

**REASONABLE ACCOMMODATIONS:** Reasonable accommodations (including auxiliary communicative aids and services) for individuals with disabilities will be provided upon receipt of a request within three (3) working days notice. For assistance, call (385) 468-0300; TTY users call 711.

### TERMS AND CONDITIONS

These general terms and conditions shall apply unless otherwise more specifically provided for in any of the attached specifications.

**1. PREPARATION OF BIDS:** (a) Failure to examine any drawings, specifications and instructions will be at the bidder's risk. (b) All prices and notations must be printed in ink or typewritten or submitted electronically through the system designated by Salt Lake County (the "County"). No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing bid. (c) Price each item separately. Unit price must be shown and a total price must be entered for each item. In the event of a discrepancy in the extension of unit prices, unit prices shall govern. (d) Any manufacturers' brand names, trade names, catalog numbers, "or equals" used in the specifications are intended to establish and describe general performance levels and standards. Such references are not intended to be restrictive, and bids are invited on these and comparable brands and models of products of any manufacturer. Any other brands or models substantially equivalent to those specified will be considered for award unless otherwise noted. The Purchasing Agent reserves the right to determine equivalency with recommendations from the using agency. (e) Delivery time promised by the bidder must be a part of the bid and adhered to if awarded the contract. (f) By signing the bid or by electronic submission, the bidder certifies that all of the information provided is accurate, and the prices bid are correct. (g) All items bid must be new and unused unless otherwise specified. (h) The bid form should be signed or if submitted electronically, the electronic signature will be considered valid. The bidder acknowledges that it has read the entire solicitation and accepts the terms and conditions as stated. Any modifications to the solicitation or these Terms and Conditions MAY render the bid non-responsive. The bidder also acknowledges that these Terms and Conditions shall be a part of any awarded contract with the County.

**2. SUBMISSION OF BIDS:** (a) Bids may be signed in ink and placed in a sealed envelope with the bid number and the bid close date marked on the outside of the envelope. Bids may also be submitted by electronic copy through the County's designated system and include an electronic signature. (b) Bids, modifications or corrections, unsealed or received after the closing time specified will not be considered. (c) Only bids submitted on authorized County bid forms will be considered. (d) All charges for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be expressly included and itemized in the bid in order for the County to pay for the same under an awarded contract. (e) By submitting its bid, the bidder agrees that all costs associated with preparation of its bid shall be the bidder's sole responsibility and the County shall have no obligation to pay the bidder's bid preparation costs for any reason whatsoever. (f) Bids that are not signed or submitted electronically or do not include all of the enclosed Terms and Conditions may be deemed non-responsive. (g) Answers to questions that are submitted electronically through the County's designated system may be considered as an amendment to the bid. (h) All bids are to be firm for 90 days from the bid close date, unless other reasonable times are stated as part of the County's specifications. (i) All purchases are made according to County ordinances and purchasing policies.

**3. BONDS:** The County reserves the right to require the bidder to provide a bid bond, a supply contract bond, a performance bond and/or a payment bond in an amount or amounts set by the County. If such a bond is required in the attached specifications, list the price of the bond as a separate item. Bonds must be written by a corporate surety authorized to do business in the State of Utah and be in a form acceptable to the County. If the County requires bonding, the County must be named as a loss payee.

**4. SAMPLES:** Samples, when required, must be furnished free of expense to the County. If not destroyed by testing, they may be returned, if requested in the bid submittal, at the bidder's expense.

**5. AWARD OF CONTRACT:** (a) The contract will be awarded to the most responsible, responsive bidder making the lowest and/or best bid conforming to the specifications (said bidder may hereafter be referred to as the "Supplier"). The County shall have sole discretion to determine the responsibility of the bidders, and the responsiveness of bids. (b) Unless specifically stated otherwise in the solicitation, the County may accept any item or group of items, or overall low bid. The County also reserves the right to award to more than one bidder. Bids will not be evaluated and accepted only upon an "all or nothing" basis, unless the bidder specifically states that its bid must be accepted on that basis. (c) The County shall have the right to cancel this solicitation at any time before award of contract for any reason, or reject all bids. The County may also waive any informality, technicality, or irregularity in bids that does not affect or render ambiguous price, quantity, quality, or delivery. (d) The County's acceptance of a bid shall create a binding contract, dating from the time of acceptance. Acceptance shall occur upon award of a contract by official action of the County, and execution of a contract by the authorized County official(s). (e) The County will post the intent to award on the County's bid notification system.

