



STATE OF UTAH - DEPARTMENT OF ADMINISTRATIVE SERVICES

**Division of Facilities Construction and Management**

**DFCM**

**MULTI-STEP BIDDING PROCESS  
FOR  
CONTRACTORS**

**Request For Solicitation For  
Construction Services**

**Open Ended Multi-Step Pre-qualified  
Mechanical Contractors**

April 1, 2015

**BOILER REPLACEMENT BURNS ARENA**

**DIXIE STATE UNIVERSITY  
ST. GEORGE, UTAH**

**DFCM Project No. 14281640**

WHW Engineering  
8619 South Sandy Parkway, Ste. 101  
Sandy, Utah 84070

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Technical Specifications:

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Current copies of the DFCM General Conditions dated May 25, 2005 and all Supplemental General Conditions are available upon request at the DFCM office and on the DFCM web site at [www.dfcm.utah.gov](http://www.dfcm.utah.gov) - “Standard Documents” – “Reference Documents” – “Supplemental General Conditions”, and are hereby made part of these contract documents by reference.

The Agreement and General Conditions dated May 25, 2005 have been updated from versions that were formally adopted and in use prior to this date. The changes made to the General Conditions are identified in a document entitled Revisions to General Conditions that is available on DFCM’s web site at [www.dfcm.utah.gov](http://www.dfcm.utah.gov).

## **INVITATION TO BID**

**ONLY FIRMS PRE-QUALIFIED DURING STAGE I OF THE RFS ARE ALLOWED TO BID ON THIS PROJECT**

The State of Utah - Division of Facilities Construction and Management (DFCM) is requesting bids for the construction of the following project:

**BOILER REPLACEMENT BURNS ARENA**  
**DIXIE STATE UNIVERSITY-ST. GEORGE, UTAH**  
**DFCM PROJECT NO: 14281640**

**Project Description:** See Project Description on page 4 for contact information and list of pre-qualified contractors.

**Construction Cost Estimate:** \$325,000.00

The bid documents will be available at 3:00 PM on Wednesday, April 1, 2015 on the DFCM web page at <http://dfcm.utah.gov>.

A **MANDATORY** pre-bid meeting and site visit will be held at 1:00 PM on Wednesday, April 8, 2015 at Dixie State University, Burns Arena-South Side, 800 East 400 South, St. George, Utah. All pre-qualified prime contractors wishing to bid on this project must attend this meeting.

Bids are to be submitted electronically through a secure mailbox at BidSync ([www.bidsync.com](http://www.bidsync.com)) until 3:00 PM on Thursday, April, 23, 2015. It is the sole responsibility of the contractor to ensure their bid reaches BidSync before the closing date and time. There is no cost to the contractor to submit electronic bids via BidSync. Electronic bids may require the uploading of electronic attachments. The submission of attachments containing embedded documents (i.e., zip files, .mov, wmp, and mp3 files, etc.) is prohibited. All documents should be attached as separate files. Questions about using BidSync, please call customer service at 801-765-9245 option 1, option 1.

A bid bond in the amount of five percent (5%) of the bid amount, made payable to the Division of Facilities Construction and Management on DFCM's bid bond, shall accompany the bid submission and uploaded in BidSync. **If the bid bond is not furnished with the bid through bidsync, the BID is NONRESPONSIVE.**

The Division of Facilities Construction & Management reserves the right to reject any or all bids or to waive any formality or technicality in any bid in the interest of the State.

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT  
Room 4110 State Office Building  
Capitol Hill Complex  
Salt Lake City, Utah 84114

# PROJECT DESCRIPTION

**Contact Information:**

**Project Specific Questions:** All questions are to be submitted in writing through BidSync ([www.bidsync.com](http://www.bidsync.com)). Refer to Project Schedule for deadline.

**Bidsync Technical/Bidding Questions:** Bidsync Customer Service 801-765-9245 Option 1, Option 1 or [www.bidsync.com](http://www.bidsync.com).

**DFCM Project Manager:** Brad Demond

**Phone:** 801-450-1368

**Project Description:** Project includes replacing two existing boilers at the Burns Arena with two new high temp heating boilers.

**Base Bid:** The project includes the installing two new high temp heating boilers, re-configuring piping system in boiler room, upgrading controls for new boilers and existing pumps, providing electrical modifications and additions as necessary to accommodate project, and verifying the removal of the existing two boilers and all attached piping, valves, electrical, controls, etc. as indicated on the drawings has been completed.

**Additive Alternates No. 1:** Provide cost to reduce design criteria for the expansion drum to 150#'s in lieu of 300# specified. Flanged connections shall remain at 300 #.

