

**Murdock Substation Construction**  
**Existing Bull River Substation Conversion**  
**Bid No. 2014-12**



**Lehi City Corporation**  
**Power Department**

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**RESPONSES ARE DUE PRIOR TO:**

**July 31, 2014**  
**5:00 P.M. MDT**

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*Preferred method is to submit electronically to:*

[www.bidsync.com](http://www.bidsync.com)

*Responses may be mailed or hand-delivered to:*

Lehi City Purchasing Department  
Attn: Cameron Boyle  
Bid No. 2014-12  
153 North 100 East  
Lehi, UT 84043

## **Lehi City Corporation Power Department**

REFERENCE NUMBER: Bid No. 2014-12  
BID TITLE: "Murdock Substation Construction and Existing Bull River Substation Conversion"  
BID LOCATION: Lehi City, Utah  
SUBMISSION DEADLINE: July 31, 2014  
SUBMISSION TIME: 5 p.m. MDT  
SUBMISSION PLACE: Lehi City Purchasing Office  
153 North 100 East  
Lehi, Utah 84043

BID DESCRIPTION: This Request for Proposal (RFP) will assist the City in selecting a qualified contractor to provide construction services and participate in activities for the upgrading of the Bull River 46kV substation equipment and transformer to 138kV and the construction of the new 138kV-12.47kV Murdock Substation.

BID CONTACT: Joel Eves  
Power Director  
(385) 201-2623  
[jeves@lehi-ut.gov](mailto:jeves@lehi-ut.gov)

CONTRACTORS: Carefully read all instructions, requirements and specifications. Fill out all forms properly and completely. Submit your bid with appropriate supplements and/or samples. Please submit bids through Bidsync.com or mail to the Lehi City Purchasing Office address above by the submission deadline. Bids received after the deadline will not be considered.

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Additional instructions for submitting bid:

- A. It is the responsibility of the Supplier to "Log In" through BidSync. For assistance contact BidSync at 1-800-990-9339.
- B. Questions regarding this bid should be submitted through BidSync. The Supplier may also contact Scott Sampson, Risk Manager (see "Bid Contact" above).
- C. The recommended method to submit your bid is through BidSync. By using alternate methods of delivery, supplier bears all risks if documents are not received at the Purchasing Office prior to the submission deadline. Supplier should call to verify the purchasing agent has received the hard-copy bid prior to the bid closing.

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## **SECTION 1: PURPOSE OF RFP**

### **1.1 GENERAL**

Lehi City (Owner), located in Utah County, occupies approximately 27 square miles and has approximately 51,000 residents (as of July 1, 2012). The population has grown significantly over the last 13 years, increasing by 149 percent since 2000. The City is approximately 35 percent built out with a projected population of approximately 159,000 when fully developed.

Lehi City Power currently has two 46kv substations (Bull River & Carter) fed from the Rocky Mountain Power 46 kV Highland line. Lehi City Power and Rocky Mountain Power will be working in coordination to remedy this issue by upgrading the 46 kV Highland line to a 138 kV line.

The Owner plans to utilize two currently owned 138 kV transformers to upgrade its Bull River substation for connection to the new 138 kV line. In addition, Lehi Power plans to build a new 138 kV "Murdock" substation to accommodate a large amount of growth on the northeast side of the City.

This Request for Proposal will assist the Owner in selecting a qualified contractor to provide construction services and participate in activities for the upgrading of the Bull River substation and the construction of the new Murdock substation. Activities include, but are not limited to, grading, excavations, equipment/material purchase/receipt, crane/equipment rental, underground conduit routing, site grounding and installation, backfill, wire pulls, terminations, testing, and assistance in start-up at both the new Murdock Substation as well as the updates to the existing Bull River Substation.

This RFP is part of a competitive procurement process, which helps to serve the best interests of the Owner and its residents. It also provides a fair opportunity for multiple contractors to be considered for the project. Throughout the remainder of this document, respondents to this proposal will be referred to as Contractor.

## **SECTION 2: GENERAL INFORMATION**

### **2.1 ADMINISTRATIVE GUIDANCE**

The information provided herein is intended to assist the Contractor in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide interested Contractors with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or to exclude any relevant or essential data therefrom. Contractors are at liberty and are encouraged to expand upon the specifications to give additional evidence of their ability to provide the services requested in this RFP.

### **2.2 PROPOSAL RESPONSE OUTLINE**

Proposals must be concise and in outline format. Pertinent supplemental information should be referenced and included as attachments. All proposals must be organized and tabbed to comply with the following sections:

#### *COVER LETTER*

The cover letter should include an introduction of the Contractor, including the name, address, telephone number and email address of the person to be contacted, along with others who are authorized to represent the Contractor in dealing with this RFP. The cover letter must be signed by an authorized representative of the entity committing Contractor to provide the services as described in this RFP.

#### *EXECUTIVE SUMMARY*

An executive summary should briefly describe the Contractor's approach and clearly indicate any options that need to be highlighted or alternatives being proposed. It should also indicate any major requirements that cannot be met by the Contractor.

#### *COMPANY PROFILE*

The company profile shall provide a brief description of the Contractor, including the legal name of the entity, entity headquarters, number of years the entity has been in business, and previous experience. The company profile shall also include information about local availability of key personnel. The Contractor shall provide a summary of those who will be responsible for the account (Executive Team). Provide resumes for the Executive Team including experience, expertise, professional licenses and education.

