

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

**RFP 2019-12**  
**REQUEST FOR PROPOSALS**  
**for**  
**CONSTRUCTION MANAGEMENT**  
**GENERAL CONTRACTOR SERVICES**

CLOSING DATE  
FOR RECEIPT OF PROPOSALS: Wednesday, July 17, 2019

TIME: 3:00 p.m.(Mountain Time)

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

**TABLE OF CONTENTS**

1. REQUEST FOR PROPOSALS..... 1  
    Intent ..... 1  
    Procedure..... 1  
    Proposal Organization ..... 1  
    Questions and Clarifications..... 2  
    Acceptance of Proposal ..... 2  
    Disqualification of Proposal ..... 2  
    Disposition of Proposals..... 2  
    Evaluation Criteria ..... 2  
    General ..... 3  
    Interpretation of RFP ..... 3  
    Proprietary Information..... 4  
    Rules of Procurement ..... 4  
    Successors of Interest ..... 4

A. SPECIFICATIONS ..... Exhibit A  
    APWA Standard Specification..... A-1  
    Locations and Quantities ..... A-1  
    CM&GC Responsibilities..... A-2  
    Work Phases ..... A-2  
    Safety ..... A-2  
    Storage and Clean-up ..... A-3  
    Selection Criteria..... A-3  
    Completion Requirement, Liquidate Damages ..... A-3  
CONTRACTOR’S COST PROPOSAL..... Exhibit B

CONTRACTOR INFORMATION FORM..... Attachment A  
CERTIFICATE OF NON-COLLUSION..... Attachment B  
SAMPLE AGREEMENT..... Attachment C

# 1. REQUEST FOR PROPOSALS

## 1.1 INTENT

Through this Request for Proposals (RFP), Utah County intends to select a qualified Construction Manager and General Contractor Firm (CM&GC) for construction services for modifications, additions, and repairs to various county facilities located in Utah County.

The County intends for this to be a multi-year award with work to be performed during Contractor's production seasons for up to five (5) years.

Utah County may sign contracts with multiple Contractors as a result of this Request for Proposals.

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

Pursuant to this RFP an agreement will be executed with the selected Contractor(s), a copy of which is attached as Attachment C.

## 1.2 PROCEDURE

- A. The procedure for response to this RFP, evaluation of proposals, and selection of a Contractor is as follows:
  - 1. Interested entities will prepare and submit their proposals prior to the specified Closing Date for Receipt of Proposals.
  - 2. Utah County representatives will evaluate all submitted proposals as described herein.
  - 3. The selected contractor(s) will be required to sign an agreement, a sample of which is included as Attachment C.

## 1.3 PROPOSAL ORGANIZATION

- A. Each respondent must submit FIVE (5) COPIES of its SEALED proposal to the Utah County Purchasing Agent. The envelope containing the proposal must be clearly labeled "SEALED PROPOSAL – RFP 2019-12 - CONSTRUCTION MANAGEMENT & GENERAL CONTRACTOR SERVICES". The proposal must be delivered by 3:00 p.m. (Mountain Time) on Wednesday, July 17, 2019 to:

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

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

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

#### **1.4 QUESTIONS AND CLARIFICATIONS**

All questions regarding this RFP must be submitted through the U3P (SciQuest) web site. The deadline for submission of questions is specified on the SciQuest web site.

#### **1.5 ACCEPTANCE OF PROPOSAL**

A. Utah County reserves the right to reject any or all proposals 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 RFP, or such party's response.

#### **1.6 DISQUALIFICATION OF PROPOSAL**

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

- A. Failure to respond within the established timetable.
- B. Failure to completely answer all questions presented in the RFP.
- C. Use of any other type of form or format other than those indicated in the RFP.
- D. Failure to provide requested documentation at the time of proposal submission.
- E. Illegible responses.
- F. If the Proposer 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 Proposer is unable to evidence a satisfactory record of integrity.
- H. If the Proposer is not qualified legally to contract.
- I. If the proposal at the opening does not contain a signed proposal, and a signed certificate of non-collusion.
- J. Utah County reserves the right to reject any or all proposals.