**Liquidated Damages:** \$300 per day.

## Open Ended Multi-Step Pre-qualified Mechanical Contractors List

Firm Name	Address	Pre-Qualification Expiration Date
Advanced Heating & Air Conditioning	Logan, Utah 84321	January 1, 2016
Archer Mechanical	Salt Lake City, Utah 84115	January 1, 2016
Carson Plumbing and Mechanical	Logan, Utah 84321	January 1, 2016
Commercial Mechanical	Salt Lake City, Utah 84104	January 1, 2016
Halverson Mechanical, Inc.	Ogden, Utah 84401	July 1, 2016
KOH Mechanical Contractors, Inc.	Riverton, Utah 84065	
Mechanical Service & Systems	Midvale, Utah 84047	January 1, 2016
Ralph Tye and Sons	Salt Lake City, Utah 84107	January 1, 2016
S.R. Mechanical	Salina, Utah 84654	January 1, 2016
Tod R. Packer Heating & Air Conditioning Co. Inc.	Bluffdale, Utah 84065	July 1, 2016
US Mechanical, LLC	Pleasant Grove, Utah 84062	July 1, 2016
Western States Mechanical	Springville, Utah 84663	January 1, 2016

# **STAGE II - OPEN-ENDED MULTI-STEP PRE-QUALIFIED BIDDING PROCESS**

**ONLY FIRMS PRE-QUALIFIED DURING STAGE I OF THE RFS ARE ALLOWED TO BID ON THIS PROJECT**

## **1. Invitational Bid Procedures**

Each pre-qualified firm will be notified via e-mail from Bidsync when a project is ready for Construction Services to invite them to bid on the project.

## **2. Drawings and Specifications and Interpretations**

Drawings, specifications and other contract documents may be obtained as stated in the Invitation to Bid. If any firm is in doubt as to the meaning or interpretation of any part of the drawings, specifications, scope of work or contract documents, they shall submit a request for interpretation through Bidsync's web site at [www.bidsync.com](http://www.bidsync.com) by the question deadline identified in the schedule. Answers to questions and interpretations will be made via addenda issued by DFCM. Neither DFCM or the designer shall be responsible for incorrect information obtained by contractors from sources other than the official drawings/specifications and addenda issued by DFCM.

## **3. Product Approvals**

Where reference is made to one or more proprietary products in the contract documents, but restrictive descriptive materials of one or more manufacturer(s) is referred to in the contract documents, the products of other manufacturers will be accepted, provided they equal or exceed the standards set forth in the drawings and specifications and are compatible with the intent and purpose of the design, subject to the written approval of the Designer. Such written approval must occur prior to the deadline established for the last scheduled addendum to be issued. The Designer's written approval will be included as part of the addendum issued by DFCM. If the descriptive material is not restrictive, the products of other manufacturers specified will be accepted without prior approval provided they are compatible with the intent and purpose of the design as determined by the Designer.

## **4. Mandatory PreBid Site Meeting**

If a firm fails to attend a pre-bid site meeting labeled "Mandatory" they will not be allowed to bid on the project. At the mandatory meeting, contractors may have an opportunity to inspect the site, receive additional instructions and ask questions about the project. The schedule contains information on the date, time, and place of the mandatory pre-bid site meeting.

## **5. Addenda**

All clarifications from DFCM will be in writing and issued as an addendum to the RFS. Addenda will be posted on Bidsync's web site at [www.bidsync.com](http://www.bidsync.com). Contractors are responsible for obtaining information contained in each addendum from the web site. Addenda issued prior to the submittal deadline shall become part of the bidding process and must be acknowledged when the bid is submitted electronically through [www.bidsync.com](http://www.bidsync.com). Failure to acknowledge addenda shall result in disqualification from bidding. DFCM shall not be responsible for incorrect information obtained by contractors from sources other than official addenda issued by DFCM.

## **6. Financial Responsibility of Contractors, Subcontractors and Sub-subcontractors**

Contractors shall respond promptly to any inquiry in writing by DFCM to any concern of financial responsibility of the Contractor, Subcontractor or Sub-subcontractor. Failure to respond may result in suspension from DFCM's list of pre-qualified contractors.

**7. Licensure**

The Contractor shall comply with and require all of its Subcontractors to comply with the license laws as required by the State of Utah.

**8. Permits**

In concurrence with the requirements for permitting in the general conditions, it is the responsibility of the contractor to obtain the fugitive dust plan requirements from the Utah Division of Air Quality and the SWPPP requirements from the Utah Department of Environmental Quality and submit the completed forms and pay any permit fee that may be required for this specific project. Failure to obtain the required permit may result in work stoppage and/or fines from the regulating authority that will be the sole responsibility of the contractor. Any delay to the project as a result of any such failure to obtain the permit or noncompliance with the permit shall not be eligible for any extension in the Contract Time.

**9. Bid and Bid Bond**

Before submitting a bid, each bidder shall carefully examine the contract documents; shall visit the site of the work; shall fully inform themselves as to all existing conditions and limitations; and shall include in the bid the cost of all items required by the contract documents including those added via addenda. If the bidder observes that portions of the contract documents are at variance with applicable laws, building codes, rules, regulations or contain obvious erroneous or uncoordinated information, the bidder shall promptly notify the DFCM Project Manager. Changes necessary to correct these issues will be made via addenda issued by DFCM.

Bids are to be submitted electronically through a secure mailbox BidSync ([www.bidsync.com](http://www.bidsync.com)) until the date and time on the Project Schedule. It is the sole responsibility of the contractor to ensure their bid reaches BidSync before the closing date and time. There is no cost to the contractor to submit electronic bids via BidSync. Electronic bids may require the uploading of electronic attachments. The submission of attachments containing embedded documents (i.e., zip files, .mov, wmp, and mp3 files, etc.) is prohibited. All documents should be attached as separate files.

