FI84 9/96
Division of Finance

CONTRACT # 069076

STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following Agency of the State of Utah:

Dept. of Transportation	810	Proc./Statewide	referred to as STATE and the following:
Agency Name	Agency Code	Division	

CONTRACTOR Preformance Construction
Name
P O Box 18064
Address
Kearns UT 84118
City State Zip Code
Beau Warren (801) 301-1701
Contact Person Phone Number
201863880 119757A-B 91075000000
Federal ID# Vendor Number Commodity Code(s)

LEGAL STATUS OF CONTRACTOR
- ____ Sole Proprietor
- ____ Non-Profit Corporation
- X For-Profit Corporation
- ____ Partnership
- ____ Government Agency

2. CONTRACT TYPE AND PURPOSE:

This is a requirements contract to provide the State with repair and replacement of noise wall panels, posts and hardware. A performance bond in the amount of $10,125.00 is required.

3. PROCUREMENT: This contract is entered into as a result of the Procurement process on bid PM6065,
Requisition # 810 66000000038 ,FY 2006 .

4. CONTRACT PERIOD: Effective date 17 - Nov. - 2005 . Termination date 16 - Nov. - 2008 , unless terminated early or extended in accordance with the terms of this contract. Renewal Options (if any) None .

5. CONTRACT COSTS: This is a requirements contract see Attachment C for pricing.

6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions.
ATTACHMENT B: Scope of Work.
ATTACHMENT C: Itemized Price List.
ATTACHMENT D: Special Terms and Conditions.
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
A. All other governmental laws, regulations or actions applicable to the goods and/or services authorized by this Contract.
B. Utah State Procurement Code, Procurement Rules and Contractor's responses to Bid # PM6065 dated 16-Nov.-2005 .

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

SEE ATTACHED

Contractor's Signature
K. Beau Warren

Contractor's Name
Owner

Title

STATE OF UTAH

Tracy Conti, Operations Engineer

DEC 14 2005
Director, Division of Purchasing

Director, Division of Finance

Debra Boulton	(801) 965-4070	(801) 965-4073	dboulton@utah.gov
Agency Contact Person	Phone Number	Fax Number	Email Address

MAIL TO:

STATE OF UTAH
DIVISION OF PURCHASING
3150 STATE OFFICE BUILDING, CAPITOL HILL
P.O. BOX 141061
SALT LAKE CITY, UTAH 84114-1061
TELEPHONE (801) 538-3026
http://www.purchasing.state.ut.us

Invitation to Bid

Solicitation Number: **PM6065**

Due Date: **11/16/05 at 2:00 PM**

Date Sent: November 3, 2005

Goods and services to be purchased: **Three Year Contract to Provide, Repair and Replace Noise Wall Panels, Posts and Hardware.**

Must Complete

Company Name: PREFORMANCE CONSTRUCTION		Federal Tax Identification Number: 20-1863880	
Ordering Address: PO BOX 18064	City: KEARNS	State: UT	Zip Code: 84118
Remittance Address (if different from ordering address):	City:	State:	Zip Code:
Type: ☐ Corporation ☐ Partnership ☒ Proprietorship ☐ Government	Company Contact Person: BEAU WARREN		
Telephone Number (include area code): 801-301-1701	Fax Number (include area code): 801-252-7400		
Company's Internet Web Address: KBEAUWARREN@EXCITE.COM	Email Address:		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered):	Days Required for Delivery After Receipt of Order (see attached for any required minimums):		

The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, Terms and Conditions, and specifications. Please review all documents carefully before completing.

The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes X No_____. If no, enter where produced, etc._____

Offeror's Authorized Representative's Signature: [signature]	Date: 11/12/05
Type or Print Name: K. BEAU WARREN	Position or Title: OWNER

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.

4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.

6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.

7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.

8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.

9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.

10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.

11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.

12. **TERMINATION**: Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.

13. **NON APPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION::** Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.

17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.

18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.

