



## Whitehead Utility Center

450 West 700 North Springville, UT 84663  
Phone (801) 489-2700, Fax (801) 489-2754

August 6, 2014

The Springville Electric Department is interested in soliciting firm bid prices from qualified equipment manufacturers to supply 16,000 feet of OPGW cable, three splice termination points and all associated hardware and equipment to install cable. Termination points will be located at the White Head Substation, Knight Substation and Baxter Substation. Please see attached map and cable specifications.

**Bid Submittals:** Please provide a firm price for the cable and all associated hardware specified in section 3.0. Please return your bid estimates in an envelope, sealed and clearly marked on the outside with Bid # 2014-028

**CITY OF SPRINGVILLE  
FINANCE DEPARTMENT  
110 SOUTH MAIN STREET  
SPRINGVILLE, UT 84663**

Bids must be received and logged in prior to the date and time indicated. Bids will not be accepted after:

**2:00 p.m. Friday, August 29th 2014**

**Selection:** Each bid will be evaluated based on equipment availability, the best competitive price and delivery schedule. Springville City reserves the right to reject any bid proposal that does not meet required specifications, that is incorrect or is incompatible with the existing plant infrastructure.

### **SECTION 1: INSTRUCTION TO BIDDERS**

The general rules and conditions which follow apply to all formal solicitations and resulting purchase orders or other awards issued by Springville City, unless otherwise specified. Bidders or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals. Failure to do so will be at the Bidder's own risk and cannot secure relief on the plea or error. Disputes or appeals on all proposals or contracts shall conform to Springville City Code 2-10.

This is a "Sealed Bid" to be opened at the date and time designated. It is the City's intent to award to the lowest cost, qualified bidder and at the same time receive quality service from Offeror.

#### **1.1 ELIGIBILITY TO BID**

To be eligible to bid this project, your company must:

- a. Be able to meet all applicable environmental laws and regulations for doing Business as a cable and Electrical supplier in the State of Utah.

b. Meet all City requirements pertaining to Insurance coverage.

**1.2 FORMS & MAILING OF PROPOSALS**

- 1.2.1 All proposals shall be properly signed in ink in the proper spaces, and submitted in a sealed envelope identifying proposal as Bid #2014-028. Failure to do so may cause premature opening. Bids opened prematurely will not be accepted.
- 1.2.2 Bidder shall submit the ORIGINAL copy and retain a copy of the solicitation.
- 1.2.3 In the event that the proposal contains bulky subject material, the special mailing envelope must be firmly affixed to any other wrapper being used.
- 1.2.4 All information required by the solicitation must be supplied to constitute a responsive proposal.
- 1.2.5 Springville City (Owner) reserves the right to reject any and all proposals should the proposal prices and/or any other submissions differ on the copies of the submitted proposal. Owner reserves the right to waive informalities in proposals.
- 1.2.6 For information pertaining to the proposal preparation contact:

Matt Hancock, Generation Superintendent
Email: mhancock@springville.org
Phone: (801) 420-2817

**1.3 DULY AUTHORIZED SIGNATURE**

1.3.1 The Proposal must contain the signature of a duly authorized officer or agent of the Bidder’s company empowered with the right to bind the Bidder for the amounts estimated and terms proposed. The Bidder must also provide evidence of the authority of the officer or agent to bind the Bidder.

**1.4 TIME FOR RECEIVING PROPOSALS**

- 1.4.1 Proposals received prior to the time of opening will be securely kept, unopened.
- 1.4.2 The Purchasing Agent and/or representative will decide when the specified time has arrived for opening. Proposals received thereafter will not be considered except as provided for in the instructions listed above.
- 1.4.3 The Purchasing Agent and/or his representative will not be liable for and will not accept any responsibility, for the premature opening of a proposal not properly addressed and identified.

**1.5 CONDITIONAL PROPOSALS**

1.5.1 Conditional proposals are subject to rejection in whole or in part.

**1.6 LATE PROPOSALS & MODIFICATIONS OF PROPOSALS**

- 1.6.1 Any proposal modification received at the office designated in the solicitation after the exact time specified for receipt is considered a late proposal/modification. Late proposal/modifications will not be considered for award except if it is received before award is made and either:
  - a. It was sent by registered or certified mail not later than the fifth (5th) calendar day prior to the date specified for receipt of the proposal/modification; or
  - b. It was sent by mail and is determined by the Purchasing Agent that the late receipt was due solely to mishandling by the City after receipt at the address specified in the solicitation.
- 1.6.2 The time of receipt of proposals at the specified location is time-date stamped on the proposal wrapper or other documentary evidence of receipt and maintained by the Buyer at specified location.