**6. PROTESTS:** Persons who are aggrieved by the written specifications or recommended award may protest to the Purchasing Agent. A protest in regard to the specifications of a Request for Bids and Resulting Contract or Best Value Bids shall be submitted, in writing, prior to the bid close date. All other protests shall be submitted, in writing, within five (5) working days after the aggrieved person knows or should have known of the recommended award. Protest letters should specifically state completely the facts that constitute error in the specifications or the intent to award and the desired remedy. Salt Lake County Code of Ordinances § 3.20.150.

**7. INTREPRETATION:** The contract shall include all of the provisions and specifications of the County's solicitation—including all amendments and these Terms and Conditions—and the Supplier's bid. In the event of any inconsistency between the solicitation and the Supplier's bid, the solicitation shall control unless a separate exceptions sheet is executed by both parties modifying the terms and

conditions of the solicitation, in which event the exceptions sheet shall control.

**8. WARRANTY:** The Supplier expressly warrants that the merchandise will conform to its description and all specifications, shall be of good merchantable quality, and fit for the known purpose for which it is required. This warranty is in addition to any standard warranty or service guarantee given by the Supplier to the County. Said warranties shall be in addition to any warranties express or implied under the laws of the State of Utah. The Supplier warrants and assumes full and sole responsibility for all products that it licenses, contracts, or sells to the County under this agreement for a period of one year, unless otherwise specified. The Supplier acknowledges that all warranties provided under the Uniform Commercial Code of the State of Utah apply to this agreement. Product liability disclaimers and/or warranty disclaimers by the Supplier are not applicable to this agreement unless otherwise specified and accepted in writing by the County. Remedies available to the County include, but are not limited to, the following: The Supplier will repair or replace, at no charge to the County, each and every nonconforming product upon discovery of the nonconformance and written notice from the County. If the repaired and/or replaced product does not meet the specifications and is not accepted by the County, the Supplier will refund the full amount of all payments previously made by the County. Nothing in this warranty section will be construed to limit any rights or remedies the County may otherwise have under this agreement or pursuant to law.

**9. RISK OF LOSS:** Title to the equipment or goods shall at all times be and remain with the Supplier and the Supplier shall bear the entire risk of loss, damage, destruction or theft of the equipment or goods, until delivered to the County at the designated delivery location. After delivery, the County shall assume the risk of loss for the equipment or goods ONLY to the extent of the County's negligence during the fifteen (15) day discovery period prior to acceptance or rejection by the County. "Acceptance" is defined in this section to mean the time when the County signifies to the Supplier that the equipment or goods delivered satisfactorily conform to the specifications of the resulting contract.

**10. LICENSING:** The Supplier is responsible, at its sole expense, to acquire, maintain and renew during the term of this agreement, all necessary permits, licenses and/or certifications required for its lawful performance of its duties and obligations under this agreement.

**11. REGISTRATION:** The Supplier must be registered with the Utah Division of Corporations and Commercial Code, if applicable, and shall maintain this registration active and current through the term of this agreement. This provision shall apply whether the Supplier is doing business as an individual, association, partnership, limited liability company, corporation, or otherwise. All forms and information on registration may be obtained by calling (801) 530-4849 or toll free at (877) 526-3994 or by accessing [www.commerce.utah.gov](http://www.commerce.utah.gov).

**12. TAXES AND CONSTRUCTION MATERIALS EXEMPTION:** Construction materials to be installed by Salt Lake County's employees, unless otherwise noted, receive sales tax exemption. Sales tax will not be calculated in the bid price to the County. If there is a change and non-County persons perform the installation, the County must remit the appropriate sales tax to the State Tax Commission. Salt Lake County's Sales Tax License Number is 12152670005. Salt Lake County certifies that the tangible personal property or services purchased are to be paid directly with funds from the ordering agency or elected official noted on the purchase order and will be used in the exercise of Salt Lake County essential functions as a local government entity. The exemption certificate must be completed by an individual authorized to sign a purchase order on behalf of the County.

**13. RECORDS:** The Supplier shall maintain or supervise the maintenance of all records necessary to properly account for the payments made to the Supplier authorized by this agreement. The Supplier agrees to allow access to the County of all records relating to this agreement for auditing and monitoring of services. Such access shall be during reasonable business hours.

**14. TRANSPORTATION:** Transportation charges must be prepaid by the Supplier. The Supplier shall also bear risk of loss or damage and must carry property damage and liability insurance covering items subject to this order and carriage until delivered to the County's FOB designated delivery location.

