



# INVITATION FOR BID

## Cover Sheet

General Information		
Project Name	Holiday Gift Cards	
Project Description	Purchase Holiday Gift Cards for Employees	
Project Start Date/Length	November 9, 2022 – December 30, 2022	
Contract Type	Firm fixed price	
UTA Project Manager	Troy Hamilton	
Funding Source	<input checked="" type="checkbox"/> Local	<input type="checkbox"/> State <input type="checkbox"/> Federal
Procurement Process Information		
IFB No.	22-03640CG	
Contract Administrator	Chad Gonzales 669 West 200 South Salt Lake City, Utah 84101 (801) 287-3013 cgonzales@rideuta.com	
This procurement will be an Invitation for Bid (IFB).	Award will be made to the low Responsive and Responsible bidder.	
FIB Schedule: A) Issue Invitation to Bid <span style="float: right;">September 29, 2022</span> B) Deadline to submit Questions and Request for Approved Equals or Changes to UTA <span style="float: right;">October 4, 2022, 2:00 pm</span> C) Last day for UTA to issue addenda and clarifications <span style="float: right;">October 7, 2022</span> D) <b>Deadline to submit bids</b> <span style="float: right;"><b>October 12, 2022, 2:00 pm</b></span>		
Included as part of this IFB		
Part 1 – Project Specific Information		
Part 2 – Procurement Process Information		
Part 3 – Standard Solicitation Terms		
Part 4 – Standard Contract Terms / Sample Contract		
Part 5 – Forms		
Bid Contents		
Submittal Instructions <ul style="list-style-type: none"> <li>One (1) electronic copy of the bid sheet in excel format, and all required forms (signed) shall be emailed to cgonzales@rideuta.com on or before the deadline referenced above. See Part 3 of this IFB for further instructions.</li> </ul>		

**Required Forms**

To be considered responsive, Bids must include those additional forms, declarations, and certifications listed below:

- Signed Bid Forms and Declarations



## INVITATION FOR BIDS

### Part 1 – Project information

#### **GENERAL OVERVIEW:**

Utah Transit Authority (UTA) is seeking bids from retailers to provide **2,700** Holiday grocery gift cards to their employees with a value of **\$150/each**, with an option to purchase up to 100 extra cards. The retailer that provides the greatest discounted rate and meets the minimum qualification listed below will be awarded the bid.

UTA will purchase and pick up the cards as soon as available after award and Offer and Acceptance is signed by all Parties involved

#### **MINIMUM QUALIFICATIONS:**

Retailer must have grocery store locations within the Weber, Davis, Salt Lake, and Utah county limits. Retailer must be considered a general grocer that sells all types of groceries. Specialized grocers that only sell certain types of groceries (all natural, organic, etc...) will not be considered. UTA reserves the right to determine what is considered a specialized grocer.



## INVITATION FOR BIDS

### Part 2 – Procurement Process Information

This procurement will be an invitation for Bids (IFB). Award will be made to the low responsive and Responsible bidder. Low bid shall be determined by the bid price.



# INVITATION FOR BIDS

## Part 3 – Standard Terms of Solicitation

### 1.1 INSTRUCTIONS TO BIDDERS

#### 1.1.1 Submission of Bids.

Bids must be emailed to Chad Gonzales at [cgonzales@rideuta.com](mailto:cgonzales@rideuta.com) by the “Deadline to Submit Bids” date and time listed on the Cover Sheet (as amended from time-to-time in accordance with this IFB). Bids received after the deadline will be considered non-responsive. It is the responsibility of the Bidder to ensure that its Bid are submitted by the deadline.

#### 1.1.2 Minimum Standards.

This IFB sets forth the minimum requirements that all Bids must meet. Failure to submit Bids in accordance with this IFB will render the Bid non-responsive. UTA may waive immaterial errors in a Bid at its discretion and as permitted by applicable law.

#### 1.1.3 Confidential, Protected, and Public Information

In accordance with Utah Code Section 63G-2-305(6) of the Government Records Access and Management Act (GRAMA) and UTA's Procurement Standard Operating Procedures (SOPs), Bids submitted by Bidders in response to this IFB and any accompanying documentation will not be made public until the public bid opening.

If the Bid includes information that the Bidder believes to constitute trade secret or non-public commercial or financial information protectable pursuant to UCA §§63G-6a-305(1) and 63G-6a-305(2) (collectively “Business Confidential Information”), then the Bidder Proposer must follow the procedure set forth in UCA §63G-6a-309.