#### *PREVIOUS EXPERIENCE & REFERENCES*

The Contractor shall provide a summary of previous experience that demonstrates the Contractor's ability to accomplish the Scope of Work. The summary should detail a minimum of 5 projects similar in scope and size for which the Contractor has provided construction services. For each project identified, include the following information: agency name, contact name, contact address, telephone number, and email address. Discuss whether or not the projects were completed on time and within budget.

### *PROJECT SCOPE AND SCHEDULE*

The Contractor must include a detailed description of the Contractor's ability to complete the Scope of Work as defined in Section 3.2 herein. The Contractor shall include a proposed Construction Schedule to complete the project according to the project deadline defined in Section 3.5 herein.

### *COST PROPOSAL*

The Contractor must submit a cost proposal allowing costs to be evaluated independently of other criteria in the proposal. The cost proposal should include estimated employee hours, associated hourly rates, and total not-to-exceed estimates and total equipment costs for each general task. A REQUIRED Uniform Bid sheet is included in this RFP as Appendix A.

### *FINANCIAL REPORT*

The Contractor should furnish a current financial report (audited, if available) for the company's most recent fiscal year.

The financial report should include the size of firm as measured by:

- A. Number of personnel;
- B. Number of clients, including the names of clients in the State of Utah; and
- C. Annual sales.

### *MISCELLANEOUS*

The Contractor should provide any supplemental information and attachments relevant to the proposal, including samples, company literature, catalogs, etc. Any other information not appropriately contained in the body of the proposal should also be included in this section.

## **2.3 REPRESENTATIVES AND NOTICES**

During the RFP process (from the date of issue through the date of contract award or other final decision) the Owner Representative is the sole source of official information regarding this RFP. The designated Owner Representative is:

Joel Eves  
(385) 201-2623  
jeves@lehi-ut.gov

For all questions and comments through email correspondence, the Contractor shall carbon copy (CC) the project engineer and project analyst:

**Project Engineer**  
Chris Mielke  
[cmielke@salientpower.com](mailto:cmielke@salientpower.com)

**Project Analyst**  
Cameron Boyle  
[cboyle@lehi-ut.gov](mailto:cboyle@lehi-ut.gov)

All communications, both spoken and written, which are received by any representative of the Contractor from other sources (such as employees in other departments) should be confirmed by the Contractor with the Owner Representative as being true and accurate prior to incorporating such

information into their response. This refers to both formal and informal conversations and communications. Please remember that significant changes to the RFP will always be issued as a formal, written addendum.

#### **2.4 SUBMISSION OF PROPOSAL**

The Owner requests that firms submit sealed proposals for consulting services. Contractors are requested to submit an electronic copy of the proposal through BidSync.com. If not submitted through BidSync.com, Contractor may either mail or hand-deliver one (1) CD electronic copy to Lehi City Hall, located at 153 North 100 East, Lehi, Utah. The RFP must be received no later than **Thursday, July 31, 2014, at 5:00 P.M. MDT**. Responses should be addressed as follows:

RFP #2014-12: Murdock and Bull River Substation  
Lehi City Purchasing Office  
153 North 100 East  
Lehi, Utah 84043

If the proposal is sent by mail to the Purchasing Office, the Contractor shall be responsible for actual delivery of the proposal to the proper office before the deadline. Proposals received after this deadline will be late and ineligible for consideration. Following the deadline, the names of those responding to the RFP will be made public. All other information will remain confidential, as required by law (please see Section 2.12 herein).

Unless specifically authorized by the Owner Representative, telephonic RFP's will not be considered. However, modifications by email, fax, etc., of RFP's already submitted will be considered if received prior to the time for opening of RFP's.

#### **2.4 BID PRICING**

The pricing for all products or services shall be stated on the Bid Form (Attachment A) and shall remain firm for the duration of the contract. No price changes, additions, or subsequent qualifications will be honored throughout the duration of the contract except with approved change orders (see *Section 5.4.4*). Pricing on all transportation, mobilization and other charges shall be prepaid by the Contractor and included in the bid prices. The Contractor must indicate any additional charges not mentioned above or forfeit the right to payment for such items.

#### **2.6 INQUIRIES**

Questions arising subsequent to the issuance of this RFP, that could have a significant impact on the responses to the RFP, shall be submitted in writing through BidSync.com. Questions and answers will be consolidated and provided to all Contractors on record as receiving this RFP. All such questions should be received three (3) working days prior to proposal due date.

## **2.7 PRE-PROPOSAL MEETING**

Owner will host a **mandatory** pre-proposal meeting on **July 21, 2014, at 2 p.m.** to discuss any questions that prospective Contractor might have for the bid committee. The pre-proposal meeting will be held at the Lehi City Power Department offices and a site visit to each Substation site will follow:

*Lehi City Power Department*  
560 West Glen Carter Drive  
Lehi, UT 84043

All Consultants who attend the pre-proposal meeting and site walkthrough are required to bring personal protective equipment.

## **2.8 PROPOSAL COSTS**

Owner is not liable for any cost incurred by Contractor associated with the preparation of the RFP, any oral presentation required during the evaluation of the RFP, or the negotiation of a contract for services prior to the issuing of the contract.

## **2.9 ADDENDUM TO RFP**

In the event that it becomes necessary to revise this RFP in whole or in part, an addendum will be provided to all Contractors on record as having received this RFP and posted to Bidsync. A statement issued in an addendum shall have the effect of modifying a portion of the bid documents when the statement in the addendum specifies a section, paragraph or text and states that it is to be so modified.

