items shall be approved by County and chosen from suitable samples supplied by Contractor.

S.8 COUNTER TOPS AND SINKS

- A. Contractor shall provide and install eight (8) new solid-surface counter tops, 144" wide x 22.5" deep, with skirt and 4" splash, one in each of the specified restrooms.
- B. Material shall be Corian or similar.
- C. Contractor shall provide and install four (4) integrated sinks in each counter top (32 sinks total).
- D. Contractor shall provide and install four (4) speed brace supports for each counter top (32 braces total).
- E. Each sink shall be centered below the corresponding wall mirror, and the final position of each sink shall be approved by County.

F. The location and dimensions of all faucet holes shall be approved by County.

S.9 PLUMBING

Plumbing is not included in the scope of this contract. County shall provide labor and materials for all plumbing of faucets and drain lines.

S.10 TILE

- A. Contractor shall provide and install new mosaic floor and wall tile, with standard grout.
 - 1. The estimated quantity is 500 square feet.
- B. Contractor shall provide and install new matching tile cove base, with standard grout.
 - 1. The estimated quantity is 118 linear feet.
- C. All tile and cove base shall be ceramic.
- D. The quantities stated above are totals, inclusive of all restrooms specified.
- E. All new grout shall be sealed by Contractor.
- F. Contractor's base "Lump Sum Bid Price" shall include providing and installing tile in the immediate area to match the existing tile at the limits of demolition of the previous vanities.
- G. Contractor shall have SOLE responsibility for examining the project locations, determining all necessary measurements, estimating the quantities of materials needed, and determining all other site conditions that will affect the work.
- H. Bid Prices shall include all applicable costs and shall be based on the quantities and units shown herein.
- I. The quantities specified herein are only estimates used for bid evaluation purposes. Actual payment will be based upon the actual work completed by Contractor and accepted by County. Contractor shall include in Attachment B the Unit Quantity Pricing for tile and cove base which shall be used for invoicing of quantities installed in variance of those specified herein.

S.11 ADD ALTERNATE

Contractor shall provide a per-square-foot cost to completely remove the existing floor tile and tile cove base from the area in front of each vanity extending to a limit point agreed to between County and Contractor, and then to provide and install new floor tile and tile cove base in said area. Contractor shall not disturb the existing 3x3 mosaic tile in the toilet areas.

S.12 CHANGE ORDERS

- A. Utah County may at any time, without notice to any sureties, by written order designated or indicated to be a change order, make changes to the work within the general scope of the contract and to the contract amount and/or contract deadlines.
- B. The overhead, profit, and commission fees included in any change order bid shall not exceed the maximum percentages of the net cost of the bid as shown in the following table:

	Overhead & Profit	Commission
To prime Contractor on work performed by subcontractors	0%	10%
To prime Contractor or subcontractor for that portion of work performed with their respective forces	15%	0%

- 1. Only the Contractor or subcontractor who actually performs or furnishes the work may charge for overhead or profit regardless of the number of tiers of subcontractors, that is, the markup on work subcontracted by a subcontractor will be limited to one charge of 15% for

- overhead and profit and one charge of 10% for the prime Contractor's commission.
2. Overhead and profit includes, but is not limited to: estimating; field supervision above foreman level superintendents, assistant superintendents, general foremen, engineers, accountants, timekeepers, office manager, and other staff; office supplies; drinking water; temporary heat, light, and power; field toilets; small tools; and other costs of materials and/or equipment associated with performance of the contract.
 3. On bids covering both increases and decreases in the contract amount, the overhead and profit shall be computed on the net change only.
- C. Each change order shall be signed by the Contractor, the County Public Works Director, and the County Commission, and payment and performance bonds (if any) shall be increased by the Contractor to reflect any increase to the contract amount before the Contractor will be authorized to proceed with the work specified therein.
 - D. Failure of Contractor and the County to agree on an adjustment of contract amount or contract deadlines shall not excuse Contractor from proceeding with prosecution and performance of work. Contractor, subcontractors, and suppliers shall handle all disputes in a manner which will permit work to proceed on schedule while the matter in dispute is being resolved.
 - E. The County shall have the right within its sole discretion to require Contractor to commence performance of changes to work based on County requirements prior to the submission of a cost bid by the Contractor to the Project Coordinator, or approval of the cost bid by the County. In such case, Contractor shall proceed with the work so changed upon receipt of a Construction Change Directive from the County, and thereafter submit to the County as soon as possible any cost bid required.

