



EQUIPMENT/SUPPLIES/MATERIALS PURCHASE AGREEMENT FOR **NAME OF ITEMS**

THIS AGREEMENT is made and entered into on _____, by and between the City of St. George, a Utah municipal corporation, whose address is 61 S. Main St., St. George, Utah 84770 (“City”) and **Seller’s Name**, whose address is **Seller’s Address**, (“Seller”).

RECITALS

WHEREAS, City desires to purchase equipment/supplies/materials listed in Exhibit A (hereinafter “Goods”); and

WHEREAS, Seller submitted a bid/quote which outlines the equipment/supplies/materials to be purchased, the quantity and the price as shown in Exhibit A and incorporated herein; and

WHEREAS, City selected Seller to provide the Goods.

NOW, THEREFORE, for the consideration hereinafter set forth and in accordance with the conditions and representations contained herein, the parties hereby agree as follows:

TERMS

Based on the foregoing recitals and the following covenants, obligations, terms and conditions, the receipt and sufficiency of which as sufficient consideration the Parties hereby acknowledge, the Parties agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein by this reference.
2. **Purchase.** Seller hereby sells, conveys and transfers to City all rights, title and interest in and to the Goods which goods shall comply with the terms of the Bid Documents and/or Specifications which are incorporated as a term of this agreement by this reference.
3. **Purchase Price and Payment.** City shall pay Seller a total sum of \$Amount of Purchase for the Goods. City shall pay Seller in full within 30 days of delivery of the Goods to City, acceptance of those Goods by the City and receipt of the invoice.
4. **Delivery.** Time is of the essence in the performance of this Agreement. Seller will arrange for delivery to City the Goods. Seller will deliver the Goods required by the Agreement on or before the **Day and Month, Year**, unless the period for delivery is extended by City. Seller shall be solely responsible for the Goods until they are accepted by City. City, upon receiving possession of the Goods, shall have a reasonable opportunity to inspect the Goods to determine if the Goods conform to the requirements of the conditions of this sale. If the City, in good faith, determines that all or a portion of the Goods are non-conforming, the City may return the Goods to the Seller at no cost to City. Seller is strictly liable for Goods until City accepts delivery of Goods. The Goods shall not be deemed accepted until City deems the Goods conform to the terms and conditions of

the sale and the Goods are in good order and condition and City is satisfied with the same. City has the right to cancel the order if the Goods are not delivered on time.

5. **Title to Goods.** Seller represents that he owns the Goods free and clear and that such Goods are free of all liens. Seller will defend and indemnify City against a claim that the Goods belong to a third party. Seller shall reimburse City all expenses for defending any such claim.

6. **Warranties.** Seller warrants all Goods for the Warranty Period shown in Exhibit A. The warranty period begins on the date the Goods are accepted by City and continues for the time shown in Exhibit A.

7. **Infringement Indemnity.** Seller will defend and indemnify City against a claim that the Goods infringe a copyright or patent. City shall be reimbursed all expenses for defending any such claim.

8. **Compliance with Applicable Laws.** Seller expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Seller from any obligation to comply with all applicable requirements of City including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of City, except as modified, waived or declared in this Agreement. Seller shall comply with all federal, state, and local laws, regulations, and ordinances.

9. **Compliance with Public Contract Boycotting Restrictions.** Seller certifies it is in compliance with the public contract boycotting restrictions set forth in Utah Code § 63G-27-201 and agrees not to engage in any such restricted boycotting for the duration of this Agreement, and to notify the City in writing if it begins engaging in an economic boycott.

10. **Conflicts.** In the event of a conflict between this Agreement and any other documents with Seller, this Agreement shall govern.

11. **No Waiver.** The failure of either Party to enforce any of this Agreement's provisions shall not be construed to be a waiver of the rights of such party to enforce such provisions.

12. **Notices.** All notices required or permitted to be made by either party in connection with this Agreement shall be in writing, and shall be deemed to have been duly given: (a) five (5) business days after the date of mailing if sent by U.S. mail, postage prepaid, (b) when transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine and a copy of such facsimile is promptly sent by another means specified in this Section; or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party at its address as set forth below unless written notice is given by either party of a change of address:

CITY: City of St. George
61 S. Main St.
St. George, Utah 84770
Attention: City Attorney
Copy: legal@sgcity.org

INDEPENDENT (Company Name)
CONTRACTOR: (Address)
(City, State, Zip)
Attention: (Contact Name)

13. **Governing Law and Venue.** Utah law shall govern this Agreement without respect to any principles of choice of law or conflicts of law. Jurisdiction and venue of any action commenced relating to this Agreement shall be exclusively in courts located in, or with jurisdiction over,

Washington County, Utah. Nothing in this Agreement shall be construed to waive the sovereign immunity of the government parties.

14. **Construction.** This Agreement has been reviewed and revised by legal counsel for all the parties and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

15. **Legal Fees.** Each party shall bear its own costs, expenses, and attorneys' fees in connection with this Agreement. This obligation includes, without limitation, all costs and expenses which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing a lawsuit or otherwise.

16. **Modification of Agreement.** City specifically reserves the right to modify or amend this Agreement and the total sum due hereunder either by enlarging or restricting the scope of the work. All modifications shall be in writing and executed by both parties.

17. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned, sublet, sold, transferred or otherwise disposed of to any other party, individual or entity without assigning the rights and the responsibilities under this Agreement and without prior written consent of City, which consent shall not be unreasonably withheld.

18. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns, but shall not inure to the benefit of any third party or other person.

19. **No Joint Venture, Partnership or Third-Party Rights.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between the parties. No term or provision of this Agreement is intended to or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

20. **Integration.** This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understanding of whatever kind or nature and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this matter.

21. **Severability.** If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant, or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

22. **Survival.** It is expressly agreed that the terms, covenants, and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.

23. **Headings.** The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

24. **Counterparts.** This Agreement may be executed in counterparts each of which shall be an original and shall constitute one and the same agreement.

25. **Authority of Parties.** The parties executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated and that this Agreement constitutes a valid and binding Agreement.

In witness of their intention to be bound by the above covenants, obligations, terms and conditions, the Parties hereby execute this Agreement as follows:

CITY OF ST. GEORGE

SELLER: **SELLER'S NAME**

Jimmie B. Hughes, Mayor

Name of Signer, Title of Position

ATTEST:

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Christina Fernandez, City Recorder

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