## **2.10 PROPOSALS SHALL BE BINDING SUBJECT TO ACCEPTANCE**

Bids shall be binding upon the Contractor for sixty (60) calendar days from submission deadline. A Contractor may withdraw or modify their bid any time prior to the submission deadline by written request, signed by the same authorized officer or agent who signed the original bid.

## **2.11 ALTERNATIVE PROPOSALS**

Contractor may submit more than one proposal, each of which must follow the Proposal Response Outline (section 2.2 herein) and satisfy the requirements of this RFP. The Contractor's primary proposal must be complete and comply with all instructions. The alternative proposals may be in abbreviated form following the Proposal Response Outline but providing complete information only for sections which differ in any way from those contained in the primary proposal. If alternative proposals are submitted, the Contractor must explain the reasons for the alternative(s) and its comparative benefits. Each proposal submitted will be evaluated on its own merits.

## **2.12 DISCLOSURE OF BID CONTENT**

Under the Government Records Access and Management Act, UTAH CODE ANN. § 63-2-101 *et seq.*, as amended ("GRAMA") certain information in the proposal submitted may be open for public inspection. If Contractor desires to have information contained in its proposal protected from such disclosure, the Contractor may request such treatment by providing a "written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality" with the proposal

(GRAMA, Section 63G-2-309). Pricing elements of any proposal will not be considered protected. All material contained in and/or submitted with the proposal becomes the property of the Owner and may be returned only at the Owner's option.

**2.13 ANTI-COLLUSION**

The submission of a proposal constitutes agreement that the Contractor has not divulged its proposal to, or colluded with, any other Contractor or party to a proposal whatsoever.

**2.14 RESTRICTIONS**

All proposals must clearly set forth any restrictions or provisions deemed necessary by the Contractor to effectively service the proposed Contract.

## **SECTION 3: SPECIFICATIONS**

### **3.1 PROJECT DESCRIPTION**

The Owner currently has two 46kv substations (Bull River & Carter) fed from the Rocky Mountain Power 46 kV Highland line. As is apparent by recent extended power outages, these substations do not provide the reliability required by the Owner. Lehi City Power and Rocky Mountain Power will be working in coordination to remedy this issue by upgrading the 46 kV Highland line to a 138 kV line.

The Owner plans to utilize two currently owned 138 kV transformers to upgrade its Bull River substation for connection to the new 138 kV line. In addition, Lehi Power plans to build a new 138 kV “Murdock” substation to accommodate a large amount of growth on the northeast side of the City.

*Murdock Substation Work:* Murdock Substation Scope of Work includes all necessary site preparation, stormwater management and debris management and containment throughout construction, grading and fill (fill material will be provided to jobsite by Owner; Contractor is responsible for placing, compacting, and grading fill material), installation of drainage culverts, drop inlets and piping. The contractor is responsible for installation, adjustment, placement and testing of all Owner and Contractor provided electrical equipment, structural steel, concrete foundations, grounding equipment, above and below grade conduit (including feeder getaways to ground sleeves), lighting, and finish rock for a complete and functioning facility. The retaining wall, block wall fence and gates will NOT be included in the contractor’s scope however the contractor must coordinate with the wall contractor for all CONTRACTOR backfill, grading and compaction for the site.

*Bull River Substation Work:* Bull River Substation Scope of Work includes two separate phases of construction because only one half of the Substation can be taken out of service at a time (unless short duration complete outages are agreed by the Owner to be necessary for safe construction activities, such outage dates, times and durations must be approved by the Owner). As described in the Staging drawings one transformer and its associated 46kV equipment will be removed while the other remains in service, after the line conversion is complete and the new equipment is energized at 138kV the remaining transformer and equipment will be replaced. The contractor is responsible for the entire scope of the removal of the existing equipment and foundations as well as the installation of the new 138kV equipment. The transformer/regulator foundations will be reused; all other 46kV foundations will be removed by contractor. The 12kV equipment will not be modified.

### **3.2 Scope of Work**

*As described above this project consists of two separate substation sites approximately two miles apart. Both projects consists of installation of 138kV high voltage dead-ends, bus supports, disconnect switches, circuit switchers and metering equipment. The Bull River project will require interfacing with existing open air 12.47kV bus work while the Contractor will be required to set, install, wire, test and connect the Owner supplied 15kV Switchgear building as shown in the Bid drawings.*

Contractor will interface with Rocky Mountain Power construction crews to coordinate connection to RMP owned transmission line equipment.

Contractor will provide all labor and materials as listed on the Bill of Materials drawings for each substation in addition to all miscellaneous equipment and materials (conduit, cables, lugs, terminations, labels, grounding equipment and conductor, foundations, structural steel, crushed rock surfacing, ect) for a complete, functional and working Electrical Substation. Contractor is responsible for all foundations (earthwork, formwork, backfill, anchor bolts, soil compaction, reinforcement, concrete, curing, finishing, joints, and other related work) within the substation fence and the entirety of all conduits between the substation and control building or switchgear including Murdock 12.47kV getaway conduits to outside the substation wall, Contractor to coordinate with City or City's selected contractor for feeder locations (ground sleeves/pad mounted distribution switchgear inside Substation to be supplied by the City and installed by the Contractor per City specifications) .

Contractor is responsible for placing, dressing, aligning and testing all equipment (both Owner and Contractor supplied) within each Substation as well as the existing Bull River Substation Control Panels and relay equipment. Contractor is responsible for all primary and electrical control wiring, grounding connections and lightning static wire within the Substation and Substation Control Panel.

All 12.47kV to outside feeders and Murdock Switchgear compartments will be completed by the OWNER (conduit for these connections shall be provided by Contractor).