ATTACHMENT B

CONTRACTOR'S COST PROPOSAL

Company Name: _____
Address: _____
City, State, Zip: _____
Phone: _____

B.1 LUMP SUM BID PRICE:

ITEM	TOTAL COST
Restroom Counter and Floor Remodels	\$ _____

B.2 UNIT QUANTITY PRICING

ITEM	
Tile: per square foot price if quantity varies from 500 sq ft	\$ _____
Cove Base: per linear foot price if quantity varies from 118 ln ft	\$ _____

B.3 ADD ALTERNATE BID PRICE:

ITEM	COST PER SQ FT
Complete floor tile replacement in front of vanity areas	\$ _____

B.4 CERTIFICATION

I hereby certify that I have read, understand, and agree to all sections, Exhibits, and Attachments of this Invitation to Bid for Restroom Counter and Floor Remodels. I further certify that the information submitted by me/my company in response to this Invitation, including the pricing and other information, is true and accurate.

I understand that Utah County has the right to reject any or all bids, to waive minor irregularities when to do so would be in the best interests of Utah County, and to negotiate a price for the proposed services as determined to be in the best interest of Utah County.

Signature

Title

Name (please print)

Date

EXHIBIT A CONTRACTOR

INFORMATION FORM

In order to receive consideration, submitted bids must contain responses to all questions.
Failure to respond to all questions may result in disqualification of the bid.

COMPANY NAME & ADDRESS: _____

Is this an Office: _____, Home: _____, Shop: _____, Other: _____
Telephone Number: (____) _____, Emergency Number: (____) _____.
Answering Machine: (____) _____, Fax Number: (____) _____.
Email Address: _____

COMPANY OWNER: _____
COMPANY PRESIDENT: _____
CONTACT PERSON: _____ Phone: _____

Type of Company (Partnership, Corporation, Venture etc.): _____

If a Corporation, in what State Incorporated: _____
Business License Number: _____
State of Utah Contractor License Number: _____
Federal Tax Identification Number: _____
D&B D-U-N-S Number: _____
How long has this company been in business: _____ Years, and _____ Months.

Officers authorized to execute contracts: _____

What would happen to your company in the event of the owner's absence or death?

Brief History of the Company: _____

Are there any judgments, suits or claims pending against your company? If Yes, attach a written explanation. YES NO

Has your company operated under any other name (s)? If Yes, attach a written explanation. YES NO

CONTRCATOR INFORMATION FORM Page 2

Has your firm failed to complete a contract within the last five years?
If "yes" attach explanation. YES NO

Has your firm or any partner or officers ever been involved in any
bankruptcy action? If "yes" attach explanation. YES NO

Has your firm ever been listed on the Excluded Parties List System? YES NO

Are any of your firm's owners, officers, employees, or agents also
employees of Utah County or related to any employees of Utah County
If "yes" attach explanation. YES NO

FINANCIAL REFERENCES

1. Bank Name & Address _____

Manager _____ Phone _____

2. Bank Name & Address _____

Manager _____ Phone _____

CLIENT REFERENCES

1. Name: _____, Contact: _____
Address: _____, Phone: _____

2. Name: _____, Contact: _____
Address: _____, Phone: _____

3. Name: _____, Contact: _____
Address: _____, Phone: _____

4. Name: _____, Contact: _____
Address: _____, Phone: _____

EXHIBIT B

CERTIFICATE OF NON-COLLUSION

STATE OF UTAH) Invitation to Bid
)SS for
COUNTY OF UTAH) Restroom Counter and Floor Remodels

AFFIDAVIT

The undersigned of lawful age, being first duly sworn, disposes and says:
That as a condition precedent to the award of the Utah County project as above captioned,

I _____
(owner, partner, officer or delegate)

of _____ do
(company)

solemnly swear that neither I, nor to the best of my knowledge any member or members of my firm or
company have either directly or indirectly restrained free and competitive bidding on this project by
entering into any agreement, participating in any collusion, or otherwise taking any action unauthorized
by Utah County, with regard to this bid or potential agreement resulting therefrom.