19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card (major credit card).

20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.

21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.

22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.

23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

24. **PROCUREMENT ETHICS::** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-1002, Utah Code Annotated, 1953, as amended).

25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Additional Terms and Conditions; 3. Contractor Terms and Conditions.

ATTACHMENT B: SCOPE OF WORK

1.1 **Background and Scope**: UDOT installs precast modular noise attenuation walls adjacent to roads and highways. These panels or posts are occasionally damaged due to accident or natural events. UDOT desires to have damaged panels and posts removed and replaced with products matching neighboring panels. Provide damaged panel and post removal services for UDOT as authorized.

1.2 **Reference Documents**: UDOT Standard Specifications for Road and Bridge Construction, 2002 Edition, available from UDOT Project Development Division, 4501 South 2700 West, Box 148380, Salt Lake City, Utah 84114-8380 through the Departments Electronic Plan Room, which may be found at http://www.udot.utah.gov/esd/Standards2002Version.htm

1.3 **Company Profile**: This section shall include an organizational chart indicating the names of all persons to be assigned to the project, their areas of expertise and the percent of time they will be assigned to the project. A detailed description of projects shall also be included.

1.4 **Work Plan**: This section shall include a detailed but brief narrative description of the scope, effort and approach your firm will use to accomplish the noise wall replacement services. Included in the Work Plan shall also include a complete inventory of all assets to be used in performing the work, and a list of subcontractors, including qualifications, areas of responsibility and estimated percentage of work. The Work Plan shall also include a detailed Traffic Control Plan describing how traffic control will be implemented on the projects.

The Traffic Control Plan shall include provisions for traffic control and emergency responses and describe how the Contractor shall comply with the construction requirements set forth in this bid. The Traffic Control Plan is to be submitted to the region Traffic Engineer for prior approval. **Attached to the work plan shall be a copy of the manufacturer's installation instructions.**

SECTION 02861P
PRECAST NOISE WALL REPAIR

PART 1 GENERAL

1.1 SECTION INCLUDES

A. Materials and procedures for repairing or replacing damaged Precast Noise Wall.

1.2 RELATED SECTIONS

A. Section 01571: Temporary Environmental Controls.

B. Section 02061: Select Aggregates.

C. Section 03055: Portland Cement Concrete.

D. Section 03152: Concrete Joint Control.

E. Section 03211: Reinforcing Steel and Welded Wire.

F. Section 03310: Structural Concrete.

G. Section 03390: Concrete Curing.

1.3 REFERENCES

A. AASHTO Standard Specifications for Highway Bridges.

B. UDOT Standard Drawing SW-3

C. UDOT Standard Drawing SW-3B

1.4 SUBMITTALS

A. Submit plan for matching existing panel texture, color, and pattern.

1.5 HANDLING, SHIPPING, AND STORAGE

A. Shipment Acceptance: Panels or posts may be accepted for shipment and marked with an orange UDOT sticker if they:
   1. Meet the 28 day compression test.
   2. Are cured and sealed according to specification.
   3. Are not cracked or damaged.

B. Do not ship any panel or post that does not satisfy strength requirements.

PART 2 PRODUCTS

2.1 MATERIALS FOR PRECAST NOISE WALLS AND RETAINING WALLS

A. Precast Wall Panels and Posts:
   1. Concrete Class AA(AE). Refer to Section 03055.
   2. Type II cement.
   3. Slump requirement need not be met.
   4. 28 day minimum compressive strength of 5,000 psi.

B. Post Hole Concrete: Concrete Class B(AE). Refer to Section 03055.

C. Reinforcing Steel: Coated Grade 60. Refer to Section 03211, part 2.

D. Welded Wire Fabric: Coated. Refer to Section 03211.

E. Curing Compound: Type I, Class A. Refer to Section 03390.

F. Gravel for Post Holes: Free Draining Granular Backfill Borrow. Follow Section 02061, Part 2.

G. Elastomeric Bearing Pad: 60 hardness. As specified in AASHTO Standard Specifications for Highway Bridges, Division II, Article 18.2.