**Additionally, for ease of Bid evaluation, UTA requests that each Bidder also follow the steps identified below:**

- a) Clearly mark all Business Confidential Information as such in its Bid at the time the Bid is submitted and include a cover sheet stating “DOCUMENT CONTAINS BUSINESS CONFIDENTIAL INFORMATION” and identifying each section and page which has been so marked;
- b) Include a statement with its Bid justifying the Bidder’s determination that certain records are Business Confidential Information for each record so defined;

- c) In addition to the Bid emailed to Chad Gonzales, email a second copy of the Bid (as an attachment) that has all the Business Confidential Information deleted, and label such copy of the Bid "Public Copy." If a Bidder emails a Bid containing no Business Confidential Information, no "Public Copy" need be submitted. However, any Bidder that submits a Bid containing no Business Confidential Information must so certify in a cover letter to its Bid; and
- d) Defend any action seeking release of the records it believes to be Business Confidential Information and indemnify, defend, and hold harmless UTA and the State of Utah and its agents and employees from any judgments awarded against UTA and its agents and employees in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives UTA's cancellation or termination of this procurement or award and subsequent execution of the Contract. In submitting a Bid, the Proposer agrees that this indemnification survives as long as the Business Confidential Information is in possession of UTA.

All records pertaining to this procurement will become public information after award of the Contract, unless such records are identified as, and lawfully constitute, Business Confidential Information as specified above. No liability will attach to UTA for the errant release of Business Confidential Information by UTA under any circumstances.

#### **1.1.4 Submitting Questions to UTA**

Questions must be submitted to Chad Gonzales before the end of the Question and Answer period. UTA's answers to timely questions will be shared with other potential bidders.

#### **1.1.5 Requests for Approved Equals or Changes**

Whenever a brand, manufacturer, or product name is indicated in this IFB, they are included only for the purpose of establishing identification and a general description of the item. Wherever such names appear, the term "or approved equal" is considered to follow.

Requests for Approved Equals, Changes, or other exceptions to the IFB (collectively, "Requests") must be submitted to [cgonzales@rideuta.com](mailto:cgonzales@rideuta.com) before the end of the Question and Answer period.

Any request for an approved equal or request for change of the IFB must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal or better than the IFB requirement. UTA retains the discretion to withhold approval for one or more requested equals if the magnitude of requested approvals exceeds UTA's available resources to allow for adequate evaluation in support of a timely procurement.

UTA's responses to timely Requests will be shared with all bidders.

It should be understood that specifying a brand name, components, and/or equipment in this IFB will not relieve the Bidder from its responsibility to provide the product in accordance with the performance warranty and contractual requirements. The Bidder shall notify UTA of any inappropriate brand name, component, and/or equipment that may be called for in this IFB and shall propose a suitable substitute for consideration.

### **1.1.6 Addenda to the Invitation for Bids**

UTA reserves the right to make changes to the IFB, by issuing a written addendum.

### **1.1.7 Multiple or Alternative Bids**

Submission of multiple or alternative Bids, except as specifically called for in the IFB, may render all such Bids non-responsive and may cause the rejection of some or all of such Bids.

### **1.1.8 Withdrawal of Bids**

A Bidder may withdraw its Bid before the Bid due date without prejudice to itself.

### **1.1.9 Cost of Bids**

UTA is not liable for any costs incurred by Bidders in the preparation of Bids submitted in response to this IFB.

### **1.1.10 Examination of Invitation for Bids**

The submission of a Bid constitutes an acknowledgment upon which UTA may rely that the Bidder: (i) has thoroughly examined and is familiar with the IFB, including the contractual terms in Part 4, (ii) is familiar with any work site identified in the IFB, and (iii) has reviewed and inspected all applicable statutes, regulations, ordinances, and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Bidder to receive or examine such documents, work sites, statutes, regulations, ordinances, or resolutions will in no way relieve the Bidder from any obligations with respect to the Bidder's Bid or to any contract awarded pursuant to this IFB. No reduction or modification in the Bidder's obligations will be allowed based upon a lack of knowledge or misunderstanding of this IFB, work sites, statutes, regulations, ordinances, or resolutions.

### **1.1.11 Firm Offer**

Unless otherwise stated in this IFB, submission of a Bid constitutes an offer to provide the goods or services described in the IFB, for the price set forth in the Bid. Such offer must be good and firm for a period of ninety (90) days after the Deadline to Submit Bids.