Signature

By: _____

Title: _____

Subscribed/sworn to before me this ___ day of _____ 2018 A.D.

My Commission Expires _____

Residing at _____

Seal

By: _____
Notary Public

EXHIBIT C SAMPLE

AGREEMENT

UTAH COUNTY AGREEMENT

THIS AGREEMENT is made and entered into by and between Utah County, a body corporate and politic of the State of Utah, located at 100 East Center Street, Provo, Utah 84606, hereinafter referred to as COUNTY, and the following hereinafter referred to as CONTRACTOR:

Name
Address
City State Zip

Contact Person:
Phone #:
Email:

WHEREAS, COUNTY desires to obtain remodeling of the counter tops, floor tile, and wall tile in 8 restrooms in the Utah County Administration Building and further to obtain said [] product(s) [] service(s) or [X] product(s) and service(s) in accordance with Utah State Law; and

WHEREAS, CONTRACTOR is willing to provide such [] product(s) [] service(s) or [X] product(s) and service(s) for COUNTY in consideration of receiving such fees and other consideration as herein provided;

NOW, THEREFORE, in consideration of such mutual promises set forth herein, the parties hereto agree as follows:

1. DESCRIPTION OF PRODUCT(S) SERVICE(S) OR PRODUCT(S) AND SERVICE(S)
In consideration of the compensation set forth in Section 2, CONTRACTOR agrees to provide [] _____ or [] provide the [] product(s) [] service(s) or [X] product(s) and service(s) as specified in COUNTY's specifications attached hereto as ATTACHMENT C, which attachment is incorporated herein by this reference.

2. COMPENSATION
In exchange for services listed in Section 1, COUNTY will:
[] pay CONTRACTOR \$ _____
[X] or compensate in accordance with the terms set forth in CONTRACTOR's Proposal attached hereto as ATTACHMENT B, or such other amount as modified in accordance with the terms hereof.

3. TERM
The term of this AGREEMENT shall commence upon execution hereof and shall terminate upon completion of the work specified, or until the following date, the _____ of _____, 20__.

4. ATTACHMENTS
The following attachments are incorporated into this Agreement as if fully set forth herein:
[X] ATTACHMENT A: Utah County Standard Terms and Conditions
[X] ATTACHMENT B: CONTRACTOR'S Proposal
[X] ATTACHMENT C: COUNTY's Specifications
[] ATTACHMENT D: Utah County Procurement Compliance
Except as explicitly modified by Special Provisions as set forth in ATTACHMENT C, any ambiguities or conflicting terms shall be resolved by granting full deference to the terms of Utah County's Standard Terms and Conditions as set forth in ATTACHMENT A.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed on this, the _____ of _____, 2018.

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

NATHAN IVIE, Commission Chairman

ATTEST:
BRYAN E. THOMPSON
Utah County Clerk/Auditor

By: _____
Deputy

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
Utah County Attorney

CONTRACTOR

By: _____
Deputy Utah County Attorney

By: _____

ATTACHMENT A: UTAH COUNTY STANDARD TERMS AND CONDITIONS FOR PRODUCTS AND SERVICES

1. TERM

The term of this AGREEMENT shall commence upon execution hereof and shall terminate upon completion of the work specified herein, or until the date specified on the signature page of this AGREEMENT.

Termination of this AGREEMENT shall not terminate any warranty or other continuing obligation owed by CONTRACTOR as set forth herein.

2. EXTRA WORK

a. Extra work shall be undertaken only when previously authorized in writing by Utah County, and is defined as additional work which is neither shown nor defined in this AGREEMENT or the attached CONTRACTOR's proposal (if any), but determined by Utah County to be necessary to the project. Extra work is also defined as that additional effort necessary by reason of changed conditions which are radical, unforeseen, and completely beyond the control of the CONTRACTOR.

b. Miscellaneous items normally associated with the major work items included in this agreement, but which may not be specifically identified, shall be furnished by the CONTRACTOR as if they had been included in the agreement, without additional cost to COUNTY. After prior authorization of the County Commission in writing, payment for authorized extra work will be made by reimbursement for all direct and substantiated costs of labor, materials, and supplies used.