A bid bond properly signed by a qualified surety, as indicated on the DFCM Bid Bond form provided along with this Instruction to Bidders, in the amount of 5% of the bid, shall accompany the bid submission and uploaded in BidSync. **If the bid bond is not furnished with the bid through Bidsync, the BID is NONRESPONSIVE.** THIS BID BOND MUST BE ON THE DFCM BID BOND FORM PROVIDED WITH THIS INSTRUCTION TO BIDDERS IN ORDER TO BE CONSIDERED AN ACCEPTABLE BID unless only one bid is received by DFCM, or the failure to comply with the bid bond requirements is determined by the Director of DFCM to be nonsubstantial based on the following:

- A. the bid bond is submitted on a form other than DFCM's required Bid Bond form and the bid bond meets all other requirements including being issued by a surety firm authorized to do business in the State of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A co-surety may be utilized to satisfy this requirement; and

- B. the contractor provides a bid bond properly signed by a qualified surety and on the required DFCM Bid Bond form by the close of business of the next succeeding business day after the DFCM notifies the bidder of the defective bid bond.

**A CASHIER'S CHECK CANNOT BE USED AS A SUBSTITUTE FOR A BID BOND.**

**10. Listing of Subcontractors**

Listing of Subcontractors shall be as summarized in the "Instructions and Subcontractor's List Form", included as part of the contract documents. The subcontractors list shall be e-mailed to [dfcmcontracts@utah.gov](mailto:dfcmcontracts@utah.gov) within 24 hours of the bid opening. Requirements for listing additional subcontractors will be listed in the contract documents.

DFCM retains the right to audit or take other steps necessary to confirm compliance with requirements for the listing and changing of subcontractors. Any contractor who is found to not be in compliance with these requirements may be suspended from DFCM's list of pre-qualified contractors.

**11. Contract and Bond**

The Contractor's Agreement will be in the form provided in this document. The duration of the contract shall be for the time indicated by the project completion deadline shown on the schedule. The successful bidder, simultaneously with the execution of the Contractor's Agreement, will be required to furnish a performance bond and a payment bond, both bearing original signatures, upon the forms provided in the procurement documents.

The performance and payment bonds shall be for an amount equal to one hundred percent (100%) of the Contract Sum and secured from a company that meets the requirements specified in the requisite forms. Any bonding requirements for Subcontractors will be specified in the Supplementary General Conditions.

**12. Award of Contract**

The Contract will be awarded as soon as possible to the lowest, responsive and responsible bidder, based on the lowest combination of base bid and acceptable prioritized alternates, provided the bid is reasonable, is in the interests of DFCM to accept and after applying the Utah Preference Laws in U.C.A. Title 63, Chapter 56. DFCM reserves the right to waive any technicalities or formalities in any bid or in the bidding. Alternates will be accepted on a prioritized basis with Alternate 1 being highest priority, Alternate 2 having second priority, etc. Alternates will be selected in prioritized order up to the construction cost estimate.

**13. Right to Reject Bids**

DFCM reserves the right to reject any or all Bids.

**14. Withdrawal of Bids**

Bids may be withdrawn on written request received from bidders within 24 hours after the bid opening if the contractor has made an error in preparing the bid.

**15. DFCM Contractor Performance Rating and Pre-Qualification Status**

As a contractor completes each project, DFCM will evaluate project performance based on the enclosed “DFCM Contractor Performance Rating” form. The ratings issued on this project may affect the firm’s “pre-qualified” status and their ability to obtain future work with DFCM. Contractors shall remain on DFCM’s list of pre-qualified contractors provided: (a) they receive a performance rating of 4.0 or greater on each DFCM project. If a rating less than 4.0 is received on any single project the contractor will be removed from the pre-qualified list and will not be eligible to re-apply for a minimum of 12 months, (b) they are not suspended for failure to comply with requirements of their contract, (c) the firm has not undergone a significant reorganization involving the loss of key personnel (site superintendents, project managers, owners, etc.) to a degree such that the firm no longer meets the pre-qualification requirements outlined in Stage I, (d) the financial viability of the firm has not significantly changed, and (e) the firm is not otherwise disqualified by DFCM. Note: If a contractor fails to comply with items (a) through (e) above, they may be removed from DFCM’s list of pre-qualified contractors. Pre-qualified contractors are ONLY authorized to bid on projects within the discipline that they were originally pre-qualified under.



## Stage II - PROJECT SCHEDULE BIDSYNC BID # DA15038

<b>PROJECT NAME:</b>		<b>BURNS ARENA BOILER REPLACEMENT DIXIE STATE UNIVERSITY – ST. GEORGE, UTAH</b>		
<b>DFCM PROJECT NO:</b>		<b>14281640</b>		
<b>Event</b>	<b>Day</b>	<b>Date</b>	<b>Time</b>	<b>Place</b>
Stage II Bidding Documents Available	Wednesday,	April 01, 2015	3:00 PM	DFCM web site *
<b>Mandatory</b> Pre-bid Site Meeting	Wednesday,	April 08, 2015	1:00 PM	DSU, Burns Arena South Side 800 East 400 South St. George, Utah
Deadline for Submitting Questions	Monday,	April 13, 2015	5:00 PM	BidSync Web site**
Addendum Deadline (exception for bid delays)	Friday,	April 17, 2015	3:00 PM	BidSync Web site**
Prime Contractors Turn in Bid and Bid Bond	Thursday,	April 23, 2015	3:00 PM	BidSync Web site**
Subcontractors List Due	Friday,	April 24, 2015	3:00 PM	E-mail: <a href="mailto:dfcmcontracts@utah.gov">dfcmcontracts@utah.gov</a>
Substantial Completion Date	Wednesday,	August 05, 2015	5:00 PM	

NOTE: \* DFCM's web site address is [www.dfc.utah.gov](http://www.dfc.utah.gov).  
 \*\* BidSync web site address is [www.bidsync.com](http://www.bidsync.com).