### **3.3 DRAWINGS**

#### **3.3.1 Drawings to be Provided:**

The following lists of drawings are included for Bidding purposes only. Upon award and notice to proceed the successful bidder will be given Construction drawings and bidding drawings must be destroyed or clearly marked as "Obsolete-Not to be Used for Construction". Additional drawings will be included in the "Issued For Construction" (IFC) set:

#### **Murdock Drawings:**

- A0-001 Vicinity Map
- A1-001 Record of Survey
- A1-002 Site Plan
- A1-004 Grading Sections and Details
- A2-001 General Arrangement
- A4-001 Equipment Sections
- A5-001 Foundation Plan
- A5-002 Transformer Foundation Details
- A5-003 Transformer Grating Details
- A5-004 Pier Schedule
- A5-005 Anchor Bolt Details
- A5-006 Switchgear Foundation Details
- A6-001 Grounding Plan
- A6-002 Grounding Details
- A6-003 Grounding Details
- A7-001 Conduit Plan
- A9-001 138kV Dead-End Erection
- A9-002 138kV Dead-End Details
- A9-003 138kV Dead-End Details

- A9-004 138kV Low Bus Support
- A9-005 138kV Switch Stand
- A9-006 138kV Switch Stand Details
- A9-007 52' Static Mast
- A9-008 Switch Platform
- A10-001 Bill of Materials
- C2-001 Switchgear Layout
- C2-002 Switchgear Elevation

#### **Bull River Drawings:**

- Stage 1/2 – Staging Drawing 1 of 2
- Stage 2/2 – Staging Drawing 2 of 2
- E004 138kV Material List
- E100 One Line Diagram
- E101 Station Site Plan
- E102 Station Section Views
- E109 Bus Assembly Details
- E200 General Grounding Plan
- E201 General Assembly - Grounding Details
- E210 Site Conduit Plan
- E211 Conduit Schedule
- E212 Electrical Assembly – Conduit Details
- E212A Electrical Assembly – Conduit Details
- E213 Electrical Assembly – Conduit Details
- C001 Fence and General Location Plan
- C006 Foundation Details – Drilled Piers
- S005 Steel Switch Grounding Platform Detail
- S006 138kV Dead-End Erection Details
- S007 138kV Dead-End Steel Details
- S008 138kV Dead-End Steel Details
- S009 138kV Low Bus Support Steel Details
- S010 138kV Low Switch Stand Erection Details
- S011 138kV Low Switch Stand Steel Details
- S012 138kV High Switch Stand Erection Details
- S013 138kV High Switch Stand Steel Details

### **3.4 Construction Standards**

#### **3.4.1 Scope:**

This Specification outlines the general procedures to be used in the performance of work by the Contractor contracted by Lehi, to provide construction and testing services for the project.

#### **3.4.2 Standards:**

1. The Contractor's design shall be in accordance with accepted national standards and safety codes, designed for seismic zone 3.
2. Bus Design (If applicable):
3. Bus design shall utilize IPS pipe size, 6063-T6 tube. Damper conductor shall be provided where necessary for aluminum tube.

4. The use of swage/compression aluminum bus fittings is preferred. All hardware for aluminum to aluminum and aluminum to bronze terminations shall be stainless steel.
5. Aluminum compression fittings shall be used for all aluminum and ACSR wire bus connections.
6. Control Cable: Control cable installations between equipment in the substation yard and the control building are to be made using non-shielded multi conductor cable in conduit.
7. Any items not fully covered herein shall also be of sound engineering design and construction and shall conform to the legally authorized, nationally recognized codes applicable to such items such as NFPA 70, International Building Code, American Concrete Institute, American Institute of Steel Construction, Inc., National Electric Code, API 500, ASME B31.8, ASME Section IX, etc. Contractor is expected to comply with all applicable regulations. No omission in these specifications shall be construed as relieving Contractor of his responsibility to perform work and furnish materials in accordance with sound engineering practice. Any material required for a complete and functional substation not explicitly listed as Company Supplied on the Electrical BOM shall be provided by the contractor.

### **3.5 PROJECT SCHEDULE**

#### **3.5.1 Major Construction Milestones**

1. Bid Closing	July 31, 2014
2. Mobilization	September 1, 2014
3. Transformer Foundations Complete	October 3, 2014
4. 15kV Switchgear Foundation Complete	November 21, 2014
5. 138kV Bull River East Transformer Energization	May 1, 2015
6. 138kV Murdock Deadend Energization	May 1, 2015
7. 138kV Bull River West Transformer Energization	June 30, 2015
8. Demobilization and Project Completion	July 15, 2015

#### **3.5.2 Major Equipment Delivery Dates**

1. Transformer Shipment Date T1	October 30, 2014
2. Transformer Shipment Date T2	November 3, 2014
3. 15kV Switchgear Shipment Date	December 17, 2014

#### **3.5.3 Failure to Meet Critical Completion Dates**

Failure to meet critical completion dates will result in a late penalty of \$2,000 per day until the item is completed, as stated in Section 5.18 herein. Critical completion dates include Transformer Foundations (October 3, 2014), Switchgear Foundation (November 21, 2014), and 138kV Murdock Deadend Energization (May 1, 2015).

## **SECTION 4: PROPOSAL EVALUATION**

### **4.1 PROPOSAL EVALUATION CRITERIA**

The criteria used to evaluate proposals may be based upon the following:

1. Organization and approach
2. Experience/Qualifications
3. Availability
4. Schedule to Completion
5. Cost (lump sum; See Bid Form)

NOTE: In addition to addressing the specific criteria listed above, each Contractor should provide a detailed response to each requirement set forth in this RFP.