#### **1.7 DISPOSITION OF PROPOSALS**

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

#### **1.8 EVALUATION OF PROPOSALS**

All proposals will be evaluated by authorized representatives of Utah County (the Evaluation Committee). The following criteria will be used by the Evaluation Committee in creating a score for each of the proposals:

Experience – 20 points possible

Provide a list of government remodel projects that were completed by the Construction Manager's Utah office within the past ten years using the CM&GC's method.

Key Personnel – 20 points possible

Identify which types of work the CM&GC may elect to self-perform.

Provide a list of all field personnel currently employed directly by the CM&GC may use to perform self-performed work, such as carpenters, laborers and other such personnel along with length of time each has been employed by the CM&GC.

Design Experience – 20 point possible

Provide copies of proposal and construction documents prepared in-house by the CM&GC's personnel without using the services of an independent design consulting firm or independent design professional for at least 3 projects that were valued at least \$10,000.

Cost Proposal – 20 points possible

TOTAL POSSIBLE: 100 points

- A. Evaluation Committee members shall not confer with any Proposer. If information or clarification is needed regarding the RFP, the prospective offerors are to contact the Purchasing Manager as herein defined.
- B. All proposals received shall be evaluated and scored independently by each member of the Evaluation Committee on the scoring sheets provided by the Purchasing Manager. The evaluation criteria will be based on the information described in the RFP.
- C. The award recommendation will be based on the best evaluated proposal and shall constitute only a recommendation to the Board of County Commissioners.
- D. Committee members may discuss the proposals together, but each committee member will privately score and/or rank their selection. The score sheets and/or ranking will be submitted to the Purchasing Manager for tabulation and disclosure to the full committee.
- E. The Purchasing Manager shall provide to the Board of County Commissioners the Evaluation Committee's recommendations, final tabulations and ranking of the offerors' proposals.
- F. All proposals are subject to the final review, evaluation and decision by the Board of County Commissioners of Utah County. The Board of County Commissioners shall award the contract to one of the top three ranked offerors or may elect to reject all proposals.

## **1.9 GENERAL**

A. Utah County will award a contract in reliance upon the information contained in bids submitted in response to the RFP. Utah County will be legally bound only when and if there is a signed agreement entered into between Utah County and the awarded Proposer.

B. It is vitally important that any person who signs a proposal or agreement on behalf of a respondent certifies that he or she has the authority to so act. The Proposer who has its proposal accepted may be required to answer further questions and provide further clarification of its proposal and responses.

C. Receiving this RFP or responding to it does not entitle any entity to participate in services or transactions resulting from or arising in connection with this RFP. Utah County shall have no liability to any person or entity under or in connection with this RFP, unless and until Utah County and such person have executed and entered into an agreement pursuant to the terms of this RFP.

D. By responding to this RFP 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 RFP. 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 RFP process or the use of the information contained in this

RFP. 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.

#### **1.10 INTERPRETATION OF RFP**

The invalidity of any portion of this RFP 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 RFP are for convenience only and do not constitute a part of the provisions hereof.

#### **1.11 PROPRIETARY INFORMATION**

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

#### **1.12 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 proposals must be submitted in the proposal format outlined herein.
- C. All prospective Proposers 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 proposals to be submitted by respondents. The use of “shall”, “must”, or “will”, in this RFP indicates a requirement or condition from which a material deviation will not be approved by Utah County.

#### **1.13 SUCCESSORS IN INTEREST**

Any agreement resulting from this RFP shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

## EXHIBIT A

### **A SPECIFICATIONS**

#### **A.1 APWA STANDARD SPECIFICATIONS & MASTERFORMAT SPECIFICATIONS**

All work performed by the CM&GC shall meet or exceed all applicable specifications listed in the publication American Public Works Association - Manual of Standard Specifications, 2017 Edition, published by the Utah Chapter of the American Public Works Association and its accompanying "Manual of Standard Plans" as well as the Masterformat 2016 specifications.

