

**Logo and Branding Consultant**  
**RFP No. 2014-4**



**Lehi City Corporation**  
**Administrative Services Department**

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**RESPONSES ARE DUE PRIOR TO:**  
**March 20, 2014**  
**5:00 PM 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 Administration  
Attn: Robert Ranc  
RFP No. 2014-4  
153 North 100 East  
Lehi, UT 84043

**Lehi City Corporation  
Administrative Services Department**

**Logo and Branding Consultant**

REFERENCE NUMBER: RFP No. 2014-4  
RFP TITLE: "Logo and Branding Consultant"  
RFP LOCATION: Lehi City Corporation, Lehi City, Utah

SUBMISSION DEADLINE: March 20, 2014  
SUBMISSION TIME: 5:00 PM MDT  
SUBMISSION PLACE: Lehi City Administration  
153 North 100 East  
Lehi, Utah 84043

RFP DESCRIPTION: This is a contract for a qualified and experienced firm to assist Lehi City Corporation in creating a new logo and brand that will create a cohesive representation of the City and allow the City to market itself accurately and effectively.

RFP CONTACT: Robert Ranc  
Assistant to the City Administrator  
(801) 768-7100 x. 2271  
[rranc@lehi-ut.gov](mailto:rranc@lehi-ut.gov)

CONSULTANTS: Carefully read all instructions, requirements and specifications. Give all requested information properly and completely. Submit your proposal with appropriate supplements and/or samples. Please submit proposals through Bidsync.com or mail or deliver to the Lehi City Administration address above by the submission deadline. Proposals received after March 20, 2014 at 5:00 PM MDT will not be considered.

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Additional instructions for submitting proposal:

- 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 proposal should be submitted through BidSync. The Supplier may also contact Robert Ranc, Assistant to the City Administrator (see "RFP Contact" above) for specific questions regarding the proposal content. RFP #2014-4 must be

referenced on all proposals and correspondence related to the RFP. Significant questions that arise subsequent to the issue of this RFP will be consolidated and answers will be provided to all Consultants on record as receiving this RFP. All questions should be received three (3) working days prior to RFP due date.

- C. The recommended method to submit your proposal is through BidSync. By using alternate methods of delivery, consultant bears all risks if documents are not received at the Administrative Office prior to the submission deadline. Supplier should call to verify Administration has received the hard-copy proposal prior to the RFP closing. If using an alternative method, Consultants may either mail or hand-deliver one (1) bound hardcopy and one (1) CD electronic copy to the Administration Office. Responses should be addressed as follows:

RFP #2014-4: Logo and Branding Consultant  
Lehi City Administration  
Attn: Robert Ranc 153 North  
100 East  
Lehi, Utah 84043

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. (See Section 2.10)

Unless specifically authorized by the City's Administrative Office, telephonic proposals or modifications of proposals will not be considered. However, modifications by email, fax, etc. for proposals already submitted through the proper channels will be considered, if received prior to the time for the submission deadline.

Consultants should submit proposals by March 20, 2014 at 5:00 PM MDT. Proposal documents and specifications for RFP No. 2014-4, "Logo and Branding Consultant", can be found online at <http://www.lehi-ut.gov/business/rfp> or on [www.bidsync.com](http://www.bidsync.com).

## **SECTION 1: SERVICE REQUIREMENTS AND PROPOSAL PRICING**

### **1.1 SERVICE REQUIREMENTS**

Lehi City Corporation is seeking proposals for a redesign of Lehi City's logo and subsequent branding. Specifically the City is interested in hiring a company who will:

- Assist City leaders in defining the key attributes and benefits of Lehi City and the values important to Lehi residents. Consultants should specifically identify how they will accomplish this service requirement, i.e. surveys, interviews with City elected officials, interviews with City staff, focus groups, etc.
- Create multiple options of branding concepts including, but not limited to, corporate materials, signage, and vehicles based on the findings from the processes discussed above.
- Create a final branding concept after receiving feedback from City leaders.
- Produce a style guide in paper and digital formats with a complete summary of final design concepts along with instructions on how to use the concepts across applicable touch points within the community.