### **4.2 EVALUATION PROCESS**

All proposals in response to this RFP will be evaluated in a manner consistent with Lehi City and Utah State Procurement Code 63g-6a-101, *et seq.* and all applicable rules, regulations, and policies.

**Part 1:** In the initial phase of the evaluation process, the evaluation committee will review all bids timely received. Non-responsive bids (those not conforming to RFP requirements) will be eliminated.

**Part 2:** Second, the remaining bids will be evaluated in a cursory manner to eliminate from further consideration those bids which in the judgment of the evaluation committee fail to offer sufficient and substantive provisions to warrant further consideration. Each Contractor bears sole responsibility for the items included, or not included, in the response submitted by that Contractor.

**Part 3:** Selected bids will be chosen for detailed review and evaluation. A select list of finalists may be invited to prepare an oral presentation to clarify in more detail information that was submitted in the Contractor's proposal.

The Owner reserves the right to disqualify any bid that includes significant deviations or exceptions to the terms, conditions and/or specifications in this RFP. Owner reserves the right to be the sole judge as to the overall acceptability of any proposal or to judge the individual merits of specific provisions within competing offers.

Owner may award a contract based on initial proposals received without discussion of such proposals with Contractor. Accordingly, each initial proposal should be submitted with the most favorable price and service available.

### **4.3 AWARD OF THE CONTRACT**

Upon completion of the evaluation process, Owner may negotiate with and award the contract to the Contractor whose proposal is determined to be most advantageous to the Owner. The contract must be executed by the parties prior to commencement of performance. The contract will incorporate the

provisions of this RFP (including any addenda) and the general terms and conditions described in Section 5. By submitting a signed proposal as required by Section 2.2, Contractor is agreeing to the provisions of the contract described herein.

#### **4.4 RIGHT TO REJECT**

The Owner reserves the right to reject any and all bids and to waive any formality in the bids received, to accept or reject any or all of the items in the bid, and award the contract in whole or in part, if it is deemed in the Owner's best interest. The Owner reserves the right to negotiate any and all elements of the bids, if any such action is deemed in the best interest of the Owner.

## **SECTION 5: GENERAL TERMS AND CONDITIONS**

### **5.1 CONTRACT**

The intention of the Contract is to include all labor, material, transportation, and all other action necessary for the accomplishment of the project described herein.

The Contract shall be signed in triplicate by the Owner and the Contractor. The accepted proposal will be retained by the Owner for its files.

### **5.2 THE CONTRACTOR**

The Contractor shall perform the Work in a manner consistent with applicable professional and technical standards for consulting work of this nature, and shall ensure that the implementation of the Work is also performed in an applicable professional, technical, and workman-like manner. The Contractor shall revise any defect in the Work at no additional cost to the Owner.

No verbal agreement or conversation with any officer, representative, agent, or employee of the Owner, either before or after the execution of this contract, shall affect or modify the terms or obligations herein contained. Any amendment to the Contract must be in writing, and must be executed by both parties to be valid.

### **5.3 THE OWNER**

The Owner shall have responsibility for the general supervision of the project contemplated by the Contract. The Contractor shall have authority to direct the program of manufacture and delivery to insure the performance of the Contract.

**5.3.1** The Owner shall make available to the Contractor any required information and any additional information pertaining to the Work which the Owner has readily available and can supply without unreasonable effort.

**5.3.2** The Owner shall promptly examine documents submitted by the Contractor and indicate needed corrections or changes, and otherwise render decisions pertaining thereto promptly, so as to avoid unreasonable delay in the progress of the Contractor's services and overall progress of the Work.

**5.3.3** Should the Contractor advise the Owner in writing of the existence of causes over which Contractor has no control which may delay the Work, or which were not reasonably foreseeable, the Owner, for good cause, shall extend the time specified for completion of the Work.

**5.3.4** If the Owner becomes aware of any fault, defect, or deficiency in the Work, it shall give prompt written notice thereof to the Contractor. If the Contractor fails to cure said fault, defect or deficiency within the time period set forth in the Owner's written notice, the Contractor will be considered to have materially breached this agreement.

## **5.4 COMPENSATION**

### **5.4.1 Total Fees**

Except for approved change orders or authorized additional services, the total compensation payable to the Contractor by the Owner for the services described in this agreement shall not exceed the agreed upon amount. Payment for change orders or additional services shall be made pursuant to the provisions of 5.4.4, or as otherwise agreed to in writing by the parties.

### **5.4.2 Method of Payment**

These terms of payment cover payments to be made at the time of delivery of the project. Unless otherwise specifically indicated in these contract documents, the terms of payment will be NET, 30 days upon delivery and acceptance of the study or services. A five percent (5%) retainage will be withheld until final product is reviewed and accepted by the Owner.

Invoices shall be submitted to:

Lehi City  
Attn: Accounts Payable  
153 North 100 East  
Lehi Utah, 84043

### **5.4.3 Not-to-Exceed Fee for Services**

Payment for services shall be made upon submission by Contractor of a detailed invoice for services performed and costs incurred. Each invoice shall set out in reasonable detail the tasks performed and costs incurred. Each invoice shall set out in reasonable detail the tasks performed by the Contractor or Sub-Contractor, the date the task was completed, the name of the individual(s) who performed the work and the name of the work along with a statement of costs related to those tasks completed. The Owner shall make payment to Contractor for completed work, within thirty (30) days of receiving a statement, but not more frequently than monthly, and only upon written certification from the Owner Representative.