**1.7 WITHDRAWAL OF PROPOSALS**

- 1.7.1 A Bidder may request withdrawal of their proposal under the following circumstances.
  - a. Proposals may be withdrawn by written request to Owner received no later than the day and hour set for opening of proposals. The proposal will be returned unopened.

- b. Requests for withdrawal of proposals after opening of such proposals but prior to award shall be transmitted to the Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the proposal, the Owner may exercise its right to collection.

1.7.2 A Bidder who is permitted to withdraw a proposal shall not supply any material, labor or perform any subcontract or other work agreement for any type of compensation for the person or firm to whom the contract is awarded. A Bidder who is permitted to withdraw a proposal shall not otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.

## **1.8 ERRORS IN PROPOSALS**

1.8.1 When an error is made in extending total prices, the unit proposal price will govern. Corrections in proposals must be initialed by an authorized representative. Carelessness in quoting prices or in preparation of the proposal will not relieve the Bidder from performance. Bidders are cautioned to recheck their proposal for possible error. Errors discovered after public opening will be reviewed on a case by case basis for bid acceptance.

## **1.9 BIDDERS PRESENT**

1.9.1 All proposals will be publicly opened and read at the time and place specified and will remain available for public inspection in the Finance Department during regular City business hours for a period not less than thirty (30) calendar days after date of opening. Proposals may also be viewed and downloaded on [www.bidsync.com](http://www.bidsync.com).

1.9.2 Abstracts or tabulation of proposals received are not prepared for public distribution. Proposal results may be obtained at a reasonable cost. Information that is proprietary may not be obtained.

## **1.10 ACCEPTANCE / AWARD OF PROPOSALS**

1.10.1 All proposals submitted shall be binding for thirty (30) calendar days following the opening date, unless extended by mutual consent of all parties.

1.10.2 Unless otherwise specified by the Purchasing Agent or his representative, the Purchasing Agent reserves the right to make award on all items or on all of the items which is in the best interests of the City.

1.10.3 Springville City is exempt from the payment of any federal excise or any Utah sales tax. The price must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price Bidder 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 the City.

1.10.4 Any proposal in which the Bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award. Unit prices submitted will be totaled by Springville City representatives in order to determine lowest responsive price.

1.10.5 Proposals will be awarded to the lowest responsive and responsible Bidder. The determination of the lowest responsive and responsible Bidder may involve all or some of the following factors but not be limited to: price, Vendor Evaluation Report, handling, storage, disposal costs, installation, conformity to specifications, financial ability to meet the contract, previous performance, facilities, equipment, experience, delivery promise, terms of payments, compatibility as required, other costs, and other objective and accountable factors.

1.10.6 The Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed proposals, competitive negotiation, or open market transaction methods of procurement. In submitting a proposal, each Bidder shall by virtue of submitting a proposal guarantee that the Bidder has not been a party with other Bidder to an agreement to proposal a fixed or uniform price. Violation of this implied guarantee shall render void the proposal of such Bidders. Any disclosure to or acquisition by a competitive Bidder in advance of the opening of the proposals, of the terms or conditions of the proposal submitted by another competitor shall render the entire proceedings void and shall require re-advertising for proposals.

1.10.7 Owner reserves the right, in case of Vendor default, to procure the services and/or material from other sources while holding the defaulting Vendor responsible for any excess costs occasioned thereby.

1.10.8 The award and funding of this equipment purchase is contingent on City Council approval and budget appropriation.

## **1.11 EVALUATION PROCESS AND SELECTION CRITERIA**

The Owner's evaluation committee 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 determining lowest responsible bidder, in addition to **PRICE**, the Owner will consider:

- a. The ability, capacity, and skill of the Offeror to perform the services required under the contract;
- b. Whether the Offeror can provide the services promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience, and efficiency of the Offeror;
- d. The quality of service and level of performance of Offeror under previous contracts, if any;
- e. The previous and existing compliance by the Offeror with laws and ordinances relating to the contract or service; and
- f. Whether the Offeror is in arrears to the Owner on a debt or contract or is in default on surety, or whether the Offeror's taxes or assessments are delinquent.
- g. Other relevant information, which the Owner feels, would help in the evaluation of their proposal.

## **1.12 RIGHT OF OWNER TO TERMINATE CONTRACT**

Owner, upon written notice, may terminate this Contract, or any part hereof, as a result of the Contractor's failure to render to the satisfaction of Owner, the material, work and/or services required of it, including progress of the work and such abandonment or termination shall not be deemed a breach by Owner. Owner shall be the sole determinant in all termination for cause issues. The Contractor shall not be entitled, nor shall Owner give any consideration to claims for any costs or for loss of anticipated revenue(s), including overhead and profit, due to the abandonment or termination of this Contract, or any part hereof, by Owner for cause.