Consultants are at liberty and are encouraged to expand upon the specifications to evidence their capability under any contract.

## **SECTION 2: INSTRUCTIONS TO CONSULTANTS**

### **2.1 ADMINISTRATIVE GUIDANCE**

The information provided in this RFP is designed to provide interested Consultants with sufficient 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. Consultants 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 SCOPE OF TERMS & CONDITIONS**

Before submitting a proposal, the Consultant shall understand all contract conditions referred to in this document, and any addenda issued before the RFP submission date. It shall be the Consultant's responsibility to ensure that the proposal includes all addenda issued prior to the RFP submission date. By submitting a proposal, the Consultant acknowledges and accepts the Terms and Conditions described herein.

### **2.3 PROPOSAL RESPONSE OUTLINE**

Consultants must submit a complete and concise response to the RFP, demonstrating the ability to meet the requirements of this RFP. Pertinent supplemental information should be referenced and included as attachments. The contents of the proposal submitted by the successful Consultant may become part of any contract awarded as a result of this solicitation. All proposals must be organized to comply with the following sections:

#### *LETTER OF TRANSMITTAL*

The letter of transmittal should include an introduction of the Consultant, including the name, address, telephone number, and fax number of the person to be contacted, along with others who are authorized to represent the Consultant in dealing with this RFP. Any other information not appropriately contained in the body of the proposal should also be included in the letter of transmittal.

The letter should also indicate any criteria expected by the City that cannot be met by the Consultant. The transmittal letter should be signed by an authorized representative of the Consultant empowered with the right to bind the Consultant for the amounts estimated and terms proposed.

#### *REFERENCES*

Please provide information for three references that the Consultant has contracted with to complete similar projects.

#### *RESUME AND QUALIFICATIONS*

Please provide the resume and qualifications for each person that will be working on the project.

#### *EXAMPLE OF PREVIOUS WORK*

Please provide an example(s) of previous logo and branding work.

### *COST PROPOSAL*

The Consultant must submit a cost proposal allowing costs to be evaluated independently of other criteria in the proposal. The pricing for all products and services 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. Pricing on all transportation, mobilization and other charges shall be prepaid by the Consultant and included in the proposal price. The Consultant must indicate any additional charges not mentioned above or forfeit the right to payment for such items.

### *PROJECT TIMELINE*

Consultants must submit a detailed proposal that involves furnishing an estimated timeline for completion of the project, including various benchmarks. This project will be funded through the City's FY 2015 budget, effective July 1, 2014. Consultants should use this date as the start for the project timeline.

### *MISCELLANEOUS*

The Consultant should provide any supplemental information and attachments relevant to the proposal, including samples, company literature, catalogues, etc.

## **2.4 PROPOSAL PREPARATION COSTS**

Lehi City is not liable for any cost incurred by the Consultant associated with the preparation of the proposal or the negotiation of a contract for services prior to the issuing of the contract.

## **2.5 SUBSTANTIVE PROPOSALS**

The Consultant certifies that, (a) the Consultant's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) the Consultant has not directly or indirectly induced or solicited any other Consultant(s) to submit a false proposal; (c) the Consultant has not solicited or induced any other person, firm, or corporation to refrain or abstain from submitting a proposal; (d) the Consultant has not sought by collusion to obtain for itself any advantage over any other Consultant(s) or over Lehi City; and (e) Consultant shall not violate or cause any person to violate the Utah Municipal Officers and Employees Ethics Act, or any other Federal, State, or Municipal law.

## **2.6 RESTRICTIONS**

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

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

Proposals shall be binding upon the Consultants until July 1, 2014. A Consultant may withdraw or modify its proposal any time prior to the submission deadline by written request, signed by the same authorized officer or agent who signed the original proposal.

