

UTAH COUNTY
PUBLIC WORKS DEPARTMENT
2855 South State Street
Provo, Utah 84606

INVITATION TO BID

For

TEAT MOUNTAIN GENERATOR

REPLACEMENT

ITB #2018-12

CLOSING DATE
FOR RECEIPT OF BIDS:

Friday, May 25, 2018

TIME:

3:00 P.M. (Mountain Time)

PLACE:

Office of the Utah County Purchasing Manager
100 East Center Street
Room 3600
Provo, Utah 84606

Invitation to Bid

BACKGROUND

Utah County operates a telecommunication system equipped with mountaintop repeater sites to transmit data and radio communications to law enforcement, emergency services, public works and other personnel. The County intends to replace a 2001 Generac 60KW propane powered generator located atop Teat Mountain 8,500 ft above sea level. The generator is housed inside of the existing repeater building in a separate, ventilated room. The replacement of the generator may require the use of a crane after the generator has been removed from the building. The generator room ventilation system may also require updating to provide adequate airflow for engine cooling and operation. The submitted bid shall include all labor, materials and transportation costs to remove and dispose of the old unit, deliver and install the new unit including modifications to the ventilation system required for the installation. If the replacement requires more than one day to complete, Utah County will provide a portable generator for emergency power. The bid shall also include any trade-in value offered on the old unit for consideration. The County may elect to haul and dispose of the old unit. All interested vendors will be required to attend an onsite pre-bid conference for site inspection. The new generator should be in place no later than early August 2018, prior to the lightning storm season.

PROCEDURE

The procedure for response to this Invitation to Bid (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. Two copies of the bid shall be provided.
2. Utah County and/or its representatives will evaluate all submitted bids to determine acceptance or rejection of the bids.
3. The selected Contractor shall be required to sign an agreement, a sample of which is included as Exhibit C.

PRE-BID CONFERENCE

The pre-bid conference will take place at the Teat Mountain Repeater site where the generator is located. The date of this conference is Tuesday, May 15th, at 9:00 AM. Due to limited parking area at the repeater site, Utah County will provide shuttle(s) to gain access to the repeater site from the Utah County Public Works facility located at 2855 S. State Street, Provo, Utah 84606 (departing at 9:00 on May 15th). Please schedule 3 to 4 hours for the conference. All interested bidders must attend this conference for bid acceptance by Utah County. Only one visit will be made to the site, please be sure to be on time for the shuttle.

BID ORGANIZATION

- A. Each respondent must submit TWO (2) copies of its SEALED bid to the Utah County Purchasing Manager. The envelope containing the bid must be clearly labeled "SEALED BID – ITB 2018-12 "Teat Mountain Generator". The bid must be delivered to:

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

TIMEFRAME

Bids shall be returned no later than May 25th, 2018 at 3:00 pm to the address listed above. The winning contractor will be notified by phone call.

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

- B. The Bid must include:
1. A completed Contractor Bid (Attachment B) for the generator and installation as listed in Exhibit A. The bid shall include:
 - a. Installation into the existing building, including any necessary modifications to said building, if necessary.
 - b. Trade-in value offered (if any) on the genset being removed.
 - c. Cost to remove and dispose of the old unit.
 2. Completed Contractor Information Form (Exhibit B).
 3. Completed Certificate of Non-Collusion (Exhibit D).
 4. A list of 5 or more entities where bidder has completed similar work.
 5. A copy of the bidder's current local business license.
 6. Proof of required insurance. See Attachment A for insurance requirements.
 7. A completed W-9 form for the bidder.
 8. Each bid shall be submitted in sequence (1-7) with the attached specifications for ease of verifying compliance of the bids with bidder's specifications.

QUESTIONS AND CLARIFICATIONS

Questions regarding this ITB should be directed to the SciQuest website prior to the deadline listed in SciQuest for submission of questions.

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.

DISQUALIFICATION OF BID

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

1. Failure to respond within the established timetable.
2. Failure to completely answer all questions presented in the ITB.
3. Use of any other type of form or format other than those indicated in the ITB.
4. Failure to provide requested documentation at the time of bid submission.
5. Illegible responses.
6. 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.
7. If the bidder is unable to evidence a satisfactory record of integrity.
8. If the bidder is not qualified legally to contract.
9. If the bid at the opening does not contain a signed bid, and a signed certificate of non-collusion.
10. Utah County reserves the right to reject any or all bids.

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.

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.

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.
- E. Each bid must be accompanied by bidder's accurate written specifications covering the generator which it is proposing to furnish.
- F. It is the intent of these specifications to cover the acquisition and replacement of the Generac generator as specified. All specifications herein contained are considered as minimum.
- G. Such details and other features not specifically covered herein shall conform to all State and Federal requirements in effect at the time the contract is signed.
- H. Bidder shall furnish satisfactory evidence that it has the ability to provide the generator described with the necessary installation services.
- I. All bidders shall provide with their bid, the names of five or more companies or entities where similar equipment has been installed.

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.

PROPRIETARY INFORMATION

The bidder 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.

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.
- D. Respondents must provide all information requested in the Contractor Information Form (Exhibit B).
- E. 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.

ACCEPTANCE

Following the award of the bid for the Teat Mountain Generator Replacement and a contract between parties has been signed, the contractor will provide an estimated delivery time and date of project completion to Utah County.

EXHIBIT A

SPECIFICATIONS

CURRENT GENERATOR AND ROOM DIMENSIONS AND SPECIFICATIONS:

The current generator on the skid measures 93" L. x 39 ½" W. x 43" H. with the skid rails bolted directly to the floor. It is a 60 KW 3 Phase propane powered unit with remote (wall) mount transfer switch. The current exhaust piping measures 2 ½". A dry contact system is used to communicate alarms.