The projects to be completed under this contract will consist of work from any of the Divisions from the Manual of Standard Specifications or Masterformat as noted below and any other current building code or requirements:

- 01 General Requirements
- 02 Existing Conditions
- 03 Concrete
- 04 Masonry
- 05 Metals
- 06 Wood, Plastics and Composites
- 07 Thermal and Moisture Protection
- 08 Openings
- 09 Finishes
- 10 Specialties
- 11 Equipment
- 12 Furnishings
- 13 Special Construction
- 14 Conveying Equipment
- 21 Fire Suppression
- 22 Plumbing
- 23 Heating, Ventilating and Air Conditioning
- 25 Integrated Automation
- 26 Electrical
- 27 Communications
- 28 Electronic Safety and Security
- 31 Earthwork
- 32 Exterior Improvements
- 33 Utilities
- 34 Transportation

Please note Painting, Carpet and Flooring will not be included in any awarded projects.

#### **A.2 LOCATIONS AND QUANTITIES**

All work shall be performed on an as-requested basis at locations to be specified by Utah County. A separate "Notice to Proceed" will be issued by the County for each specific project.

#### **A.3 CM&GC RESPONSIBILITIES**

The CM&GC must be capable of responding to request for bid on projects within 10 business days.

The CM&GC must be capable of creating bid and construction documents using his/her own staff. In some instances where Utah County retains the services of a Design Consultant, the CM&GC must be willing to work closely with Utah County and the Design Consultant through the design phase, providing cost estimates, schedules and feedback on constructability of design details and availability of materials selected.

The CM&GC is responsible for obtaining the needed subcontractors and supplies for the Project. Utah County shall be consulted during this procurement process, however, the determination and responsibility for the procurement of the subcontractors and supplies is that of the CM&GC. There shall be no contractual relationship between the subcontractors and suppliers and Utah County. The CM&GC shall be fully responsible for the performance of its Subcontractors and suppliers.

The CM&GC is responsible to ensure that subcontractors and suppliers of all tiers are licensed in the State of Utah and meet all qualification requirements of the associated fields in which work is being performed.

The CM&GC is responsible to ensure all work is in compliance with current applicable building codes.

#### **A.4 WORK PHASES**

The CM&GC Work consists of two (2) phases: Pre-construction and Construction.

- A. Pre-construction Phase: This phase of the Work includes, but is not limited to, attending design meetings, estimating and cost control, schedule development, design document creation and bidding. The Construction Manager shall monitor the bid climate and make recommendations to Utah County as to the most advantageous bidding time and schedule and then solicit bids from sub-contractors. The CM&GC will be required to provide a Guaranteed Maximum Construction Price (GMP) after receiving bids from subcontractors and prior to beginning the construction phase.
- B. Construction Phase: This phase of the Work consists of the CM&GC obtaining all necessary permits, furnishing and delivery of all materials, installing all Work as required to meet building codes, and completing all work as directed by Utah County.
- C. Working hours may be different for each project. This will be determined during pre-construction process.

#### **A.5 SAFETY**

The CM&GC shall comply with all applicable requirements of the Utah Labor Commission and the Occupational Safety and Health Act of 1970. Nothing in this Agreement shall relieve the CM&GC of responsibility assigned herein, in Utah Labor Commission's requirements, or in Federal, state, and local laws and ordinances.

#### **A.6 STORAGE AND CLEAN-UP**

All areas for storage of materials and equipment used by the CM&GC shall be approved by Utah County prior to use. These areas shall be cleaned up upon completion of the project and shall be approved by Utah County prior to final payment. All related costs for storage and clean-up are the responsibility of the CM&GC and shall not be paid as a separate item.

Work will be in occupied office areas. CM&GC is responsible to keep area as clean as possible. Protective floor coverings, walk off mats, etc. may be used. Clean up must be completed at the end of each workday.

CM&GC will be responsible to complete a major cleaning before final payment will be made on each project including carpet cleaning, dusting, window washing, etc.