**BID BOND**

(Title 63, Chapter 56, U. C. A. 1953, as Amended)

**KNOW ALL PERSONS BY THESE PRESENTS:**

That \_\_\_\_\_ hereinafter referred to as the "Principal," and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ and authorized to transact business in this State and U. S. Department of the Treasury Listed, (Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies); hereinafter referred to as the "Surety," are held and firmly bound unto the STATE OF UTAH, hereinafter referred to as the "Obligee," in the amount of \$ \_\_\_\_\_ (5% of the accompanying bid), being the sum of this Bond to which payment the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH** that whereas the Principal has submitted to Obligee the accompanying bid incorporated by reference herein, dated as shown, to enter into a contract in writing for the \_\_\_\_\_ Project.

**NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH**, that if the said principal does not execute a contract and give bond to be approved by the Obligee for the faithful performance thereof within ten (10) days after being notified in writing of such contract to the principal, then the sum of the amount stated above will be forfeited to the State of Utah as liquidated damages and not as a penalty; if the said principal shall execute a contract and give bond to be approved by the Obligee for the faithful performance thereof within ten (10) days after being notified in writing of such contract to the Principal, then this obligation shall be null and void. It is expressly understood and agreed that the liability of the Surety for any and all defaults of the Principal hereunder shall be the full penal sum of this Bond. The Surety, for value received, hereby stipulates and agrees that obligations of the Surety under this Bond shall be for a term of sixty (60) days from actual date of the bid opening.

**PROVIDED, HOWEVER**, that this Bond is executed pursuant to provisions of Title 63, Chapter 56, Utah Code Annotated, 1953, as amended, and all liabilities on this Bond shall be determined in accordance with said provisions to same extent as if it were copied at length herein.

**IN WITNESS WHEREOF**, the above bounden parties have executed this instrument under their several seals on the date indicated below, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Principal's name and address (if other than a corporation):**

\_\_\_\_\_  
\_\_\_\_\_

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

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

**Principal's name and address (if a corporation):**

\_\_\_\_\_  
\_\_\_\_\_

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

Title: \_\_\_\_\_  
(Affix Corporate Seal)

**Surety's name and address:**

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact (Affix Corporate Seal)

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn, did say that he/she is the Attorney-in-fact of the above-named Surety Company, and that he/she is duly authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations, and that he/she acknowledged to me that as Attorney-in-fact executed the same.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
My Commission Expires: \_\_\_\_\_  
Resides at: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

**Agency:** \_\_\_\_\_  
**Agent:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_

Approved As To Form: May 25, 2005  
By Alan S. Bachman, Asst Attorney General

**Division of Facilities Construction and Management****INSTRUCTION AND SUBCONTRACTORS LIST FORM**

The three low bidders, as well as all other bidders that desire to be considered, are required by law to submit to DFCM within 24 hours of bid opening a list of **ALL** first-tier subcontractors, including the subcontractor's name, bid amount and other information required by Building Board Rule and as stated in these Contract Documents, based on the following:

**DOLLAR AMOUNTS FOR LISTING**

**PROJECTS UNDER \$500,000: ALL FIRST-TIER SUBS \$20,000 OR OVER MUST BE LISTED**  
**PROJECTS \$500,000 OR MORE: ALL FIRST-TIER SUBS \$35,000 OR OVER MUST BE LISTED**

- Any additional subcontractors identified in the bid documents shall also be listed.
- The DFCM Director may not consider any bid submitted by a bidder if the bidder fails to submit a subcontractor list meeting the requirements of State law.
- List subcontractors for base bid as well as the impact on the list that the selection of any alternate may have.
- Bidder may not list more than one subcontractor to perform the same work.
- If there are no subcontractors for the job that are required to be reported by State law (either because there are no subcontractors that will be used on the project or because there are no first-tier subcontractors over the dollar amounts referred to above), then you do not need to submit a sublist. If you do not submit a sublist, it will be deemed to be a representation by you that there are no subcontractors on the job that are required to be reported under State law. At any time, DFCM reserves the right to inquire, for security purposes, as to the identification of the subcontractors at any tier that will be on the worksite.

**LICENSURE:**

The subcontractor's name, the type of work, the subcontractor's bid amount, and the subcontractor's license number as issued by DOPL, if such license is required under Utah Law, shall be listed. Bidder shall certify that all subcontractors, required to be licensed, are licensed as required by State law. A subcontractor includes a trade contractor or specialty contractor and does not include suppliers who provide only materials, equipment, or supplies to a contractor or subcontractor.