### **5.4.4 Change Orders and Additional Services**

Change orders or additional services of the Contractor must be authorized in advance and in writing by the Owner. A summary showing estimated service and cost data for each change order or additional service request shall be submitted to the Owner for written approval prior to commencement of work on that change order or additional service. The Owner shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost unless the Owner and the Contractor have agreed in advance and in writing to a change in the scope of work due to a change order or request for additional services. Additional sets of documents and drawings shall be charged at actual cost of printing.

#### **5.4.5 No Payment for Errors**

No payment shall be made to the Contractor for labor involved in correcting errors or omissions attributable in any way to the Contractor or its agents, sub-contractors, and the like, including errors in oversight of the progress of the Work.

#### **5.4.6 Payment Withheld**

The Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any estimate to such extent as may be necessary to protect itself from loss on account of:

**5.4.3.1** Defective study not remedied.

**5.4.3.2** Claims filed or reasonable evidence indicating probable filing of claims.

**5.4.3.3** Any other violation of or failure to comply with the provisions of this contract.

When the above grounds are removed, payment shall be made for amounts withheld because of them. Owner reserves the right, in case of Contractor default, to procure the services from other sources while holding the defaulting Contractor responsible for any excess costs occasioned thereby, as well as any other damages available at law or in equity.

#### **5.4.7 Inspection/Audit**

Any Contractor providing goods or services under any contract shall maintain accurate accounting records for all goods and services provided thereunder, and shall retain all such records for a period of at least three (3) years following termination of the Contract. Upon 48-hours notice and during normal business hours, the Owner, or any of its duly authorized representatives, shall have access to and the right to audit any records or other documents pertaining to the Contract. The Owner's audit rights shall extend throughout the term of the Contract and for a period of at least three (3) years thereafter. The Contractor also acknowledges that the State of Utah, the Comptroller of the United States, or any of their duly authorized representatives also have access to any books, documents, papers, and records of the Contractor, which are directly pertinent to the Work contemplated herein, for the purpose of making audits, examination, and transcriptions.

#### **5.4.8 Acceptance and Final Payment**

In a timely manner after the study has been delivered and accepted, the Owner will make a final estimate stating that the Contract has been completed and that the study has been accepted by him under the terms and conditions thereof, with qualifications, if any, as stated and the balance found to be due the Contractor according to the terms of payment shall be paid by the Owner, as provided under *5.4.2 Method of Payment* of this document. Prior to filing a final estimate, Contractor shall file with the Owner a sworn statement that all items of labor entering into the study have been paid.

#### **5.5 WARRANTIES BY CONTRACTOR**

Contractor expressly warrants the workmanship, materials, and manner of construction provided for and contemplated by this contract and agrees that if the improvement contemplated therein does not remain in good condition for a period of **one year** from the date of final acceptance by Owner, ordinary

wear and tear excepted, because of defects in the workmanship, materials or manner of construction, then and in that event Contractor agrees that any and all repairs necessary to maintain said improvement and each and every part thereof in such good condition shall be made by said Contractor without additional charge or cost to the Owner.

During the warranty period, Contractor shall make reasonable efforts to correct deficient work. Unless the specifications call for a shorter time, when the deficiency involves safety of the building occupants or patrons; the loss of or damage to property; or renders the building unusable for its intended purpose; Contractor shall respond and begin to correct the work no later than 24 hours after having received notice.

In the event Contractor does not respond as indicated herein, Owner may elect to complete the work and contact Contractor surety for payment of completed work. Failure to respond to warranty work may be grounds to deny future work for Contractor.

## **5.6 ASSIGNMENT**

Any and all sub-Contractors or sub-contracts shall be listed and approved by the Owner. Contractor shall not assign any portion of its obligations under the Contract without the prior written consent of Owner. Assignment or sub-consulting shall in no way relieve the Contractor of any of its obligations under this Contract.

## **5.7 DIRECTION OF WORK**

### **5.7.1 Written Communiques**

Contractor shall not make any alterations or variations in or additions to or omissions from the Work or terms of the RFP, the Proposal, or this agreement without the prior written consent of the Owner. All Owner submittals, acceptances, rejections, or recommendations must be in writing and Contractor shall not rely on any verbal communication.

### **5.7.2 Review**

The Owner shall have the right to review all reports, maps, submittals, and other work product of Contractor and hereby retains the right to request Contractor to make reasonable modifications, which modifications shall be made without any additional cost to the Owner, unless otherwise agreed by the parties in writing. Upon request the Contractor should be able to summarize and concisely report pertinent information to Owner in a timely manner, throughout the duration of this contract resulting from this RFP.

### **5.7.3 Disputes**

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement, which is not disposed of by agreement, shall be decided by mediation. The parties shall agree on a mediator and shall split the costs of mediation. Pending a resolution of the matter through mediation, the Contractor will proceed diligently with the performance of the agreement. If the parties cannot resolve the dispute through mediation, each party reserves the right to pursue any available remedy in law and equity.

#### **5.7.4 Further Agreements**

In addition to a proposal, Owner may from time to time require Contractor to execute certain additional documents or agreements, including without limitation a Contract, for the purpose of clarifying the intention of the parties with respect to providing the goods or services hereunder.

#### **5.8 APPLICABLE LAW; VENUE**

The interpretation and construction of this agreement, and all matters relating hereto, shall be governed by the laws of the State of Utah applicable to agreements executed and to be performed solely within Utah. The parties hereby submit to the jurisdiction of, and waive any venue or jurisdiction objections against, the Fourth District Court of the State of Utah in any litigation arising out of this agreement.