## **2.8 ADDENDUM TO THE RFP**

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

Any other communication, whether verbal or written, which are received by any representative of the Consultant from sources other than official addendum should be confirmed by the Consultant with the RFP Contact as being true and accurate prior to incorporating such information into its response. This refers to both formal and informal conversations and communications.

**2.9 ALTERNATIVE PROPOSALS**

Consultants may submit more than one proposal, each of which must follow the Proposal Response Outline (Section 2.3 herein) and satisfy the requirements of this RFP. If alternative proposals are submitted, the Consultant must explain the reasons for the alternative(s) and its alternative’s comparative benefits. Each proposal submitted will be evaluated on its own merits.

**2.10 DISCLOSURE OF PROPOSAL CONTENT**

Under the Government Records Access and Management Act, Section 63-2-101 et seq., Utah Code Ann. (1993 and supp. 1996), as amended ("GRAMA") certain information in the submitted proposal may be open for public inspection. If the Consultant desires to have information contained in its proposal protected from such disclosure, the Consultant 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 Lehi City and may be returned only at the City’s option.

## **SECTION 3: PROPOSAL EVALUATION**

### **3.1 EVALUATION PROCESS**

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

In the initial phase of the evaluation process, the evaluation committee will review all proposals timely received. First, non-responsive proposals (those not conforming to RFP requirements) will be eliminated. Second, the remaining proposals will be evaluated in a cursory manner to eliminate from further consideration those proposals, which in the judgment of the evaluation committee, fail to offer sufficient and substantive provisions to warrant further consideration. Each Consultant bears sole responsibility for the items included, or not included, in the response submitted by that Consultant. Lehi City reserves the right to disqualify any proposal that includes significant deviations or exceptions to the terms, conditions, and/or specifications in this RFP.

At the conclusion of this initial evaluation phase, selected proposals will be chosen for detailed review and evaluation. Lehi City 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.

### **3.2 EVALUATION CRITERIA**

Lehi City will judge the merit of all proposals received in accordance with the general evaluation criteria listed below. Failure to provide any of the information requested may result in the proposal being removed from further consideration. In evaluating the proposals, the City will consider:

- A. Reputation of the Consultant
- B. Evaluated Quality of the Product(s) and Service(s)
- C. Cost of the Product(s) and Service(s)
- D. Project Timeline

### **3.4 AWARD OF CONTRACT**

Upon completion of the evaluation process, Lehi City may negotiate with and award the contract to the Consultant whose proposal is determined to be most advantageous to the City, as determined by the evaluation criteria discussed above. AWARD OF CONTRACT MAY BE MADE WITHOUT DISCUSSION AFTER PROPOSALS ARE RECEIVED. Accordingly, each proposal should be submitted with the most favorable price and service available. The contract will incorporate the provisions of this RFP (including any addenda).

### **3.5 RIGHT TO REJECT**

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

## **SECTION 4: GENERAL TERMS AND CONDITIONS**

The Consultant should expect to see Terms and Conditions in the final contract substantially similar to the following. Lehi City reserves the right to add to, delete from, or otherwise amend these Terms and Conditions as the City deems necessary.

### **4.1 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 Lehi City Corporation (the City) and the selected firm or agency that will complete the work (Consultant). The accepted proposal will be retained by the City for its files.

### **4.2 CONSULTANT STANDARDS OF PERFORMANCE**

The Consultant 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 Consultant shall revise any defect in the Work at no additional cost to the City.

No verbal agreement or conversation with any officer, representative, agent, or employee of the City, 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.

### **4.3 CITY STANDARDS OF PERFORMANCE**

The City shall have responsibility for the general supervision of the project contemplated by the Contract. The City, 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. The City shall provide to the Consultant:

#### **4.3.1. Information**

The City shall make available to the Consultant any required information and any additional information which the City has readily available and can supply without unreasonable effort, pertaining to the Work.