**'SPECIAL EXCEPTION':**

A bidder may list 'Special Exception' in place of a subcontractor when the bidder intends to obtain a subcontractor to perform the work at a later date because the bidder was unable to obtain a qualified or reasonable bid under the provisions of U.C.A. Section 63A-5-208(4). The bidder shall insert the term 'Special Exception' for that category of work, and shall provide documentation with the subcontractor list describing the bidder's efforts to obtain a bid of a qualified subcontractor at a reasonable cost and why the bidder was unable to obtain a qualified subcontractor bid. The Director must find that the bidder complied in good faith with State law requirements for any 'Special Exception' designation, in order for the bid to be considered. If awarded the contract, the Director shall supervise the bidder's efforts to obtain a qualified subcontractor bid. The amount of the awarded contract may not be adjusted to reflect the actual amount of the subcontractor's bid. Any listing of 'Special Exception' on the sublist form shall also include amount allocated for that work.

**GROUNDS FOR DISQUALIFICATION:**

The Director may not consider any bid submitted by a bidder if the bidder fails to submit a subcontractor list meeting the requirements of State law. Director may withhold awarding the contract to a particular bidder if one or more of the proposed subcontractors are considered by the Director to be unqualified to do the Work or for such

**INSTRUCTIONS AND SUBCONTRACTORS LIST FORM**  
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other reason in the best interest of the State of Utah. Notwithstanding any other provision in these instructions, if there is a good faith error on the sublist form, at the sole discretion of the Director, the Director may provide notice to the contractor and the contractor shall have 24 hours to submit the correction to the Director. If such correction is submitted timely, then the sublist requirements shall be considered met.

**CHANGES OF SUBCONTRACTORS SPECIFICALLY IDENTIFIED ON SUBLIST FORM:**

Subsequent to twenty-four hours after the bid opening, the contractor may change its listed subcontractors only after receiving written permission from the Director based on complying with all of the following criteria.

- (1) The contractor has established in writing that the change is in the best interest of the State and that the contractor establishes an appropriate reason for the change, which may include, but not is not limited to, the following reasons: the original subcontractor has failed to perform, or is not qualified or capable of performing, and/or the subcontractor has requested in writing to be released.
- (2) The circumstances related to the request for the change do not indicate any bad faith in the original listing of the subcontractors.
- (3) Any requirement set forth by the Director to ensure that the process used to select a new subcontractor does not give rise to bid shopping.
- (4) Any increase in the cost of the subject subcontractor work is borne by the contractor.
- (5) Any decrease in the cost of the subject subcontractor work shall result in a deductive change order being issued for the contract for such decreased amount.
- (6) The Director will give substantial weight to whether the subcontractor has consented in writing to being removed unless the Contractor establishes that the subcontractor is not qualified for the work.

**EXAMPLE:**

Example of a list where there are only four subcontractors:

TYPE OF WORK	SUBCONTRACTOR, "SELF" OR "SPECIAL EXCEPTION"	SUBCONTRACTOR BID AMOUNT	CONTRACTOR LICENSE #
ELECTRICAL	ABCD Electric Inc.	\$350,000.00	123456789000
LANDSCAPING	"Self" *	\$300,000.00	123456789000
CONCRETE (ALTERNATE #1)	XYZ Concrete Inc	\$298,000.00	987654321000
MECHANICAL	"Special Exception" (attach documentation)	Fixed at: \$350,000.00	(TO BE PROVIDED AFTER OBTAINING SUBCONTRACTOR)

\* Bidders may list "self", but it is not required.

**PURSUANT TO STATE LAW - SUBCONTRACTOR BID AMOUNTS CONTAINED IN THIS SUBCONTRACTOR LIST SHALL NOT BE DISCLOSED UNTIL THE CONTRACT HAS BEEN AWARDED.**



## CONTRACTOR'S AGREEMENT

FOR:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS CONTRACTOR'S AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT, hereinafter referred to as "DFCM", and \_\_\_\_\_, incorporated in the State of \_\_\_\_\_ and authorized to do business in the State of Utah, hereinafter referred to as "Contractor", whose address is \_\_\_\_\_.

WITNESSETH: WHEREAS, DFCM intends to have Work performed at \_\_\_\_\_  
\_\_\_\_\_.

WHEREAS, Contractor agrees to perform the Work for the sum stated herein.

NOW, THEREFORE, DFCM and Contractor for the consideration provided in this Contractor's Agreement, agree as follows:

**ARTICLE 1. SCOPE OF WORK.** The Work to be performed shall be in accordance with the Contract Documents prepared by \_\_\_\_\_ and entitled "\_\_\_\_\_."

The DFCM General Conditions ("General Conditions") dated May 25, 2005 and all Supplemental General Conditions ("also referred to as General Conditions") on file at the office of DFCM and available on the DFCM website (<http://dfcm.utah.gov/StdDocs/index.html>), are hereby incorporated by reference as part of this Agreement and are included in the specifications for this Project. All terms used in this Contractor's Agreement shall be as defined in the Contract Documents, and in particular, the General Conditions.

The Contractor Agrees to furnish labor, materials and equipment to complete the Work as required in the Contract Documents which are hereby incorporated by reference. It is understood and agreed by the parties hereto that all Work shall be performed as required in the Contract Documents and shall be subject to inspection and approval of DFCM or its authorized representative. The relationship of the Contractor to the DFCM hereunder is that of an independent Contractor.