The generator room interior measures 11' 7" L. x 7' W. x 8' H. The entry door dimension is 48" W. x 84" H. and the door is centered on the West wall (7' width) of the generator room. The generator is also mounted in the center of the room with the length parallel to the door opening. This should allow removal of the old generator and installation of the new generator through the entry door. Due to the location of the building and the proximity to the mountainside, a crane may be required to move the generators to/from the parking area for loading and unloading.

The fresh air intake vent opening is 36" W. x 37" H. with automatic louvres and the exhaust vent opening is 39" W. x 39" H. with louvered ducting on the exterior of the building.

NEW GENERATOR SPECIFICATIONS

The Teat Mountain replacement generator shall be a new, current production model of a tested and proven design and durability, not a prototype or first design offering. The generator shall be capable of operating on a standby basis at an altitude of over 8,500 feet above sea level, inside an enclosed area and at temperatures between 40 and 120 degrees Fahrenheit. The engine fuel shall be propane with a regulator designed to supply fuel at the altitude described and at the ambient operating temperatures listed above. The generator shall be equipped as follows:

1. 60 KW, 120-240 VAC Three (3) Phase, 60Hz, 1800 rpm, power factor 1.0
2. EPA certified emissions.
3. NFPA 110, level 1 and UL 2200 rated.
4. Remote mount or integrated automatic transfer switch rated at 200 KA with auto start/transfer and adjustable exercise clock for weekly running and loading of the genset. The current genset has a remote mounted transfer switch.
5. Skid mount, self-contained unit without enclosure with 4, 12" extension "legs" mounted below the skid to raise the generator off of the floor for regular maintenance work to be performed. These "legs" shall be designed to support the weight and withstand any vibration or stress created by the generator while running and be equipped with predrilled flanges where contact is made with the building floor to permit bolting of the genset to the floor.

6. The dimensions of the new unit cannot exceed the dimensions of the entry door or the building listed above.
7. 110VAC, freeze plug replacement style block heater.
8. Line circuit breaker.
9. Dry contact kit.
10. Capable of remote start/shut-down via dial up or network connection.
11. New muffler and exhaust plumbed for existing building.
12. The control panel shall be equipped with an emergency shut-down switch and be capable of displaying the following information:
 - a. Engine hours.
 - b. Engine RPM.
 - c. Engine fault code display
 - d. Coolant Temperature.
 - e. Oil pressure.
 - f. Charging system voltage.
 - g. Alarm annunciator with fault code display.
13. Automatic engine shut-down for the following conditions:
 - a. Low oil pressure.
 - b. High coolant temperature.
 - c. Low coolant level.
 - d. Voltage fault.
14. Additional control panel/genset grounding protection for high lightning strike conditions.
15. Installation of the generator shall meet all current building code, NFPA and NEC standards.

Depending on the generator being installed, the existing building installation may require larger fresh air intake and exhaust venting (with appropriate automatic controls).

ATTACHMENT B
CONTRACTOR'S COST PROPOSAL

CONTRACTOR:_____

Date

Business License Number

State Contracting License Number

Name, Address, and Phone Number

State License Classification Number

The undersigned, after having personally and carefully examined the Specifications, and form of the Agreement, all of which are made a part hereof, proposes to furnish all vehicles, equipment, materials, tools, and labor which are required for the fulfillment of:

Utah County Teat Mountain Generator Contract 2018 - Teat Mountain Generator

for the total sum of

_____ Dollars, (\$_____,_____._____).

The undersigned further proposes to execute the attached contract within five working days after the date of the award, and to complete installation by the date specified within the Invitation to Bid after the signing of the agreement by both parties.

It is understood that Utah County has the right to reject this bid or to accept it at the prices listed in the Bidding Schedule.

Signature of the Preparer_____

Title of Preparer_____

EXHIBIT B

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?

CONTRACTOR INFORMATION FORM Page 2

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
☐ ☐

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

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

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

Are any of your company's owners or officers also employees of Utah County or related to any employees of Utah County? If "yes" attach explanation. YES NO
☐ ☐

Is your company delinquent on payment of any personal property taxes? 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: _____

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 _____			Contact Person: _____
Address _____			Phone #: _____
City _____	State _____	Zip _____	Email: _____

WHEREAS, COUNTY desires to obtain _____ and further to obtain said ☐ product(s) ☐ service(s) or ☐ product(s) and service(s) in accordance with Utah State Law; and

WHEREAS, CONTRACTOR is willing to provide such ☐ product(s) ☐ service(s) or ☐ 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:

- 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 ☐ product(s) and service(s) as specified in CONTRACTOR's Proposal attached hereto as ATTACHMENT B, which attachment is incorporated herein by this reference.
- COMPENSATION
In exchange for services listed in Section 1, COUNTY will:
☐ pay CONTRACTOR \$ _____
☐ 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.
- 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__.
- ATTACHMENTS
The following attachments are incorporated into this Agreement as if fully set forth herein:
☐ ATTACHMENT A: Utah County Standard Terms and Conditions
☐ ATTACHMENT B: CONTRACTOR'S Proposal
☐ ATTACHMENT C: Special Provisions
☐ 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 _____, 20__.

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

BILL LEE, Commission Chairman

ATTEST:
BRYAN E. THOMPSON
Utah County Clerk/Auditor
By: _____

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

By: _____
Deputy Utah County Attorney

CONTRACTOR

By: _____

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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, judgements, 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 purchases are being paid from County funds and used in the exercise of that entity's essential functions. If the items being purchases 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 CONTRACT 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 advances 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.