#### **4.3.2. Examination of Documents and Rendering Decisions.**

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

#### **4.3.3. Extension of Time**

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

#### 4.3.4. Notification of Fault, Defect or Deficiency

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

## 4.4 COMPENSATION

### 4.4.1. Total Fees

Except for approved change orders or authorized additional services, the total compensation payable to the Consultant by the City 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 4.3.2.2, or as otherwise agreed to in writing by the parties.

### 4.4.2. Method of Payment

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

Invoices shall be submitted to:

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

The City reserves the right to withhold or alter payment under the following circumstances:

#### 4.4.2.1. Not-to-Exceed Fee for Services

Payment for services shall be made upon submission by Consultant of a detailed invoice for services performed and costs incurred. Each invoice shall set out in reasonable detail the tasks performed by the Consultant or Sub- Consultant, 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 City shall make payment to Consultant for completed work, within thirty (30) days of receiving a statement, but not more frequently than monthly, and only upon written certification from the City Representative.

#### 4.4.2.2. Change Orders and Additional Services

Change orders or additional services of the Consultant must be authorized in advance and in writing by the City. A summary showing estimated service and cost data for each change order or additional service request shall be submitted to the City for written approval prior to commencement of work on that change

order or additional service. Any changes made without such prior agreement, if subsequently accepted in writing by the City, shall be deemed covered by the compensation provided for in Section 4.3 above. The City shall not be obligated to reimburse the Consultant for costs incurred in excess of the estimated cost unless the City and the Consultant 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.

#### 4.4.2.3. No Payment for Errors

No payment shall be made to the Consultant for labor involved in correcting errors or omissions on the part of the Consultant, including errors in oversight of the progress of the Work.

#### 4.4.3. Payment Withheld

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

4.4.3.1. Defective work not remedied.

4.4.3.2. Any other violation of or failure to comply with the provisions of this Agreement.

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

#### 4.4.4. Inspection/Audit

##### 4.4.4.1. Obligation to Maintain Accounts and Records

The Consultant providing goods or services under this contract shall maintain accurate accounting records for all goods and services provided hereunder, and shall retain all such records for a period of at least six (6) years following the termination or completion of the Contract. Upon 48-hours' notice and during normal business hours, the City, 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 City's audit rights shall extend throughout the term of the Contract and for a period of at least six (6) years thereafter. The Consultant 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 Consultant, which are directly pertinent to the Work contemplated herein, for the purpose of making audits, examination, excerpts, and transcriptions.

#### **4.5 WARRANTIES BY CONSULTANT**

Consultant represents and warrants to City that: it is properly qualified and licensed in the State of Utah for the Work contemplated in this Agreement; it has the experience and ability to perform the services required by this Agreement; that it will perform said services in a professional, competent, and timely manner; that it has the power to enter into and perform this Agreement; and that its performance of this Agreement shall not infringe upon or violate the rights of any third party or violate any federal, state, or municipal laws.

#### **4.6 PERIOD OF PERFORMANCE**

##### **4.6.1. Commencement**

The Consultant agrees to begin the Work as soon as the City's authorization to proceed is received by consultant, unless noted otherwise. If the City sends such authorization by mail, receipt thereof shall be presumed on the third calendar day thereafter.

##### **4.6.2. Work Schedule**

Except as may be changed in writing by the City, the Consultant shall provide the Work described herein in accordance with the schedule provided by the Consultant of Section 2.3 above.

##### **4.6.3. Time Is Of the Essence Of This Agreement**

Unless otherwise noted by the City, time is of the essence in the performance of all the provisions of this Agreement.

##### **4.6.4. Termination, Suspension, or Abandonment**

The City may terminate this Agreement at any time upon ten (10) calendar days' written notice for any of the following: in the event the services of the Consultant, in the sole judgment of the City, are unsatisfactory; because of the Consultant's failure to prosecute the Work with diligence or within the time limit specified; in the event the Consultant, in the sole judgment of the City, has materially breached this Agreement, provided, however, that after receiving the City's written notice, Consultant shall have five (5) working days in which to cure any such deficiency.