**ARTICLE 2. CONTRACT SUM.** The DFCM agrees to pay and the Contractor agrees to accept in full performance of this Contractor's Agreement, the sum of \_\_\_\_\_  
\_\_\_\_\_ DOLLARS AND NO CENTS (\$\_\_\_\_\_.00), which

CONTRACTOR'S AGREEMENT  
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is the base bid, and which sum also includes the cost of a 100% Performance Bond and a 100% Payment Bond as well as all insurance requirements of the Contractor. Said bonds have already been posted by the Contractor pursuant to State law. The required proof of insurance certificates have been delivered to DFCM in accordance with the General Conditions before the execution of this Contractor's Agreement.

**ARTICLE 3. TIME OF COMPLETION AND DELAY REMEDY.** The Work shall be Substantially Complete by \_\_\_\_\_. Contractor agrees to pay liquidated damages in the amount of \$\_\_\_\_\_ per day for each day after expiration of the Contract Time until the Contractor achieves Substantial Completion in accordance with the Contract Documents, if Contractor's delay makes the damages applicable. The provision for liquidated damages is: (a) to compensate the DFCM for delay only; (b) is provided for herein because actual damages can not be readily ascertained at the time of execution of this Contractor's Agreement; (c) is not a penalty; and (d) shall not prevent the DFCM from maintaining Claims for other non-delay damages, such as costs to complete or remedy defective Work.

No action shall be maintained by the Contractor, including its or Subcontractor or suppliers at any tier, against the DFCM or State of Utah for damages or other claims due to losses attributable to hindrances or delays from any cause whatsoever, including acts and omissions of the DFCM or its officers, employees or agents, except as expressly provided in the General Conditions. The Contractor may receive a written extension of time, signed by the DFCM, in which to complete the Work under this Contractor's Agreement in accordance with the General Conditions.

**ARTICLE 4. CONTRACT DOCUMENTS.** The Contract Documents consist of this Contractor's Agreement, the Conditions of the Contract (DFCM General Conditions, Supplementary and other Conditions), the Drawings, Specifications, Addenda and Modifications. The Contract Documents shall also include the bidding documents, including the Notice to Contractors, Instructions to Bidders/Proposers and the Bid/Proposal, to the extent not in conflict therewith and other documents and oral presentations that are documented as an attachment to the contract.

All such documents are hereby incorporated by reference herein. Any reference in this Contractor's Agreement to certain provisions of the Contract Documents shall in no way be construed as to lessen the importance or applicability of any other provisions of the Contract Documents.

**ARTICLE 5. PAYMENT.** The DFCM agrees to pay the Contractor from time to time as the Work progresses, but not more than once each month after the date of Notice to Proceed, and only upon Certificate of the A/E for Work performed during the preceding calendar month, ninety-five percent (95%) of the value of the labor performed and ninety-five percent (95%) of the value of materials furnished in place or on the site. The Contractor agrees to furnish to the DFCM invoices for materials purchased and on the site but not installed, for which the Contractor requests payment and agrees to safeguard and protect such equipment or materials and is responsible for safekeeping thereof and if such be stolen, lost or destroyed, to replace same.

Such evidence of labor performed and materials furnished as the DFCM may reasonably require shall be supplied by the Contractor at the time of request for Certificate of Payment on account. Materials for which payment has been made cannot be removed from the job site without DFCM's written approval. Five percent (5%) of the earned amount shall be retained from each monthly payment. The retainage, including any additional retainage imposed and the release of any retainage, shall be in accordance with UCA 13-8-5 as amended. Contractor shall also comply with the requirements of UCA 13-8-5, including restrictions of retainage regarding subcontractors and the distribution of interest earned on the retention proceeds. The DFCM shall not be responsible for enforcing the Contractor's obligations under State law in fulfilling the retention law requirements with subcontractors at any tier.

**ARTICLE 6. INDEBTEDNESS.** Before final payment is made, the Contractor must submit evidence satisfactory to the DFCM that all payrolls, materials bills, subcontracts at any tier and outstanding indebtedness in connection with the Work have been properly paid. Final Payment will be made after receipt of said evidence, final acceptance of the Work by the DFCM as well as compliance with the applicable provisions of the General Conditions.

Contractor shall respond immediately to any inquiry in writing by DFCM as to any concern of financial responsibility and DFCM reserves the right to request any waivers, releases or bonds from Contractor in regard to any rights of Subcontractors (including suppliers) at any tier or any third parties prior to any payment by DFCM to Contractor.

**ARTICLE 7. ADDITIONAL WORK.** It is understood and agreed by the parties hereto that no money will be paid to the Contractor for additional labor or materials furnished unless a new contract in writing or a Modification hereof in accordance with the General Conditions and the Contract Documents for such additional labor or materials has been executed. The DFCM specifically reserves the right to modify or amend this Contractor's Agreement and the total sum due hereunder either by enlarging or restricting the scope of the Work.

**ARTICLE 8. INSPECTIONS.** The Work shall be inspected for acceptance in accordance with the General Conditions.

**ARTICLE 9. DISPUTES.** Any dispute, PRE or Claim between the parties shall be subject to the provisions of Article 7 of the General Conditions. DFCM reserves all rights to pursue its rights and remedies as provided in the General Conditions.

**ARTICLE 10. TERMINATION, SUSPENSION OR ABANDONMENT.** This Contractor's Agreement may be terminated, suspended or abandoned in accordance with the General Conditions.