### **1.1.12 Disclosure of Organizational Conflict of Interest**

An organizational conflict of interest means that because of other activities, relationships, or contracts, the Bidder is unable, or potentially unable, to render impartial assistance or advice to UTA; a Bidder's objectivity in performing the work identified in this IFB is or might be otherwise impaired; or a Bidder has an unfair competitive advantage. If a Bidder believes that it has, or may have, a real or perceived organizational conflict of interest, it must disclose such real or perceived organizational conflict of interest in its Bid, and describe the measures taken by the Bidder to mitigate such conflict. UTA will review such information and, in its sole discretion, determine whether a real or perceived organizational conflict of interest exists, and whether such conflict warrants disqualification of the Bidder, or may be mitigated by taking further measures.

### **1.1.13 No Collusion**

By submitting a Bid, the Bidder represents and warrants that its Bid is genuine and not a sham, and that the Bidder has not colluded with any other parties regarding this procurement process. If UTA learns that the Bid is not genuine, or that the Bidder did collude with other parties, or engaged in any anti-competitive or fraudulent practices in connection with this procurement process, UTA may immediately terminate any resulting contract and seek any remedies available in equity or at law.

## **1.2 SELECTION PROCESS**

### **1.2.1 Public Opening**

This is an IFB and, as such, the Bids submitted in response to this IFB will be subject to a public opening.

### **1.2.2 UTA's Procurement Options**

Based on submitted information, UTA may do or take any of the following actions, without limitation:

- Award the contract to the lowest responsive and responsible Bidder who meets the criteria set forth in this IFB.
- Cancel the invitation for bids without awarding a contract.

### **1.2.3 Responsiveness**

Bids that are conditional, that attempt to modify the IFB requirements, that contain additional terms or conditions, or that fail to conform to the requirements or specifications of the IFB may be considered non-responsive.

### **1.2.4 Responsibility**

UTA will not select a Bidder who is deemed by UTA, in its sole discretion, to lack the ability or responsibility to perform successfully under the terms of the contract. Such determination of responsibility may encompass management, technical, legal, and financial matters.

### **1.2.5 Checking References.**

The Utah Transit Authority reserves the right to contact any reference specifically named by the Bidder in its Bid or any other additional references as deemed appropriate by UTA, including references suggested by the Bidder's named references or references known to UTA through its own knowledge of the transportation industry.

### **1.2.6 Requests for Clarification**

The Bidder shall provide accurate and complete information to UTA. If information is incomplete, appears to include a clerical error, or is otherwise unclear, UTA may either (i) declare the Bid non-responsive, (ii) evaluate the Bid as submitted, or (iii) issue a Request for Clarifications to the Bidder stating the information needed and a date and time by which the information must be provided. If the Bidder does

not respond to the Request for Clarifications in a timely manner, or if the Bidder's response is deemed to be insufficient by UTA, in its sole discretion, then UTA may declare the Bid non-responsive.

All requests for Clarification will be in writing via E-mail, responses submitted as per the instructions contained in the request for Clarification. Responses must be limited to answering the specific information requested by UTA.

### **1.3 PROTESTS**

Protests are governed by the Utah Procurement Code, Utah Code Ann. § 63G-6a-101 *et seq.* To be valid, a protest must be in writing and be filed with UTA within the time frames set forth in Utah Code Ann. § 63G-6a-1602. A protest will be deemed to be filed pursuant to these procedures when actually received by the designated recipient by hand delivery, by recognized overnight courier service or by certified or registered mail, addressed as follows:

Utah Transit Authority  
669 West 200 South  
Salt Lake City, Utah 84101  
Attn: Procurement Officer  
CONTAINSTIME-SENSITIVE PROTEST MATERIALS

All protests must include:

- The name and address, and email address of the protester;
- The appropriate contact person for the protester, to whom all protest correspondence shall be addressed;
- The solicitation or project number; and
- A detailed statement as to the nature of the protest including, without limitation: (i) the alleged facts and evidence giving rise to the protestor to claim that it has been aggrieved; (ii) the protestor's standing to protest; and (iii) the legal grounds upon which the protest is based.