#### **5.9 TERMINATION, SUSPENSION OR ABANDONMENT**

**5.9.1** The Owner may terminate this agreement at any time upon seven (7) calendar days' written notice, in the event the services of the Contractor, in the sole judgment of the Owner, are unsatisfactory, because of the Contractor's failure to prosecute the work with diligence or within the time limit specified, or in the event that the Contractor, in the sole judgment of the Owner, has materially breached this Contract; provided, however, that after receiving the Owner's written notice, Contractor shall have five (5) working days in which to cure any such deficiency.

**5.9.2** The Owner reserves the right, at its sole discretion, to suspend or abandon this Agreement at any time upon seven (7) calendar days written notice.

**5.9.3** In the event of termination, suspension or abandonment, without cause, the Owner shall pay the Contractor for services performed according to this agreement up to the time of such termination, suspension, or abandonment. The Contractor shall not be entitled to any additional compensation, award, or damages.

**5.9.4** All work accomplished by the Contractor prior to the date of any termination, suspension, or abandonment shall be recorded, and tangible work documents shall be transferred to and become the sole property of the Owner. If the Owner has terminated the Project without cause, and then requests to resume the Project with the Contractor after more than three (3) months from the date of termination, the Contractor's compensation shall be subject to renegotiation.

#### **5.10 RELATIONSHIP OF THE PARTIES**

Contractor acknowledges that the services rendered under this agreement shall be solely as an independent Contractor. Contractor shall not, nor is authorized to, enter into any contract or commitment on behalf of the Owner. In assuming and performing the obligations of any contract, Owner and Contractor shall each be acting as independent parties and neither shall be considered or represent itself as a joint venture, partner, or employee of the other.

#### **5.11 GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT**

Under the Government Records Access and Management Act, UTAH CODE ANN. § 63-2-101 *et seq.*, as amended ("GRAMA") all materials submitted by Contractor pursuant to this agreement may be subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. If the Contractor

desires the Owner to prevent disclosure, the burden of claiming an exemption from disclosure shall rest solely with the Contractor. Any materials for which Contractor claims a privilege from disclosure shall be marked as "Confidential" and accompanied by a statement from Contractor explaining Contractor's claim of exemption from disclosure. The Owner will make reasonable efforts to notify Contractor of any requests made for disclosure of documents submitted under a claim of confidentiality. Contractor may, at its sole expense, take any appropriate actions to prevent disclosure of such material. Contractor specifically waives any claim against the Owner related to disclosure of any materials required by GRAMA.

#### **5.12 CONFIDENTIALITY**

Contractor agrees that, except as directed by the Owner, it will not at any time during or after the term of this agreement disclose any information or document provided by the Owner which the Owner has designated as confidential to any person whatsoever and that upon the termination of this agreement it will turn over to the Owner all documents, paper, and other matter, including copies thereof, in its possession or control designated confidential that relate to Owner. Contractor further agrees to bind its employees and sub-Contractors to the terms and conditions of this agreement.

#### **5.13 GOVERNMENTAL IMMUNITY**

Nothing in this agreement shall adversely affect any immunity from suit, or any right, privilege, claim or defense, which the Owner or its employees, officers and directors may assert under state or federal law, including but not limited to The Governmental Immunity Act of Utah, Utah Code Ann. §§63-30d-101 et seq. (the "Act"). All claims against the Owner or its employees, officers and directors are subject to the provisions of the Act, which Act controls all procedures and limitations in connection with any claim of liability.

#### **5.14 INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless Owner, and any subsidiary or affiliate of the Owner, and its past, present and future agents, representatives and employees from and against all claims, damages, lawsuits, losses, liabilities, liens, cost, citations, penalties, fines and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the work, provided that such claims, damages, losses, liabilities, liens, costs, citations, penalties, fines, or expenses are caused in whole or in part by any negligent, grossly negligent, reckless, or intentional act or omission by the Contractor, any sub-Contractor, anyone directly or indirectly employed by the Contractor or any sub-Contractor, or any party for whose acts the Contractor or Owner may be liable, regardless of whether liability is imposed upon such indemnified party. This indemnity obligation is intended to include, but is not limited to, the indemnification of Owner indemnified hereunder for damages apportioned to the Contractor, any sub-Contractor, or any person or entity directly or indirectly employed by any of them or any person or entity for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity, which may otherwise exist in favor of the Owner. In any and all claims against the Owner, or any subsidiary or affiliate, or any of its past, present or future agents, representatives or employees by any employee of the Contractor, any sub-Contractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the

indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or types of damages, compensations or benefits payable by or for the Contractor, or any sub-Contractor, the worker's or workman's compensation acts, disability benefit acts or other employee-benefit acts.

To the fullest extent by law, the Contractor shall indemnify, defend and hold harmless the Owner and any subsidiary or affiliate, and its past, present and future agents, representatives and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, directly or indirectly arising out of or based in whole or in part upon:

- A. The Contractor's breach of any covenant or warranty of the Agreement.
- B. Any damage or loss to any property caused in whole or in part by the Contractor any sub-Contractor, or anyone directly or indirectly employed by any of them, or by any person or entity for whose acts any of them may be liable, except damages or loss attributable solely to acts or omissions of the Owner or its agents or employees and not attributable to the fault or negligence of the Contractor.
- C. The Contractor's failure to comply with any applicable law, regulation, rule, or ordinance.
- D. The indemnity obligations of this section are in addition to the indemnity obligation of the Contractor under the indemnification section.