**ARTICLE 11. DFCM'S RIGHT TO WITHHOLD CERTAIN AMOUNT AND MAKE USE THEREOF.** The DFCM may withhold from payment to the Contractor such amount as, in DFCM's judgment, may be necessary to pay just claims against the Contractor or Subcontractor at any tier for labor and services rendered and materials furnished in and about the Work. The DFCM may apply such withheld amounts for the payment of such claims in DFCM's discretion. In so doing, the DFCM shall be deemed the agent of Contractor and payment so made by the DFCM shall be considered as payment made under this Contractor's Agreement by the DFCM to the Contractor. DFCM shall not be liable to the Contractor for any such payment made in good faith. Such withholdings and payments may be made without prior approval of the Contractor and may be also be prior to any determination as a result of any dispute, PRE, Claim or litigation.

**ARTICLE 12. INDEMNIFICATION.** The Contractor shall comply with the indemnification provisions of the General Conditions.

**ARTICLE 13. SUCCESSORS AND ASSIGNMENT OF CONTRACT.** The DFCM and Contractor, respectively bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement, and to partners, successors, assigns and legal representatives of such other party with respect to all covenants, provisions, rights and responsibilities of this Contractor's Agreement. The Contractor shall not assign this Contractor's Agreement without the prior written consent of the DFCM, nor shall the Contractor assign any moneys due or to become due as well as any rights under this Contractor's Agreement, without prior written consent of the DFCM.

**ARTICLE 14. RELATIONSHIP OF THE PARTIES.** The Contractor accepts the relationship of trust and confidence established by this Contractor's Agreement and covenants with the DFCM to cooperate with the DFCM and A/E and use the Contractor's best skill, efforts and judgment in furthering the interest of the DFCM; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers and materials; and to perform the Work in the best and most expeditious and economic manner consistent with the interests of the DFCM.

**ARTICLE 15. AUTHORITY TO EXECUTE AND PERFORM AGREEMENT.** Contractor and DFCM each represent that the execution of this Contractor's Agreement and the performance thereunder is within their respective duly authorized powers.

**ARTICLE 16. ATTORNEY FEES AND COSTS.** Except as otherwise provided in the dispute resolution provisions of the General Conditions, the prevailing party shall be entitled to reasonable attorney fees and costs incurred in any action in the District Court and/or appellate body to enforce this Contractor's Agreement or recover damages or any other action as a result of a breach thereof.

**IN WITNESS WHEREOF**, the parties hereto have executed this Contractor's Agreement on the day and year stated hereinabove.

**CONTRACTOR:** \_\_\_\_\_

\_\_\_\_\_  
Signature Date

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

State of \_\_\_\_\_)

\_\_\_\_\_)

County of \_\_\_\_\_)

\_\_\_\_\_  
Please type/print name clearly

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, \_\_\_\_\_, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he (she) is the \_\_\_\_\_ (title or office) of the firm and that said document was signed by him (her) in behalf of said firm.

\_\_\_\_\_  
**Notary Public**

(SEAL)

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

APPROVED AS TO FORM:  
ATTORNEY GENERAL  
April 24, 2013  
By: ALAN S. BACHMAN  
Asst Attorney General

**DIVISION OF FACILITIES CONSTRUCTION  
AND MANAGEMENT**  
  
\*/S/ DFCM  
\_\_\_\_\_  
DFCM

Approved for expenditure:

Approved as to availability of funds:

\*/S/ Division of Finance  
\_\_\_\_\_  
Division of Finance

\*/S/ David D. Williams, Jr.  
\_\_\_\_\_  
David D. Williams, Jr.  
CBA Financial Director

\* Electronic signatures are effective when the AIM Status History page is attached to this agreement following this signature page. The AIM Status History page identifies the State signatures.

**PERFORMANCE BOND**  
(Title 63, Chapter 56, U. C. A. 1953, as Amended)

That \_\_\_\_\_ hereinafter referred to as the "Principal" and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ and authorized to transact business in this State and U. S. Department of the Treasury Listed (Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies); hereinafter referred to as the "Surety," are held and firmly bound unto the State of Utah, hereinafter referred to as the "Obligee," in the amount of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has entered into a certain written Contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to construct \_\_\_\_\_ in the County of \_\_\_\_\_, State of Utah, Project No. \_\_\_\_\_, for the approximate sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which Contract is hereby incorporated by reference herein.

**NOW, THEREFORE**, the condition of this obligation is such that if the said Principal shall faithfully perform the Contract in accordance with the Contract Documents including, but not limited to, the Plans, Specifications and conditions thereof, the one year performance warranty, and the terms of the Contract as said Contract may be subject to Modifications or changes, then this obligation shall be void; otherwise it shall remain in full force and effect.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the state named herein or the heirs, executors, administrators or successors of the Owner.

The parties agree that the dispute provisions provided in the Contract Documents apply and shall constitute the sole dispute procedures of the parties.