Owner, upon written notice, may abandon or terminate this Contract or any part hereof, and such action shall in no event be deemed a breach of this Contract. Such termination may come about for the sole convenience of Owner. Upon receipt of written notification from Owner that this Contract, or any part hereof, is to be terminated, the Contractor shall immediately cease operation of the work stipulated, and assemble all material that has been prepared, developed, furnished or obtained under the provisions of this Contract that may be in its possession or custody, and shall transmit the same to Owner on or before the fifteenth day following the receipt of the above-written notice of termination, together with its evaluation of the cost of the work performed. The Contractor shall be entitled to just and equitable payment in accordance with this Contract for any uncompensated work satisfactorily performed prior to such notice.

Owner shall determine the amount of work satisfactorily performed by the Contractor and Owner's evaluation shall be used as a basis to determine the amount of compensation due the Contractor for this work.

Termination by Owner for cause, default, or negligence on the part of the Contractor shall be excluded from the foregoing provision; termination costs shall not apply. Owner reserves the right to make award on all items, or on all of the items, which are in the best interests of the Owner.

## **1.13 DISCLOSURE OF PROPOSAL CONTENT**

1.13.1 The Government Records Access and Management Act, (Utah State Code Title 63G, Chapter 2) states that certain information in the submitted Proposal may be open for public inspection. If the Firm desires to have information contained in its proposal protected from such disclosure, the Firm 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 (Utah State Code 63G-2-309). All material contained in and/or submitted with the Proposal becomes the property of Springville and may be returned only at Owner's option.

## **1.14 BID BOND**

1.14.1 A bid bond is not required for this equipment proposal

## **1.15 CONTRACT DOCUMENTS**

- 1.15.1 The Contract Documents for this bid shall include the Instructions to Bidders, General Terms & Conditions, Requirements & Specifications, and all Addenda.
- 1.15.2 The terms "Bidder" "Offeror" and "Contractor" in this Request for Bids shall refer to Bidders submitting proposals.
- 1.15.3 All Bidders must base their bids on all the requirements and specifications in the Contract Documents. A Contract will be negotiated with the Bidder that is awarded the Bid. At a minimum, the Contract shall contain the requirements in the Contract Documents.

## **SECTION 2: GENERAL TERMS AND CONDITIONS**

### **2.0 PERMITS AND FEES**

The following shall be the City's responsibilities, unless modified elsewhere in the contract documents:

Plan check fees, building permits, impact fees.

### **2.1 SITE INVESTIGATIONS, REPRESENTATIONS, AND PHOTOGRAPHIC SURVEY**

The Bidder acknowledges that he has satisfied himself as to the nature and location of the work, the general and local conditions particularly those bearing upon transportation, disposal, handling and storage of materials, availability of labor, materials, water, electric power, road, uncertainties of weather, the conformation and condition of the ground, the character, quality and quantity of surfaces and subsurface materials to be encountered, the character of the equipment and facilities needed preliminary to and during the prosecution of the work and all other matters which can in any way affect the work or the cost thereof under this contract. Failure by the Bidder shall not relieve him from responsibility for performing the work.

### **2.2 INTERPRETATION OF SPECIFICATIONS AND DRAWINGS**

- 2.2.1 The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all.
- 2.2.2 For convenience of reference and to facilitate the letting of subcontracts, the specifications are separated into respective divisions and sections. The forming of these separations shall not operate to make the City or any of its representatives any arbiter to establish subcontract limits between Bidder and subBidders or suppliers.
- 2.2.3 Omissions from the drawings or specifications, or the mis-description of the details of work which are manifestly necessary to carry out the intent of the drawings or specifications, or which are customarily performed, shall not relieve the Bidder from performing such omitted or mis-described details or work, but they shall be performed as if duly and clearly set forth and described in the drawings and specifications.
- 2.2.4 Where contradictions existing within the documents, the Bidder represents that he has bid the most costly of all interpretations of the documents.
- 2.2.5 Where definitions and procedures are in conflict between the General Conditions and Specifications, the specification sections shall govern the conflicting directions.

### **2.3 SUBSTANTIAL COMPLETION**

The Bidder shall achieve substantial delivery of all cables and equipment within (30) days from the date of the notice to proceed. The Owner may extend the term of the Contract at Owner's discretion.