The right is reserved by the City to suspend or abandon this Agreement at any time upon seven (7) calendar days written notice, in the event the Work is abandoned or indefinitely postponed, in the sole discretion of the City.

In the event of termination, suspension, or abandonment, without cause, the City shall pay the Consultant for services performed according to this Agreement, up to the time of such termination, suspension, or abandonment.

All Work accomplished by the Consultant prior to the date of any termination shall be recorded, and tangible work documents shall be transferred to and become sole property of the City. If the City has terminated the Work without cause, and then requests to resume the Work with the Consultant after more than three (3) months from

the date of termination, the Consultant's compensation shall be subject to renegotiation.

#### **4.7 CITY REPRESENTATIVE**

The City Representative shall assist in the administrative management of this Agreement to ensure that the Work to be performed by Consultant is timely and adequately performed, and to provide for City approvals as may be required by this Agreement or the nature of the Work. The City Representative shall assist in coordinating, monitoring, and evaluating the Work to completion.

Consultant understands and agrees that the City Representative shall have no control over the means, methods, techniques, or procedures employed by Consultant, it being clearly understood that the City is interested only in the results obtained under this Agreement, with the manner and means of obtaining those results being under the sole control of Consultant.

#### **4.8 PARTIES' REPRESENTATIVES**

For purposes of notice required or desired by the Consultant, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered, mailed (certified or otherwise, postage pre-paid), or sent by facsimile transmission to the parties at the following address:

Robert Ranc  
Lehi City Administrative Services Department  
153 North 100 East  
Lehi, Utah 84043

In the final contract, an address shall be established for the Consultant so that the City may communicate as described above.

If either party sends notice by mail, receipt thereof shall be presumed on the third calendar day thereafter. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

#### **4.9 DIRECTION OF WORK**

##### **4.9.1. Written Communiques**

Consultant shall not make any alterations or variations in or additions to or omissions from the Work or terms of the Bid Solicitation, the Proposal, or this agreement without the prior written consent of the City. All City submittals, acceptances, rejections, or recommendations must be in writing and Consultant shall not rely on any verbal communication. All Consultant materials shall be stamped "Draft" until approved by the City in writings as "Final."

##### **4.9.2. Review**

The City shall have the right to review all reports, maps, submittals, and other work product of Consultant and hereby retains the right to request Consultant to make reasonable modifications, which modifications shall be made without any additional cost to the City, unless otherwise agreed by the parties in writing. Upon request the Consultant should be able to summarize and concisely report pertinent information to

City in a timely manner, throughout the duration of this contract resulting from this RFP.

#### 4.9.3. 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 Consultant 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.

### **4.10 OWNERSHIP AND USE OF DOCUMENTS**

#### 4.10.1. Work Product

Consultant agrees that its work product produced in the performance of this Agreement shall remain the exclusive property of the City, and that it will not sell, transfer, publish, disclose or otherwise make the work product available to third parties without the City's prior written consent. Any rights granted to Consultant under this Agreement shall not affect the City's exclusive ownership of the work product.

### **4.11 ASSIGNMENT/SUBCONTRACT**

Any and all sub-consultants or sub-contracts shall be listed and approved by the City. Consultant shall not assign or subcontract any portion of its obligation under the Agreement without the prior written consent of the City. Assignment or the use of sub-consultants shall in no way relieve the Consultant of any of its obligations under this Agreement.

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

The City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated or its successor ("GRAMA"). All materials submitted by Consultant pursuant to this Agreement may be subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. If the Consultant desires the City to prevent disclosure, the burden of claiming an exemption from disclosure shall rest solely with the Consultant. Any materials for which Consultant claims a privilege from disclosure shall be marked as "Confidential" and accompanied by a statement from Consultant explaining Consultant's claim of exemption from disclosure. The City will make reasonable efforts to notify Consultant of any requests made for disclosure of documents submitted under a claim of confidentiality. Consultant may, at its sole expense, take any appropriate actions to prevent disclosure of such material. Consultant specifically waives any claim against the City related to disclosure of any materials required by GRAMA.