#### **5.15 FORCE MAJEURE**

Neither party shall hold the other responsible for damages or delays in performance caused by acts of God, strikes, lockouts, accidents, acts of any governmental entity having jurisdiction over the parties and/or the subject matter of this agreement (other than those governmental entities named as parties or beneficiaries to this agreement), or other events beyond the reasonable control of the other or the other's employees and agents. In the event either party claims that performance of its obligation is prevented or delayed by such cause, that party shall promptly notify the other party of that fact and the circumstances preventing or delaying performance. In the event the Contractor notifies the Owner of a force majeure event, and if said event prevents the Contractor from performing its obligations under this agreement for more than thirty (30) days, the Owner may unilaterally cancel this agreement without any further obligation owed to the Contractor.

#### **5.16 INSURANCE**

The Contractor shall, at its own expense, provide for the payment of Worker's Compensation benefits to its employees employed on or in connection with the work covered by this RFP, in accordance with applicable laws.

**5.16.1** The Contractor shall at its own expense, carry and maintain Comprehensive General Liability Insurance including but not limited to \$3,000,000.00 per occurrence

**5.16.2** The Contractor shall at its own expense, carry and maintain Automobile Public Liability insurance with Bodily Injury and Death Limits of at least \$250,000 for any one person and \$500,000 for any one occurrence, and Property Damage Limit per occurrences of \$250,000. Such benefits and such coverage as required herein or in any other documents to be considered a part hereof shall not be

deemed to limit Contractor's liability under this Contract. It is intended by this section that the limits set forth herein will exceed applicable minimum requirements under Utah law. However, in the event that the foregoing amounts do not satisfy minimum requirements under applicable Utah law, the Contractor must maintain Automobile Public Liability insurance in amounts satisfying applicable Utah law.

**5.16.3** The Contractor shall, at its own expense, carry and maintain professional liability/errors and omissions insurance appropriate to the Contractor's profession to a minimum coverage of \$3,000,000; with neither Contractor nor listed sub-Contractor having less than \$500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one-year extended reporting period (or longer upon request).

**5.16.4** The Contractor shall likewise require its sub-Contractor, if any, to provide for such benefits and carry and maintain such insurance at no expense to the Owner.

**5.16.5** Before commencement on the project contemplated herein, and at any time thereafter upon written request by the Owner, the Contractor shall furnish Owner with a copy of certificates of insurance as evidence that policies providing the required coverage's and limits of insurance are in full force and effect.

**5.16.6** All insurance coverage furnished under this Contract, with the exception of Worker's Compensation and Employer's Liability, shall include the Owner, directors, officers, agents, and employees as additional insured with respect to the activities of the Contractor and its sub-Contractor.

Any certificate or certificates presented as evidence of insurance shall specify the date when such benefits and insurance expire. The Contractor agrees that said benefits and insurance shall be provided and maintained until after the entire work under the Contract has been performed and accepted. The Contractor shall provide Owner at least sixty (60) days advance written notice prior to cancellation, termination, or material alteration of said policies of insurance.

## **5.17 PERFORMANCE BOND**

The Contractor will be required to furnish both a Performance and a Payment Bond for the total of the project amount as required by Owner. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Contractor shall also furnish such other Bonds as are required by the Contract Documents.

All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

If the surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Utah, Contractor shall within 20 days thereafter substitute another Bond and surety.

#### **5.18 FAILURE TO MEET DEADLINE**

Unless otherwise noted by Owner, time is of the essence in the performance of all of the provisions of this Agreement. In the event the Contractor fails to meet critical construction deadlines contemplated by this Agreement and defined in Section 3.5.3 of the RFP, the Contractor shall pay the Owner a penalty of two thousand dollars (\$2,000) per day for each day said deadline is unsatisfied. The Owner may deduct said \$2,000 per-day penalty from any amounts owed by the Owner to the Contractor. The penalty provisions of this Section 5.18 shall be in addition to any other remedies, damages, and the like available at law or in equity.

#### **5.19 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

No Contractor of goods and/or services under this RFP or any contract shall discriminate against any employee, applicant for employment, or recipient of services on the basis of race, religion, color, sex, age, disability, or national origin.

#### **5.20 TAXES – CONTRACTOR’S RESPONSIBILITY**

Contractor shall be responsible for and pay all taxes which may be levied or incurred against the Contractor in connection with the performance of any services under a Contract, including, but not limited to, taxes levied or incurred against Contractor's income, inventory, property, sales, or other taxes.

#### **5.21 TAXES - OWNER IS EXEMPT**

The Owner is exempt from the payment of any federal excise or any Utah sales tax (State of Utah Sales Tax Exemption number: Q41296). Exemption certification information appears on all purchase orders issued by Owner and such taxes will not apply to Owner unless otherwise noted. The price must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, Contractor may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by Owner.

#### **5.22 ROYALTIES AND PATENTS**

The Contractor shall pay all applicable royalties and license fees. Contractor shall also defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

#### **5.23 ACCEPTANCE OF SERVICES RENDERED**

Owner, through its designated agents and representatives, will be the sole determining judge of whether services rendered under the Contract satisfy the requirements as identified in the Contract.

#### **5.24 ENTIRE AGREEMENT; AMENDMENTS**

This agreement, including any exhibits referenced herein, the Bid Solicitation, and the Proposal represent the entire and integrated agreement between the Owner and the Contractor, and supersedes

all prior negotiations, representations, and agreements, whether written or oral, regarding the subject matter contemplated by this agreement. This agreement may be amended only by written instrument duly executed by all parties.