H. Backer Rod: Refer to Section 03152.

I. Construction Adhesive: Use an approved adhesive from the UDOT Qualified Products Listing.

J. Wood Shims: Any grade fir.

2.2 LIFTING DEVICES

A. Galvanized flush-type that do not project beyond the edge of the panels.

B. Capable of lifting the panel being replaced and of tilting them from horizontal position to vertical position.

C. Shear factor of safety of 2.66:1 for lifting from a flat position and a tension factor of safety of 4:1 for lifting from a vertical position.

D. Designed for shear so that the panels can be lifted from either side.

E. Provide a sealing cover.

2.4 CONCRETE POSTS

A. Cast posts in metal forms.

B. Permanently mark each post with date of casting and post the identification number supplied by the Engineer. Place markings in fresh concrete in the portion of the post which will be embedded in soil.

C. Department accepts posts if they:
   1. Meet the 28 day compressive strength.
   2. Are cured and sealed according to specification.
   3. Have been visually inspected and accepted by the Engineer.
   4. Have sides that do not deviate from a straight line by more than 3/8 inch per post height.

D. Replace posts that are:
   1. Cracked or damaged.
   2. Not permanently marked.

2.5 PRECAST CONCRETE PANELS

A. Fabricator will be pre-qualified as a supplier of pre-cast concrete products in accordance with the UDOT Construction and Materials Division Quality Management Plan .

B. Cast the panels to required tolerances regarding all dimensions.
   1. Cast in metal forms.
   2. Do not use coloring additives.
   3. Make panels match in contrast.

C. Permanently stamp panel identification number supplied by Engineer in the top surface of one lifting device prior to casting.

D. Expose the aggregate on both sides. Remove all residue from exposed surfaces.

E. Department accepts panels when they:
   1. Meet the 28 day compressive strength.
   2. Are cured and sealed according to specification.
   3. Have been visually inspected and accepted by the Engineer.
   4. Have sides that do not deviate from a straight line by more than1/8 inch.

F. Do not ship panels that:
   1. Are cracked or damaged.
   2. Do not match in contrast.
   3. Are not permanently marked.

PART 3 EXECUTION

3.1 LIMITATIONS

A. Refer to Section 03055 for hot and cold weather limitations.

3.2 CURING

A. Refer to Section 03390.

3.3 DEMOLITION

A. Remove damaged panels and posts from the site. Dispose of fragments at approved landfill or private disposal site.

3.4 TRAFFIC CONTROL

A. Provide all traffic control required for removal and replacement.

B. Submit traffic control plan for approval prior to starting work.

C. Maintain traffic control until repairs are complete and accepted.

3.5 POST HOLES

A. Refer to existing installation for post spacing.

B. Place edge of post holes no nearer than 2 ft from any underground utility.

3.6 LIFTING DEVICES

A. Place waterproof caps in the lifting devices after the panels are permanently placed.

3.7 CONCRETE POSTS

A. Set true to line and grade. Reject and replace posts more than 1/2 inch out of plumb in exposed length.

B. Replace posts that do not adequately support or accept insertion of the precast panels.

C. Replace cracked or damaged posts.

D. Glue elastomeric bearing pads to the concrete post following the manufacturer's recommendations.

3.8 PRECAST CONCRETE PANEL PLACEMENT

A. Match existing undamaged panel elevation and placement.

B. Place the panels in the posts with the form side facing the highway.

END OF SECTION

ATTACHMENT C: PRICE LIST

REGION ONE: Consists of the following Counties:
Box Elder, Cache, Rich, Weber, Davis & Morgan

Panels $ 2,800.00 Each

Posts $ 3,800.00 Each

REGION TWO: Consists of the following Counties:
Salt Lake, Summit, Wasatch, & Tooele