### **4.13 CONFIDENTIALITY**

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

#### **4.14 COPYRIGHT INDEMNIFICATION**

The Consultant hereby agrees to defend, indemnify and hold harmless the City from and against any and all liability, loss, or damage and to reimburse the City from and against any cost or expense to which the City may be put because of claims or litigation on account of infringement or alleged infringement of any letters, patent or patent rights, or copyright by reason of the services, work, processes, materials, equipment or other items used by the Consultant in its performance of this agreement. Final payment to the Consultant by the City will not be made while any suit or claim remains unsettled.

#### **4.15 GOVERNMENTAL IMMUNITY**

Nothing in this Agreement shall adversely affect any immunity from suit, or any right, privilege, claim or defense, which the City 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 City 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.

#### **4.16 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.

#### **4.17 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 Consultant notifies the City of a force majeure event, and if said event prevents the Consultant from performing its obligations under this Agreement for more than thirty (30) days, the City may unilaterally cancel this Agreement without any further obligation owed to the Consultant.

#### **4.18 SEVERABILITY; WAIVER**

In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of any subsequent breach of the same by the other party.

#### **4.19 TAXES – CONSULTANT'S RESPONSIBILITY**

Consultant shall be responsible for and pay all taxes which may be levied or incurred against the Consultant in connection with the performance of any services under this Contract, including, but not

limited to, taxes levied or incurred against Consultant's income, inventory, property, sales, or other taxes.

#### **4.20 TAXES - CITY IS EXEMPT**

The City 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 City and such taxes will not apply to City 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, Consultant 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.

#### **4.21 ROYALTIES AND PATENTS**

The Consultant shall pay all applicable royalties and license fees. Consultant shall also defend all suits or claims for infringement of any intellectual property rights, and shall hold the City harmless from loss on account thereof.

#### **4.22 ENTIRE AGREEMENT; AMENDMENTS**

This Agreement, including any exhibits referenced herein, the Bid Solicitation, and the Proposal represent the entire and integrated agreement between the City and the Consultant, 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.

#### **4.23 INDEPENDENT CONSULTANT**

Consultant acknowledges that the services rendered under this Agreement shall be solely as an independent contract. Consultant shall not, nor is authorized to, enter into any contract or commitment on behalf of the City. Consultant further acknowledges that it is not considered an affiliate or subsidiary of the City, and is not entitled to any City employment rights or benefits. It is expressly understood that this undertaking is not a joint venture, partnership, or any other relationship other than an independent consultant relationship.

#### **4.24 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

Neither the Consultant nor any sub-consultant shall discriminate against any employee, applicant for employment, or recipient of services in the basis of race, religion, color, sex, age, disability, or national origin.

#### **4.25 TITLES AND CAPTIONS**

The titles and captions of this Agreement are for convenience only and shall be deemed part of this Agreement, and in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts of this Agreement.

#### **4.26 INCORPORATION OF RECITALS**

Each of the recitals set forth above are hereby incorporated into this Agreement by this reference, and are made part hereof.

#### **4.27 FURTHER ASSURANCES**

The parties agree to execute such other documents and to take such further action as may be reasonably necessary to further the purposes of this Agreement.

**SECTION 5: PRICING AND SIGNATURE**

The Consultant shall provide all work that meets all qualifications as described in the Service Requirements in Section 1.1 above. The total cost for the work as referenced in Section 1.1 is:  
\$ \_\_\_\_\_

Upon acceptance of this RFP, the undersigned agrees to complete all required work as described in this RFP document according to the terms and conditions described herein.

**Signature** \_\_\_\_\_

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Date** \_\_\_\_\_