#### **A.7 SELECTION CRITERIA**

- A. Experience – 20 points possible
  - a. Provide a list of government remodel projects that were completed by the Construction Manager’s Utah office within the past ten years using the CM&GC’s method.
- B. Key Personnel – 20 points possible
  - a. Identify which types of work the CM&GC may elect to self-perform.
  - b. Provide a list of all field personnel currently employed directly by the CM&GC may use to perform self-performed work, such as carpenters, laborers and other such personnel along with length of time each has been employed by the CM&GC.
- C. Design Experience – 20 point possible
  - a. Provide copies of bid and construction documents prepared in-house by the CM&GC’s personnel without using the services of an independent design consulting firm or independent design professional for at least 3 projects that were valued at least \$10,000.
- D. Cost Proposal – 20 points possible
  - a. *See Exhibit B.*

#### **A.8 COMPLETION REQUIREMENT, LIQUIDATE DAMAGES**

- A. Each project shall be completed within 90 calendar days of the date of “Notice to Proceed”.
- B. If the CM&GC fails to FULLY complete any specified items on or prior to a required completion date, or extension of time granted by the County in writing, liquidated damages in the amount of \$100 per calendar day will be assessed for each calendar day after the specified completion date that the project is not complete.
- C. If abnormal weather conditions, or other natural events totally beyond the control of the CM&GC require, in the judgment of Utah County, the extension of any completion date, written authorization must be given by Utah County for such specific extension to be effective.

**EXHIBIT B**

**CM&GC'S COST PROPOSAL**

**1. PRE-CONSTRUCTION PHASE COSTS**

The cost of personnel to complete pre-construction phase is \$ \_\_\_\_\_ per hour.

**2. CONSTRUCTION PHASE COSTS**

Key personnel hourly rates:

Electrician	\$ _____ per hour
Plumber	\$ _____ per hour
HVAC	\$ _____ per hour
Framer	\$ _____ per hour
Finish Carpenter	\$ _____ per hour
Laborer	\$ _____ per hour
Dry Wall Installer	\$ _____ per hour
Dry Wall Finisher	\$ _____ per hour
Concrete Labor	\$ _____ per hour
Welder	\$ _____ per hour
Roofer	\$ _____ per hour
Masonry	\$ _____ per hour
Insulation Installer	\$ _____ per hour

Construction Phase Management and Overhead Percentage \_\_\_\_\_(percentage)  
(personnel hourly rates x overhead percentage)

Materials Markup Percentage \_\_\_\_\_(percentage)  
(cost of materials x markup percentage)

**2. CERTIFICATION OF PROPOSAL:**

I hereby certify that I have read, understand, and agree to all sections, Exhibits, and Attachments of this Request for Proposals for Construction Management & General Contractor Services. I further certify that the information submitted by me and my company in response to this Request, including the pricing and other information, is true and accurate.

I understand that Utah County has the right to reject any or all proposals, 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

**ATTACHMENT A**

**CM&GC INFORMATION FORM**

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

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**

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENT B**

**CERTIFICATE OF NON-COLLUSION**

STATE OF UTAH    )     Request for Proposals  
                          )SS   for  
COUNTY OF UTAH )     Construction Management & General Contractor Services

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 proposal or potential agreement resulting therefrom.

\_\_\_\_\_  
CM&GC Signature

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\*\*\*\*\*

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 2019 A.D.

My Commission Expires \_\_\_\_\_

Residing at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Seal

By: \_\_\_\_\_  
Notary Public

**ATTACHMENT C**  
**SAMPLE AGREEMENT**

**CONSTRUCTION MANAGEMENT AND GENERAL CONTRACTOR SERVICES  
AGREEMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2019, by and between **UTAH COUNTY**, a body corporate and politic of the State of Utah, hereinafter referred to as the **COUNTY**, and \_\_\_\_\_, hereinafter referred to as **CONTRACTOR**.