The Procurement Officer shall make a written determination regarding the protest. An unfavorable determination of the UTA Procurement Officer is subject to an administrative reconsideration by a panel determined by the Chair of the UTA Board of Trustees. A notice of appeal must be delivered within five (5) calendar days of the date of the Procurement Officer's decision. A notice of appeal addressed as follows:

Chair, UTA Board of Trustees  
c/o Utah Transit Authority  
669 West 200 South  
Salt Lake City, Utah 84101  
Attn: Board Coordinator  
CONTAINSTIME-SENSITIVE PROTEST MATERIALS

Any further appeal may only be made pursuant to Utah Code Ann. § 63G-6a-1801 *et seq.* A protesting entity must exhaust administrative appeals prior to filing a judicial appeal pursuant to Utah Code Ann. § 63G-6a-1801 *et seq.*



## INVITATION FOR BIDS

### Part 4 – Contract Terms

“Vendor” as used in these UTA Standard Terms and Conditions means the party contracting with Utah Transit Authority (“UTA”) to provide Goods and/or Services to UTA. Vendor is identified as “Vendor” on the applicable UTA Purchase Order (“PO”). The PO, these UTA Standard Terms and Conditions and any other terms, conditions, standards, drawings, schedules or other documents identified in the PO form the “Contract” related to the applicable PO. The terms “Goods” and “Services” are intended to have their broadest meanings. “Goods” includes any equipment, parts, materials, supplies, project deliverables, and work product supplied by Vendor in accordance with the PO. “Services” includes labor, professional services, and any manual, technical and other human resources provided in the fulfillment of the PO, including those specified in the PO and any additional Services incidental to the furnishing of Goods.

- 1. JURISDICTION, CHOICE OF LAW, AND VENUE:** Utah law governs this transaction. The parties shall submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of the PO and Contract. Venue is in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 2. LAWS AND REGULATIONS:** Vendor and any and all Goods and/or Services furnished under the Contract will comply fully with all applicable Federal and State laws and regulations, including those related to safety and environmental protection. Vendor shall also comply with all applicable licensure and certification requirements.
- 3. RECORDS ADMINISTRATION:** Vendor shall maintain all records necessary to properly account for the payments made to Vendor for costs authorized by the Contract. Vendor shall retain those records for at least six years after the Contract is fully performed or terminated, or until all audits initiated within the six-year period have been completed (whichever is later). Vendor shall allow UTA, State, and Federal auditors, and UTA agency staff, access to all the records relating to the Contract, for audit, inspection, and monitoring of Goods and/or Services. Such access must be during normal business hours, or by appointment.
- 4. CONFLICT OF INTEREST:** Vendor represents that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of UTA to secure favorable treatment with respect to being awarded the Contract.
- 5. INDEPENDENT CONTRACTOR:** Vendor is an independent contractor. As such, Vendor has no authorization, express or implied, to bind UTA to any agreements, settlements, liability or understanding whatsoever. Vendor shall not perform any acts as agent for UTA, except as expressly set forth in the Contract. Compensation stated in the Contract is the total amount payable to Vendor by UTA. Vendor is responsible for the payment of all income tax and social security tax due as a result of payments received from UTA for the Goods and/or Services. Persons employed by UTA and acting under the direction of UTA will not be deemed to be employees or agents of Vendor.

6. **STANDARD OF CARE.** Vendor shall perform any Services to be provided under the Contract in a good and workmanlike manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated independent contractors (including, as applicable, professional standards of care).
7. **SALES TAX EXEMPTION:** Purchases of certain materials are exempt from Utah sales tax. UTA will provide a sales tax exemption certificate to Contractor upon request. UTA will not pay Contractor for sales taxes for exempt purchases, and such taxes should not be included in Contractor's Application for Payment.
8. **DELIVERY:** Unless otherwise specified in the Contract, all Goods will be delivered FOB to the destination designated by UTA in the PO. Vendor shall be responsible for delivery costs and all risk of loss shall remain with Vendor until such time as the Goods are received by UTA, its agent or consignee, regardless of whether UTA has made full payment for the Goods. Vendor shall deliver all Goods to UTA and perform all Services no later than the date(s) indicated in the PO. If Vendor fails to make delivery of any part of the Goods or fails to perform any portion of the Services on the date(s) indicated, UTA may terminate and pursue other remedies.
9. **INSPECTIONS:** Goods furnished under the Contract will be subject to inspection and testing by UTA at times and places determined by UTA. If UTA finds Goods furnished to be incomplete or not in compliance with applicable specifications and standards, UTA may reject the Goods and require Vendor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Vendor is unable or refuses to correct such Goods within a time deemed reasonable by UTA, then UTA may cancel the order in whole or in part. Nothing in this paragraph will adversely affect UTA's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.
10. **INVOICING AND PAYMENT:** Vendor will promptly submit invoices (within 30 days of delivery of the applicable Goods and/or Services) to UTA. The UTA purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the Contract. The prices paid by UTA will be those prices listed in the PO. UTA may adjust or return any invoice reflecting incorrect pricing. Unless otherwise specified, payment terms are Net 30 days following receipt of invoice.
11. **WARRANTY:** Vendor warrants all Goods (including hardware, firmware, and/or software products that it licenses) provided to UTA under the Contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in the Contract.