3. GOVERNING LAW

It is agreed that this AGREEMENT shall be governed by, construed and enforced in accordance with the laws of the State of Utah, and the ordinances of Utah County. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Agreement or the breach thereof. Venue shall be in Provo in the Fourth Judicial District Court for Utah County

4. EMPLOYMENT STATUS VERIFICATION

CONTRACTOR shall register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act. CONTRACTOR shall by contract require its contractors, subcontractors, contract employees, staffing agencies, or any contractors regardless of their tier to register and participate in the Status Verification system and comply with Utah code Annotated Section 63G-11-103 of the Identity Documents and Verification Act.

5. AMENDMENTS

No oral modifications or amendments to this AGREEMENT shall be effective, but such may be modified or amended by a written agreement signed by the parties.

6. ASSIGNMENT

The parties to this AGREEMENT shall not assign said AGREEMENT, or any part thereof, without the prior written consent of the other party to the AGREEMENT. No assignment shall relieve the original parties from any liability hereunder.

7. SUCCESSORS IN INTEREST

This AGREEMENT shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

8. INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify, save, hold harmless, and defend at CONTRACTOR's own expense COUNTY, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgments, losses, damages, expenses, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from (a) CONTRACTOR'S, its subcontractors, agents or employees performance of this AGREEMENT or product(s) purchased by COUNTY under this AGREEMENT that are defective, whether known or not known by COUNTY or CONTRACTOR, at the time of acceptance by COUNTY. CONTRACTOR shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this AGREEMENT.

9. GOVERNMENTAL IMMUNITY

COUNTY is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), Utah Code Ann §§ 63G-7-101 to -904 (2011). COUNTY does not waive any procedural or substantive defense or benefit provided or to be provided by the Act or comparable legislation enactment. The parties agree that COUNTY shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to

modify the limits set forth in that Act or the basis for liability as established in the Act.

10. NON-FUNDING CLAUSE

COUNTY intends to request the appropriation of funds to be paid for the services provided by CONTRACTOR under this Agreement. If funds are not available beyond December 31 of any effective fiscal year of this Agreement, the COUNTY's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the COUNTY as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of CONTRACTOR, its successors, or its assigns, as to this Agreement, or any portion thereof, which may terminate and become null and void. If funds are not appropriated for a succeeding fiscal year to fund performance by COUNTY under this Agreement, COUNTY shall promptly notify CONTRACTOR of said non-funding and the termination of this Agreement, and in no event, later than 30 (thirty) days prior to the expiration of the fiscal year for which funds were appropriated.

11. SALES TAX EXEMPTION

The COUNTY sales and use tax exemption number is _____. The tangible personal property or services being purchased are being paid from County 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 this Agreement. As such, CONTRACTOR shall not charge COUNTY sales tax for the product(s) purchased by this agreement.

12. COMPLIANCE WITH LAWS

Each party agrees to comply with all federal, state, and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by CONTRACTOR of applicable law shall constitute an event of default under this Agreement and CONTRACTOR shall be liable for and hold the COUNTY harmless and defend the COUNTY from and against any and all liability arising out of or connected with the violation, to include all attorney fees and costs incurred by the COUNTY as a result of the violation. CONTRACTOR is responsible, at its expense, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

13. CONFIDENTIALITY

Contractor shall hold all information provided to it by COUNTY for the purposes of its performance of this Agreement, whether provided in written or other form, in strict confidence, shall make no use thereof other than for the performance of the Agreement, and shall not release any of said information to any third party, any member of CONTRACTOR's firm who is not involved in the performance of services under the Agreement, or to any representative of the news media without prior written consent of COUNTY. Materials, information, data, reports, plans, analyses, budgets and similar documentation provided to or prepared by CONTRACTOR in performance of this Agreement shall also be held confidential by CONTRACTOR. COUNTY shall have the sole obligation or privilege of releasing such information as required by law.