**WHEREAS**, the **COUNTY** desires to obtain materials and services as herein defined and further to obtain such materials and services in accordance with Utah State Law; and

**WHEREAS**, **CONTRACTOR** is willing to provide such materials and services to the **COUNTY** in consideration of receiving such fees as herein provided;

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

**1. DESCRIPTION OF WORK**

In consideration of the compensation set forth in Section 2, the **CONTRACTOR** agrees to provide Construction Management & General Contractor Services to the **COUNTY** as set forth in the Specifications attached hereto as Exhibit A and the **CONTRACTOR'S** Cost Proposal attached hereto as Exhibit B, as well as **CONTRACTOR's** proposal and attachments in response to the **COUNTY's** request for proposals, all of which are incorporated herein by this reference the same as if each and all had been set forth at length herein.

**2. COMPENSATION**

A. In exchange for services listed in Section 1, the **COUNTY** will pay **CONTRACTOR** at the applicable price stated in Exhibit B for items accepted by the **COUNTY** which conforms to the Specifications in Exhibit A.

B. **CONTRACTOR** may, upon written notice delivered to the **COUNTY** on or before November 1st, request an increase in the contract price of any one or more line items for the following year commencing January 1st, by a percentage equal to the percentage increase which occurred in the Consumer Price Index (defined as the Consumer Price Index, All Urban Customers (CPI-U) U.S. City Average, All Items, or a similar index if this index is discontinued) during the preceding one year period, not to exceed three percent (3%) per year.

**3. 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.

**4. ALTERATION OF SPECIFICATIONS OR CHARACTER OF WORK**

The County Commission, after recommendation by the County Public Works Director, reserves the right to make, at any time during the term of this agreement, such increases or decreases in quantities and such alterations in the details of the work, and the elimination of one or more items as may be found necessary or desirable and to adjust the contract price accordingly by change order. Such alterations shall not be considered as a waiver of nor release of any surety. CONTRACTOR agrees to accept the specifications as altered the same as if it had been a part of the original agreement. CONTRACTOR shall proceed with the work alterations when ordered in writing. Financial increases to this agreement must be approved by the County Commission before additional work is authorized and constructed.

**5. ASSIGNMENT**

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

**6. AUTHORITY OF THE COUNTY COMMISSION AND THE COUNTY PUBLIC WORKS DIRECTOR**

A. The County Commission or the County Public Works Director will decide all questions which may arise as to the quality, quantity, and acceptability of materials furnished and work performed and as to the rate of progress of work. They will also decide all questions which may arise as to the acceptable fulfillment of the agreement on the part of CONTRACTOR.

B. The County Commission or the County Public Works Director will have the authority by written order to suspend work wholly or in part due to the failure of CONTRACTOR to correct conditions unsafe for the workmen or general public, for failure to carry out provisions of the agreement, for failure to carry out orders, for such periods as deemed necessary due to unsuitable weather, for conditions considered unsuitable for the progress of the work, or for any other condition or reason deemed to be in the public interest.

Written orders shall state the reason for suspension.

**7. 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.

**8. EXTRA WORK**

Extra work shall be undertaken only when previously authorized in writing by the COUNTY and is defined as additional work which is neither shown nor defined in the Specifications. Miscellaneous items normally associated with the major work items shown, but which may not be specifically shown, shall be furnished by CONTRACTOR as if they had been shown, without additional cost to the COUNTY.

**9. INDEMNIFICATION**

CONTRACTOR shall defend, indemnify, save and hold harmless the COUNTY, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgements, losses, damages, 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 their provision of any services required herein to be performed by CONTRACTOR or its subcontractors, agents, or employees, and (b) any act or omission of CONTRACTOR, or its subcontractors, agents, or employees.

**10. INDEPENDENT CONTRACTOR**

- A. CONTRACTOR states and affirms that it is acting as an independent contractor, holding itself out to the general public as an independent contractor for other work or contracts as it sees fit; that it advertises its services as it sees fit to the general public, maintains its office or place of employment separate from the 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. The 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 the COUNTY for any purpose, and the employees of CONTRACTOR are not entitled to any of the benefits that the COUNTY provides for County's employees. It is understood that the 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.
- 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 the COUNTY to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the COUNTY. The compensation provided for herein shall be the total compensation payable hereunder by the COUNTY.