### **2.4 RIGHT OF OWNER TO TERMINATE CONTRACT**

Owner, upon written notice, may terminate the Contract, or any part thereof, as a result of the Bidder's failure to render to the satisfaction of Owner, the material, work and/or services required of it, including progress of the work and such abandonment or termination shall not be deemed a breach by Owner. Owner shall be the sole determinant in all termination for cause issues. The Bidder shall not be entitled, nor shall Owner give any consideration to claims for any costs or for loss

of anticipated revenue(s), including overhead and profit, due to the abandonment or termination of this Contract, or any part hereof, by Owner for cause.

Owner, upon written notice, may abandon or terminate the Contract, or any part thereof, and such action shall in no event be deemed a breach of this Contract. Such termination may come about for the sole convenience of Owner. Upon receipt of written notification from Owner that the Contract, or any part thereof, is to be terminated, the Bidder shall immediately cease operation of the work stipulated, and assemble all material that has been prepared, developed, furnished or obtained under the provisions of the Contract that may be in its possession or custody, and shall transmit the same to Owner on or before the fifteenth day following the receipt of the above-written notice of termination, together with its evaluation of the cost of the work performed. The Bidder shall be entitled to just and equitable payment in accordance with the Contract for any uncompensated work satisfactorily performed prior to such notice.

Owner shall determine the amount of work satisfactorily performed by the Bidder and Owner's evaluation shall be used as a basis to determine the amount of compensation due the Bidder for this work.

Termination by Owner for cause, default, or negligence on the part of the Bidder shall be excluded from the foregoing provision; termination costs shall not apply.

## **2.5 INDEMNIFICATION**

Bidder at its own expense, agrees to protect, indemnify, pay on behalf of, defend (with counsel acceptable to Owner) and hold harmless the City, its elected and appointed officials, employees and volunteers and their agents from all claims, demands, judgments, expenses, and all other damages of every kind and nature, made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to this Project under the Contract by the Bidder, Bidder's agents, employees, subBidders, or suppliers in the performance and execution of the Contract.

## **2.6 INSURANCE**

Bidder shall provide the following minimum insurance coverage from companies holding a General Rating of "A" or better as set forth in the most current issue of Best's Key Rating Insurance Guide written for not less than the following, or greater if required by law and all such insurance to be primary to any insurance maintained by Owner, shall name Owner as additional insured with waiver of subrogation:

- a. The Bidder's Worker's Compensation Insurance shall be written for not less than the statutory limits for the State of Utah and the Bidder's Employer's Liability Insurance shall be written for not less than \$1,000,000.
- b. The Bidder's Comprehensive Automobile Liability Insurance shall be written with combined single limits of not less than \$1,000,000 each occurrence.
- c. The Bidder's Comprehensive General Liability Insurance with contractual liability coverage on occurrence form with limits not less than \$1,000,000 each occurrence and \$2,000,000 aggregate.
- d. The Bidder shall not commence work under the Contract until all of the insurance required herein shall have been obtained by the Bidder. The Bidder shall furnish to the Owner Certificates of Insurance verifying that such insurance has been obtained. Such certificates will provide that Owner will receive at least thirty (30) days prior written notice of any material change in, cancellation of, or non-renewal of such insurance.

## **2.7 PERFORMANCE AND PAYMENT BONDS**

A performance bond is not required for the equipment proposal.

## **2.8 INVOICING (as applicable)**

- 2.8.1 Owner shall make payment to Bidder for all services performed by Bidder pursuant to the Contract Documents. Bidder shall submit a written invoice, for services rendered and Owner shall pay the invoice fee within thirty (30) days, as long as all Contract requirements are met.

- 2.8.2 Waivers of Mechanic's Lien: With each Application for Payment, Bidder shall submit waivers of mechanic's lien from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the work covered by the payment.
- a. Submit partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.
  - b. When an application shows completion of an item, submit conditional final or full waivers.
  - c. Owner reserves the right to designate which entities involved in the work must submit waivers.
  - d. Waiver Forms: Submit executed waivers of lien on forms acceptable to Owner.
- 2.8.3 Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
- a. List of subcontractors.
  - b. Schedule of values.
  - c. Bidder's construction schedule (preliminary if not final).
  - d. List of Bidder's staff assignments.
  - e. Copies of authorizations and licenses from authorities having jurisdiction for performance of the work.
  - f. Report of preconstruction conference.
  - g. Certificates of insurance and insurance policies.
  - h. Performance and payment bonds.
  - i. Data needed to acquire Owner's insurance.
- 2.8.4 Application for Payment at Substantial Completion: After Owner issues the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the work claimed as substantially complete.
- a. Include documentation supporting claim that the work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
  - b. This application shall reflect Certificate(s) of Substantial Completion issued previously for Owner occupancy of designated portions of the work.
- 2.8.5 Final Payment Application: After completing Project closeout requirements, submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
- a. Evidence of completion of Project closeout requirements.
  - b. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
  - c. Updated final statement, accounting for final changes to the Contract Sum.
  - d. AIA Document G706A, "Contractor's Affidavit of Release of Liens."
  - e. AIA Document G707, "Consent of Surety to Final Payment."
  - f. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.