Panels $ 2,500.00 Each

Posts $ 3,800.00 Each

REGION THREE: Consists of the following Counties:
Utah, Daggett, Uintah, Duchesne, & Juab

Panels $ 2,800.00 Each

Posts $ 3,800.00 Each

REGION FOUR CEDAR CITY DISTRICT: Consists of the following Counties:
Mllard, Beaver, Iron, & Washington

Panels $ 3,000.00 Each

Posts $ 4,000.00 Each

REGION FOUR PRICE DISTRICT: Consists of the following Counties:
Carbon, Emery, Grand & San Juan

Panels $ 3,000.00 Each

Posts $ 4,000.00 Each

REGION FOUR RICHFIELD DISTRICT: Consists of the following Counties:
Sanpete, Sevier, Piute, Wayne, Garfield & Kane

Panels $ 3,000.00 Each

Posts $ 4,000.00 Each

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

1. **CONTRACT PURCHASE**: This is a requirements contract to provide the State with repair and replacement of noise wall panels and posts for a period of three (3) years.

2. **CONTRACT ACCEPTANCE**: At the time the bid is signed by the Offeror, the signature of that Offeror will be used as a legally binding signature if awarded this contract. When signed by the Division of Purchasing and a Utah Department of Transportation representative and assigned a contract number, this document will become a legally binding contract with the Offeror for the contract period specified.

3. **QUANTITY OR AMOUNT ESTIMATES**: Quantities have been estimated for bidding purposes and are not to be construed as a guarantee to purchase any service or specific amount. The State does not guarantee specific purchase amount.

4. **PRICING**: The Contractor agrees that the prices bid on materials/services in this contract shall be guaranteed for a period of three (3) years.

   ANY CHANGE REQUEST ON PRICES MUST GUARANTEE THE PRICE FOR THE SAME LENGTH OF TIME AS INDICATED ABOVE AND MUST BE MADE AT LEAST THIRTY (30) DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE. ANY REQUEST FOR CHANGE ON PRICES OR SPECIFICATIONS MUST INCLUDE SUFFICIENT DOCUMENTATION SUPPORTING THE REQUEST. REQUESTS FOR CHANGE ON PRICES OR SPECIFICATIONS SHALL NOT BE EFFECTIVE UNTIL IT IS APPROVED BY THE PROCUREMENT SUPERVISOR OR THE PROCUREMENT MANAGER OF THE UTAH DEPARTMENT OF TRANSPORTATION.

5. **WAGES**: The Contractor shall be responsible for all applicable company wages in accordance with the Federal, State and local laws and ordinances.

6. **INVOICING: THE CONTRACT NUMBER AND ORDER NUMBER MUST APPEAR ON ALL INVOICES, BILLS OF LADING, PACKAGES AND ALL CORRESPONDENCE RELATING TO EACH ORDER AND DELIVERY.**

   In the event the State is entitled to a cash discount, the period of computation shall commence on the delivery date or the date of a correct invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval is authorized. The State reserves the right to adjust incorrect invoice.

   The Contractor shall submit invoices to the Utah Department of Transportation, ordering Region.

ATTACHMENT D: SPECIAL TERMS AND CONDITIONS

7. **NON-COMPETE CLAUSE**: The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present or past employment including, but not limited to an agreement not to compete for as a period of time unless disclosure has been made. Contractor must disclose to the State any possible conflicts, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate as a contract for this reason, the State will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 90 day prior notice to the Contractor.

8. **INSURANCE**: Before contract award, successful bidder must provide a certificate of insurance certifying that the Contractor will provide and maintain a policy of insurance in which the Department of Transportation is named as an additional insured. Coverage shall be in the following amounts:

   $1,000,000.00 for bodily injury
   $1,000,000.00 for property damage
   $2,000,000.00 for each accident occurrence

9. **PERFORMANCE BOND**: At the time the contract is executed, the Contractor shall provide a performance bond amounting to twenty-five percent (25%) of the bid amount guaranteeing performance and payment.