Vendor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to the Contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to the Contract unless otherwise specified and mutually agreed upon elsewhere in the Contract. In general, Vendor warrants that: (1) the Good will do what the salesperson said it would do, (2) the Good will live up to all specific claims that the manufacturer makes in their advertisements, (3) the Goods will be suitable for the ordinary purposes for which such items are used, (4) the Goods will be suitable for any special purposes that UTA has relied on Vendor's skill or judgment to consider when it advised UTA about the Good, (5) the Goods have been properly designed and manufactured, and (6) the Goods are free of significant defects or unusual problems about which UTA has not been warned. Nothing in this warranty will be construed to limit any rights or remedies UTA may otherwise have under the Contract.

- 12. INDEMNIFICATION:** Vendor shall release, protect, defend, indemnify and hold UTA and its trustees, officers, and employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from the willful misconduct or the negligent acts or omissions of Vendor, its subcontractors and suppliers, and their respective employees and agents, except to the extent caused by the negligent acts or omissions of UTA.
- 13. INSURANCE:** Vendor shall maintain worker's compensation insurance in accordance with applicable laws and shall also maintain general liability insurance with policy limits no less than two million per occurrence and four million in the aggregate. Vendor shall include UTA as an additional insured with respect to such insurance. Upon request, Vendor shall provide proof of insurance to UTA. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. UTA is no way warrants that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this contract by the Vendor, his agents, representatives, employees, or subcontractors and Vendor is free to purchase additional insurance as may be determined necessary.

#### **14. Claims and Dispute Resolution**

##### **14.1 Claims.**

"Claim" means any disputes between UTA and the Contractor arising out of or relating to the Contract Documents including any disputed claims for Contract adjustments that cannot be resolved in accordance with the Change Order negotiation process set forth in Article 8. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim. Unless otherwise directed by UTA in writing, Contractor shall proceed diligently with performance of the Work pending final resolution of a Claim, including litigation. UTA shall continue to pay any undisputed payments related to such Claim.

##### **14.2 Dispute Resolution.**

The parties shall attempt to informally resolve all claims, counterclaims and other disputes. No party may bring a legal action to enforce any term of this Contract without first having exhausted such process. If the dispute cannot be resolved informally, either party may request mediation under the auspices of the Juris Arbitration and Mediation Services (JAMS). A JAMS mediator shall be mutually agreed to among the Parties. The Mediation shall be non-binding. The Mediator shall determine the logistics, format and other aspects of the actual mediation. If mediation is not successful in resolving the dispute, either Party may commence legal action in accordance with the venue and law provisions of this Contract.

- 15. DEFAULT:** If Vendor: (a) becomes insolvent; (b) files a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) makes a general assignment for the benefit of its creditors; (d) has a receiver appointed; (e) should fail to make prompt payment to any subcontractors or suppliers; or (f) fails to comply with any of its material obligations under the Contract, UTA may, at its option either cure the default at Vendor's expense or terminate the Contract after first giving Vendor five (5) days written notice to cure such default. Immediately after such termination, UTA may: (i) take possession of the Goods wherever they may be located and in whatever state of completion they may be together with all drawings and other information necessary to enable UTA to have the Items completed, installed, operated, maintained and/or repaired; (ii) pay to Vendor any amount then due

under the Contract after taking full credit for any offsets to which UTA may be entitled; (iii) contract with or employ any other party or parties to finish the Items; and (iv) collect from Vendor any additional expense, losses or damage which UTA may suffer.