**15. PRICES:** Prices are firm for the duration of this agreement and are FOB Salt Lake County's designated delivery location. The Supplier acknowledges that the County reserves the right to adjust any invoice that reflects incorrect pricing.

**16. PAYMENT TERMS:** Payment terms are net 30 days after receipt of invoice or receipt of delivery whichever is later, unless otherwise agreed to by both the Supplier and the County prior to the award of the contract. Early payment discounts less than 20 days will not be considered for award analysis purposes.

**17. INVOICING:** Invoices are to be submitted, in duplicate, directly to the ordering division or agency, unless otherwise specified in the specifications attached hereto, with payment to be made by the Mayor's Office of Financial Administration. References on the invoice should note the ordering agency or division's name and purchase order number or contract number.

**18. SUBSTITUTIONS:** Materials other than those specified on the order must not be substituted without the County's prior written authorization. If materials are rejected, they will be held for disposition at the Supplier's sole risk and expense, notwithstanding prior payment.

**19. STOCK:** The Supplier guarantees that a stock will be maintained within Salt Lake County for the sole use of Salt Lake County or that delivery will be guaranteed within a five working-day period. Unusually large order quantities will be exempt from the foregoing requirement, but must be delivered no later than 10 days after the receipt of the order unless another term is specified. If any unusual delays are anticipated due to strikes, shortages, etc., the Division of Contracts and Procurement shall be notified immediately.

**20. INDEPENDENT CONTRACTOR:** The relationship of the County and the Supplier under this agreement shall be that of an

independent contractor status. Each party shall have the entire responsibility to discharge all of the obligations of an independent contractor under federal, state and local law, including but not limited to, those obligations relating to employee supervision, benefits and wages; taxes; unemployment compensation and insurance; social security; workers' compensation; disability pensions and tax withholdings, including the filing of all returns and reports and the payment of all taxes, assessments and contributions and other sums required of an independent contractor. Nothing contained in this agreement shall be construed to create the relationship between the County and the Supplier of employer and employee, partners or joint venturers.

**21. AGENCY:** No agent, employee or servant of the Supplier or the County is or shall be deemed to be an employee, agent or servant of the other party. None of the benefits provided by each party to its employees, including but not limited to worker's compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. The Supplier and the County shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this agreement. The Supplier and the County shall each make all commercially reasonable efforts to inform all persons with whom they are involved in connection with this agreement to be aware that the Supplier is an independent contractor.

**22. PROFESSIONALISM:** The Supplier acknowledges the standard of performance and professionalism required in the performance of its services under this agreement. The Supplier agrees to perform the services under this agreement with the level of professionalism expected in its industry/profession in the community. Further, the Supplier, while performing its obligations under this agreement, will conduct itself in such a manner that will promote the best interests of the County. The Supplier further agrees that it will not accept any fee or financial remuneration from any entity or person other than Salt Lake County for its performance under this agreement.

**23. INDEMNIFICATION:** The Supplier agrees to indemnify, hold harmless, and defend the County, its officers, agents, and employees from and against any and all actual or threatened claims, losses, damages, injuries, and liabilities of, to, or by third parties, including the Supplier, its subcontractors, or the employees of either, including claims for personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of, the Supplier's breach of this agreement or any acts or omissions of or by the Supplier, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this agreement. The Supplier agrees that its duty to defend and indemnify the County under this agreement includes all attorney's fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, or verdict paid or incurred on behalf of the County.

**24. GOVERNMENTAL IMMUNITY:** The 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. The Parties agree that the County shall only be liable within the parameters of the Act. Nothing contained in this agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

**25. NO OFFICER OR EMPLOYEE INTEREST:** It is understood and agreed that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this agreement or the proceeds resulting from the performance of this agreement. No officer or employee of the Supplier or any member of their families shall serve on any County board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Supplier's operations, or authorizes funding or payments to the Supplier.

**26. ETHICAL STANDARDS:** The Supplier represents that it has not: (a) provided an illegal gift to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute or Salt Lake County Code of Ordinances § 2.07; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County ordinances.

**27. CAMPAIGN CONTRIBUTIONS:** The Salt Lake County campaign finance disclosure ordinance limits campaign contributions by contractors to County candidates. Salt Lake County Code of Ordinances § 2.72A. The Supplier acknowledges and understands those limitations on campaign contributions mean that any person, business, corporation or other entity that enters into a contract or is engaged in a contract with the County is prohibited from making campaign contributions in excess of \$100 to County candidates during the term of the contract and during a single election cycle as defined in the ordinance. The Supplier further acknowledges that violation of those provisions governing campaign contributions may result in criminal sanctions as well as termination of this agreement.