**PROVIDED, HOWEVER**, that this Bond is executed pursuant to the Provisions of Title 63, Chapter 56, Utah Code Annotated, 1953, as amended, and all liabilities on this Bond shall be determined in accordance with said provisions to the same extent as if it were copied at length herein.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WITNESS OR ATTESTATION:**

\_\_\_\_\_

**PRINCIPAL:**

\_\_\_\_\_

By: \_\_\_\_\_  
(Seal)

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

**WITNESS OR ATTESTATION:**

\_\_\_\_\_

**SURETY:**

\_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact (Seal)

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn, did say that he/she is the Attorney in-fact of the above-named Surety Company and that he/she is duly authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations, and that he/she acknowledged to me that as Attorney-in-fact executed the same.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_  
Resides at: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

<b>Agency:</b> _____
<b>Agent:</b> _____
<b>Address:</b> _____
<b>Phone:</b> _____

Approved As To Form: May 25, 2005  
By Alan S. Bachman, Asst Attorney General

**PAYMENT BOND**

(Title 63, Chapter 56, U. C. A. 1953, as Amended)

**KNOW ALL PERSONS BY THESE PRESENTS:**

That \_\_\_\_\_ hereinafter referred to as the "Principal," and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ authorized to do business in this State and U. S. Department of the Treasury Listed (Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies); with its principal office in the City of \_\_\_\_\_, hereinafter referred to as the "Surety," are held and firmly bound unto the State of Utah hereinafter referred to as the "Obligee," in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has entered into a certain written Contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to construct \_\_\_\_\_ in the County of \_\_\_\_\_, State of Utah, Project No. \_\_\_\_\_ for the approximate sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), which contract is hereby incorporated by reference herein.

**NOW, THEREFORE**, the condition of this obligation is such that if the said Principal shall pay all claimants supplying labor or materials to Principal or Principal's Subcontractors in compliance with the provisions of Title 63, Chapter 56, of Utah Code Annotated, 1953, as amended, and in the prosecution of the Work provided for in said Contract, then, this obligation shall be void; otherwise it shall remain in full force and effect.

That said Surety to this Bond, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or to the Work to be performed thereunder, or the specifications or drawings accompanying same shall in any way affect its obligation on this Bond, and does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to the Work or to the specifications or drawings and agrees that they shall become part of the Contract Documents.

**PROVIDED, HOWEVER**, that this Bond is executed pursuant to the provisions of Title 63, Chapter 56, Utah Code Annotated, 1953, as amended, and all liabilities on this Bond shall be determined in accordance with said provisions to the same extent as if it were copied at length herein.

**IN WITNESS WHEREOF**, the said Principal and Surety have signed and sealed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**WITNESS OR ATTESTATION:**

\_\_\_\_\_

**PRINCIPAL:**

\_\_\_\_\_

By: \_\_\_\_\_ (Seal)

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

**WITNESS OR ATTESTATION:**

\_\_\_\_\_

**SURETY:**

\_\_\_\_\_

By: \_\_\_\_\_ (Seal)  
Attorney-in-Fact

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn, did say that he/she is the Attorney-in-fact of the above-named Surety Company, and that he/she is duly authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations, and that he/she acknowledged to me that as Attorney-in-fact executed the same.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_  
Resides at: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

**Agency:** \_\_\_\_\_  
**Agent:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_

Approved As To Form: May 25, 2005  
By Alan S. Bachman, Asst Attorney General



## PAST PERFORMANCE RATING EVALUATION

<b>DATE</b>		<b>Address</b>		
<b>Firm Name</b>		<b>City, State &amp; Zip Code</b>		
<b>Firm Contact</b>		<b>Phone Number</b>		
<b>Project Number &amp; Name</b>				
<b>Project Manager</b>		<b>Completion Date</b>		
<b>Service Provided</b>		<b>Contract Amount</b>		
<b>RATINGS GUIDE</b>	<b>Quality of Product or Service</b>	<b>Cost Control</b>	<b>Timeliness of Performance</b>	<b>Business Relations</b>
<b>5-exceptional</b>	Contractor/AE has demonstrated an exceptional level in any of the above four categories that justifies adding a point to the score. Contractor performance clearly exceeds the performance levels described as "Above Average"			
<b>4-Above Average</b>	Contractor/AE is in compliance with contract requirements and delivers quality product or service	Contractor/AE is effective in managing costs and submits current, accurate, and complete billings	Contractor/AE is effective in meeting milestones and delivery schedule	Response to inquiries, technical, service, administrative issues is effective
<b>3-Average</b>	Minor inefficiencies/errors have been identified	Contractor/AE is usually effective in managing cost effectively	Contractor/AE is usually effective in meeting milestones and delivery schedules.	Response to inquiries, technical, service, administrative issues is somewhat effective
<b>2-Below Average</b>	Major problems have been encountered	Contractor/AE is having major difficulty managing cost.	Contractor/AE is having major difficulty meeting milestones and delivery schedule.	Response to inquiries, technical, service, and administrative issues is marginally effective.
<b>1-Unsatisfactory</b>	Contractor/AE is not in compliance & is jeopardizing achievement of contract objectives.	Contractor/AE is unable to manage costs effectively.	Contractor/AE delays are jeopardizing performance of contract objectives	Response to inquiries, technical, service, and administrative issues is not effective.
<b>Rate the Following</b>		<b>COMMENTS</b>		
<b>Quality of Product or Service</b>	0			
<b>Cost Control</b>	0			
<b>Timeliness of Performance</b>	0			
<b>Business Relations</b>	0			
<b>Overall Rating</b>	0.00			