## **2.9 MINOR CHANGES IN THE WORK**

Owner will issue supplemental instructions authorizing minor changes in the work, not involving adjustment to the Contract Sum or the Contract Time.

### **2.91 PROPOSAL REQUESTS**

Bidder-Initiated Proposals: If latent or changed conditions require modifications to the Contract, Bidder may initiate a claim by submitting a request for a change to Owner that includes the following:

- a. A statement outlining reasons for the change and the effect of the change on the work, providing a complete description of the proposed change that indicates the effect of the proposed change on the Contract Sum and the Contract Time.
- b. Include a list of quantities of products required or eliminated and unit costs, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.

- c. Include an updated Bidder's construction schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
- d. Proposal Request Form: Use form acceptable to Owner.

## **2.10 CHANGE ORDERS**

On Owner's approval of a work changes proposal request, Owner will issue a Change Order for signatures of Owner and Bidder.

## **2.11 LIQUIDATED DAMAGES**

Does not apply for this equipment RFP

## **2.12 SILENCE OF SPECIFICATIONS**

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under the Contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

## **2.13 NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

The Bidder agrees to comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in any specific statute(s) applicable to any Federal funding for this Agreement; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

## **2.14 LAWS AND ORDINANCES**

2.14.1 The laws of the State of Utah shall govern the Contract. Further, the place of performance and transaction of business shall be deemed to be in the Utah County, Utah, and in the event of litigation, exclusive venue and place of jurisdiction shall be Utah, and more specifically, the district court of Utah County, Utah.

2.14.2 The Bidder agrees to register and participate in a Status Verification System such as E-Verify, to verify the work eligibility status of the Bidder's new employees that are employed in the state. The Bidder further agrees to have each contractor or subcontractor who works for or under the Bidder, certify by affidavit that the contractor or subcontractor has verified through a Status Verification System the employment status of each new employee of the respective contractor or subcontractor.

## **2.15 CONFIDENTIAL MATTERS**

All data and information gathered by the Bidder, and all reports, recommendations, documents, and data shall be treated by the Bidder as confidential. The Bidder must agree not to communicate and disclose the aforesaid matters to a third party or use them in advertising, publicity, or propaganda and/or in another job or jobs, unless prior written consent is obtained from Owner.

## **2.16 FORCE MAJEURE**

“FORCE MAJEURE” shall be considered to be an act of God, fire, or explosion that, due to its consequences, threatens to delay the timely performance of the parties’ obligations hereunder. Whenever either party has knowledge of any event of Force Majeure or other situation that is delaying or threatens to delay the timely performance of any obligation called for by the Contract, the party shall immediately give written notice thereof, including all relevant information with respect thereto, to the other party.

Neither party to this Contract shall be liable for delay or failure to perform pursuant to the terms of this Contract, if and to the extent such delay or failure is due to the event of Force Majeure as defined above provided that:

- 2.16.1 Neither party may claim the benefit of this section unless the delay or failure to perform is due to causes beyond its control and without its fault or negligence; and
- 2.16.2 Any delay or failure by a Bidder or subcontractor at any tier of either party shall not be excusable unless such delay or failure arises out of causes beyond the control of Bidder, and the services to be furnished by Bidder or subcontractor are not obtainable from other sources at comparable costs in sufficient time to permit its commitments to be met pursuant to this Contract.

## **2.17 FAILURE TO DELIVER**

In case of failure to deliver services in accordance with the Contract terms and conditions, the Owner, after due oral or written notice, may procure the services from other sources and hold the Bidder responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Owner may have. The Owner shall be entitled to offset such costs against any sums owed by the Bidder to the Owner under this Contract.

## **2.18 MATERIAL SAFETY DATA SHEETS**

Under the "Hazardous Communication Act", commonly known as the "Utah Right To Know Act", a Bidder must provide to Owner with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the Bidder to furnish this documentation will be cause to reject any bid applying thereto.

## **2.19 WARRANTY**

The Bidder assumes all responsibility for all of the materials and services provided under this Agreement, whether those materials and services are provided by the Bidder, purchased ready-made, or provided by a subcontractor.

## **3.0 SPECIFICATIONS AND REQUIREMENTS**

Please see attached cable specifications