**28. TERMINATION FOR CONVENIENCE:** The County reserves the right to terminate this agreement, in whole or in part, at any time during the term or any additional terms whenever the County determines, in its sole discretion that it is in the County's interest to do so. If the County elects to exercise this right, the County shall provide written notice to the Supplier at least 30 (thirty) days prior to the date of termination for convenience. Upon such termination, the Supplier shall be paid for all goods and services up to the date of termination. The Supplier agrees that the County's termination for convenience will not be deemed a termination for default nor will it entitle the Supplier to any rights or remedies provided by law or this agreement for breach of contract by the County or any other claim or cause of action.

**29. TERMINATION FOR DEFAULT:** The County may terminate this agreement if the Supplier fails to perform any of its material obligations and such failure continues for a period of 30 (thirty) days after written notice to such defaulting party; or any material representation or warranty of a party contained in this agreement proves to be untrue or incorrect in any material respect when made.

**30. 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 the Supplier of applicable law shall constitute an event of default under this agreement and the Supplier 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. The Supplier 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.

**31. NON-DISCRIMINATION:** The Supplier and any agent of the Supplier agree that they shall comply with all federal, state and county laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this agreement.

**32. NOTICE TO RETIREES OF UTAH RETIREMENT SYSTEMS (“URS”):** Salt Lake County is a URS “participating employer.” Entering into an agreement with Salt Lake County may affect a URS retiree’s retirement benefits including, but not limited to, cancellation of the retiree’s “retirement allowance” due to “reemployment” with a “participating employer” pursuant to Utah Code Ann. §§ 49-11-504 to -505. In addition, the Supplier is required to immediately notify Salt Lake County if a retiree of URS is the Supplier; or an owner, operator, or principal of the Supplier. The Supplier shall refer the URS retiree to the URS Retirement Department at (801) 366-7770 or (800) 695-4877 for all questions about post-retirement employment regulations.

**33. LABOR REGULATIONS AND REQUIREMENTS:** The Supplier agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. The Supplier shall indemnify and hold the County harmless from and against any and all claims for liability arising out of any violation of this paragraph or the laws referenced by the Supplier, its agents or employees.

**34. GRAMA:** The Supplier acknowledges that the County is a governmental entity subject to the Utah Government Records Access and Management Act (“GRAMA”), Utah Code Ann. §§ 63G-2-101 to -901. As a result, the County is required to disclose certain information and materials to the public, upon request. The Supplier agrees to timely refer all requests for documents, materials and data in its possession relating to this agreement and its performance to the County for response by the County. Generally, any document submitted to the County is considered a “public record” under GRAMA. Any person who provides to the County a record that the person believes should be protected under subsection 63G-2-305(1) or (2) shall provide both: (1) a written claim of business confidentiality and (2) a concise statement of reasons supporting the claim of business confidentiality. Generally, GRAMA only protects against the disclosure of trade secrets or commercial information that could reasonably be expected to result in unfair competitive injury.

**35. GEOGRAPHIC INFORMATION SYSTEM (GIS) DATA:** If any GIS data is created or maintained under this agreement, the Supplier agrees to comply with Countywide Policy 1013 – Standards for Geographic Information System.

**36. NONFUNDING:** The County intends to request the appropriation of funds to be paid for the services provided by the Supplier 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 the Supplier, 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 the County under this agreement, the County shall promptly notify the Supplier 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.

**37. SUBCONTRACTING:** The Supplier agrees that it shall not subcontract to provide any of the services under this agreement or execute performance of its obligations under this agreement without prior express written consent of the County.

**38. NON-EXCLUSIVE PURCHASE:** This agreement is non-exclusive. The County reserves the right to purchase any good or service covered under this agreement from other sources during the term of this agreement.

**39. GOVERNING LAW:** It is understood and agreed by the parties hereto that this agreement shall be governed by the laws of the State of Utah and the ordinances of Salt Lake County, both as to interpretation and performance. All actions including, but not limited to, court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

**40. SEVERABILITY AND AMENDMENT:** If any provision of this agreement or the bid specifications is declared by a court to be illegal or in conflict with any law, such provision shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remainder of such provision or the remaining provisions of this agreement. This agreement shall not be modified or amended except in writing.