14. 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 COUNTY's Purchasing Card. CONTRACTOR shall accept payment by Purchasing Card without any additional fees.

15. TERMINATION

Unless otherwise stated in the Special Terms and Conditions, this Agreement 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 violation, after which the Agreement may be terminated for cause. Time allowed for cure will not diminish or eliminate CONTRACTOR's liability for damages. The Agreement may be terminated without cause, in advance of the specified expiration date, by either party, upon 60 days prior written notice being given the other party. On termination of this Agreement, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

16. FORCE MAJEURE

Neither party to this Agreement will be held liable for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The COUNTY may terminate this Agreement

after determining such delay or default will reasonably prevent successful performance of the Agreement.

17. INDEPENDENT CONTRACTOR

- a. CONTRACTOR states and affirms that he is acting as an independent contractor, holding himself out to the general public as an independent contractor for other work or contracts as he sees fit; that he advertises his services as he sees fit to the general public, maintains his office or place of employment separate from COUNTY, and that this AGREEMENT is not exclusive of other agreements, contracts or opportunities.
- b. The parties intend that an independent contractor relationship will be created by this AGREEMENT. COUNTY is interested only in the results to be achieved, and the conduct and control of the work will lie solely with CONTRACTOR. CONTRACTOR is not to be considered an agent or employee of COUNTY for any purpose, and the employees of CONTRACTOR are not entitled to any of the benefits that COUNTY provides for COUNTY'S employees. It is understood that COUNTY does not agree to use CONTRACTOR exclusively. It is further understood that CONTRACTOR is free to contract for similar services to be performed for others while working under the provisions of this AGREEMENT with COUNTY.
- c. Both parties agree that CONTRACTOR shall be deemed an independent contractor in the performance of this AGREEMENT, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, CONTRACTOR shall have no authorization, express or implied, to bind COUNTY to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for COUNTY. The compensation provided for herein shall be the total compensation payable hereunder by COUNTY.

18. INTERPRETATION OF AGREEMENT

The invalidity of any portion of this AGREEMENT shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this AGREEMENT are for convenience only and do not constitute a part of the provisions hereof.

19. INSURANCE

- a. CONTRACTOR agrees to carry Commercial General Liability insurance coverage equal to or greater than \$2,500,000 per occurrence. This coverage shall provide liability insurance to cover the activities of CONTRACTOR including CONTRACTOR'S agents, employees and subcontractors, and for all equipment and vehicles, public or private, used in the performance of this contract. Prior to commencement of work, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY evidencing that CONTRACTOR has this insurance in place.
- b. Prior to commencement of work, CONTRACTOR shall furnish a Certificate of Insurance to COUNTY evidencing that CONTRACTOR has Workers Compensation Insurance for the CONTRACTOR, all subcontractors, and all employees of the CONTRACTOR and/or subcontractors.

20. LEGAL

CONTRACTOR shall be responsible to provide all legal support for the project including but not limited to the preparation of contracts with subcontractors. This AGREEMENT shall be interpreted pursuant to the laws of the State of Utah.

21. NO PRESUMPTION

Should any provision of this AGREEMENT require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

22. WARRANTY

CONTRACTOR warrants to COUNTY that all services and materials furnished under this AGREEMENT will be of highest quality, consistent with the degree of skill and care ordinarily exercised by similarly situated members of CONTRACTOR'S profession, and in conformance with the terms hereof. 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 COUNTY under this Agreement for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this AGREEMENT or CONTRACTOR'S proposal, attached hereto (if any). 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 Agreement unless otherwise specified and mutually agreed upon elsewhere in this Agreement. 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 COUNTY has relied upon the CONTRACTOR's skill or judgment to consider when it advised the COUNTY 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 COUNTY has not been warned. Remedies available to the COUNTY include the following: The CONTRACTOR will repair or replace (at no charge to the COUNTY) 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 COUNTY may otherwise have under this Agreement.

23. 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 COUNTY except as to latent defects, fraud, and CONTRACTOR's warranty obligations.

24. ENTIRE AGREEMENT.

This AGREEMENT shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this AGREEMENT shall not be binding upon either party except to the extent incorporated in this AGREEMENT.