**11. INSPECTION AND ACCEPTANCE**

The COUNTY or its authorized representatives shall have the right to enter the premises of CONTRACTOR, or such other places where contract services are being performed, to inspect, audit, monitor, or otherwise evaluate the services being provided and the financial records pertaining to the agreement. CONTRACTOR must provide reasonable access to all facilities and assistance to the COUNTY or its authorized representatives.

**12. INSURANCE**

- A. CONTRACTOR agrees to carry Commercial General Liability insurance coverage equal to or greater than \$3,000,000 per occurrence or as modified by the risk manager pursuant to state statute during the term of this agreement. 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 agreement. The successful proposer shall provide a Certificate of Insurance to the COUNTY evidencing that CONTRACTOR has this insurance in place and shall maintain said insurance for the duration of this agreement.
- B. CONTRACTOR shall furnish a Certificate of Insurance to the COUNTY evidencing that CONTRACTOR has Workers Compensation Insurance for the CONTRACTOR, all subcontractors, and all employees of the CONTRACTOR and subcontractors.

**13. 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.

**14. KEYS**

If it becomes necessary for the COUNTY to issue CONTRACTOR a key to County locks, final payment to CONTRACTOR will be held until the key has been returned and documented. It is illegal to duplicate County keys.

**15. 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.

**16. 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 a 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.

**17. NOTICES**

All notices, demands, and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their respective places of business, or at such other addresses as may be designated by notice given hereunder.

**18. PAYMENTS**

- A. CONTRACTOR shall submit invoices to the COUNTY for work completed within 30 calendar days of the completion of the specified work. Upon verification of the validity of an invoice, the COUNTY shall pay CONTRACTOR within 30 calendar days of receipt of the invoice.
- B. Payment will be based upon verification of the actual work completed and accepted by the COUNTY which comply with these specifications.
- C. The “Method of Measurement” and the “Basis of Payment” for all items shall be by the “Hourly Rate and Percentages” specified by CONTRACTOR in the “Bid Schedule”.

**19. SUCCESSORS IN INTEREST**

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

**20. TERM**

The term of this agreement shall commence upon the date of execution and shall terminate on December 31, 2024 unless otherwise indicated in writing by COUNTY at least 30 days prior to termination.

**21. TERMINATION**

- A. This agreement may be terminated for any reason by the COUNTY upon thirty (30) days written notice to CONTRACTOR, without prejudice to any other right or remedy the COUNTY may have.
- B. Failure of CONTRACTOR to adhere to any of the performance requirements of this agreement shall be cause for termination without prior notice.
- C. This agreement may be terminated for any reason by CONTRACTOR upon ninety (90) days written notice to the COUNTY.

**22. TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of this agreement, the COUNTY shall not be obligated for CONTRACTOR’s performance hereunder or by any provision of this agreement during any of the COUNTY’s future fiscal years unless and until the COUNTY’s Board of County

Commissioners appropriates funds for this agreement in the COUNTY's budget for each such future fiscal year. In the event that funds are not appropriated for this agreement, then this agreement shall terminate as of December 31 of the last fiscal year for which funds were appropriated. The COUNTY shall notify CONTRACTOR in writing of any such non-appropriation of funds at the earliest possible date.

**23. WARRANTY**

CONTRACTOR warrants to the COUNTY that all materials furnished under this agreement will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with this agreement. All work and materials not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the COUNTY, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials.

**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.

**IN WITNESS WHEREOF** the parties have caused this AGREEMENT to be duly executed on the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
UTAH COUNTY, UTAH

\_\_\_\_\_  
WILLIAM C. LEE, Chairman

ATTEST:  
AMELIA POWERS GARDNER  
County Clerk/Auditor

By: \_\_\_\_\_  
Deputy Clerk/Auditor

APPROVED AS TO FORM AND LEGALITY:  
DAVID O. LEAVITT  
Utah County Attorney

By: \_\_\_\_\_  
Deputy County Attorney

CONTRACTOR:

By: \_\_\_\_\_

Its: \_\_\_\_\_