16. **Costs and Attorney's Fees:** If any party to this Agreement brings an action to enforce or defend its rights or obligations hereunder, the prevailing party shall be entitled to recover its costs and expenses, including mediation, arbitration, litigation, court costs and attorneys' fees, if any, incurred in connection with such suit, including on appeal.
17. **Governing Law.** The Agreement and all Contract Documents are governed by the laws of the State of Utah, without giving effect to its conflict of law principles. Actions to enforce the terms of this Agreement may only be brought in the Third District Court for Salt Lake County, Utah.
18. **PATENTS, COPYRIGHTS, ETC:** Vendor will defend, indemnify and hold UTA, its officers, agents and employees harmless from liability of any kind or nature, arising from Vendor's use of any copyrighted or un-copyrighted composition, trade secret, patented or un-patented invention, article or appliance furnished or used in the performance of the Contract.
19. **ENVIRONMENTAL RESPONSIBILITY:** UTA is ISO 14001 Environmental Management System (EMS) certified. Vendor acknowledges that its Goods and/or Services might affect UTA's ability to maintain the obligation of the EMS. A partial list of activities, products or Services deemed as have a potential EMS effect is available at the UTA website [www.rideuta.com](http://www.rideuta.com). Upon request by UTA, Vendor shall complete and return a *Contractor Activity Checklist*. If UTA determines that the Goods and/or Services under the Contract has the potential to impact the environment, UTA may require Vendor to submit additional environmental documents. Vendor shall provide one set of the appropriate safety data sheet(s) (SDS) and container label(s) upon delivery of a hazardous material to UTA.
20. **PUBLIC INFORMATION:** Vendor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Vendor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation.
21. **SEVERABILITY:** If any provision of the Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
22. **WRITTEN AMENDMENTS:** The Contract may be amended, modified, or supplemented only by written amendment to the Contract, executed by authorized persons of the parties hereto.
23. **ASSIGNMENT:** Vendor shall not assign, sell, or transfer any interest in the Contract without the express written consent of UTA.
24. **FORCE MAJEURE:** Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.
25. **WAIVER:** Any waiver by a party of any breach of any kind or character whatsoever by the other party, whether such be direct or implied, will not be a continuing waiver of or consent to any subsequent breach of the Contract.

**26. ENTIRE AGREEMENT:** The Contract constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

**27. INCORPORATED DOCUMENTS AND ORDER OF PRECEDENCE**

UTA's IFB 20-03499 including all federal clauses and other attachments, and Consultant's Bid, are hereby incorporated into and made a part of this Contract, except to the extent that such documents were changed or altered by subsequent negotiations as indicated by the terms of this Contract, including Exhibits A and B. However the order of precedence shall be as follows:

1<sup>st</sup>: Contract including all attachments (Offer and Acceptance)

2<sup>nd</sup>: UTA Terms and Conditions

3<sup>rd</sup>: Invitation For Bid

4<sup>th</sup>: Contractor Bid including contractor terms and conditions

subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work.”

UTA will not consider a Bid for award, nor will it make any award where there has not been compliance with this Section. Furthermore, non-compliance with this section is a material breach of the Contract.

**D. SUBCONTRACTOR CAPABILITY**

The undersigned bidder/proposer certifies that it and each of its subcontractors possess an adequate supply of workers qualified to perform the work specified herein; that there is no existing or impending dispute between it and any labor organization; and that it is prepared to comply fully with prevailing wage requirements, minimum wages, maximum hours of work, and equal opportunity provisions contained in the general conditions of the contract.

**E. UTAH ANTIDISCRIMINATION ACT:**

Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.

In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

**F. UTAH ANTI-BOYCOTT ISRAEL ACT:**

Offeror certifies that it is not currently engaged in a boycott of the State of Israel; and agrees not to engage in a boycott of the State of Israel for the duration of this contract.

**G. DISCLOSURE OF ORGANIZATION CONFLICT OF INTEREST**

Proposers must provide a narrative describing any Organizational Conflicts of Interest, either real or perceived. See Part 3 of the IFB for more information. Proposers must describe in detail how it has managed such organizational conflicts of interest to ensure that the Proposer has not gained an unfair competitive advantage.



## INVITATION FOR BIDS

### Part 5 – Declarations, Offer, and Conflict of Interest Form

#### A. BID DECLARATIONS

This Bid is submitted upon the following declarations:

1. Neither I nor, to the best of my knowledge, none of the members of my firm, corporation, or JV have either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive proposing in connection with this Bid.
2. Neither I nor, to the best of my knowledge, none of the members of my firm, corporation, or JV have given, offered, or promised to give any compensation, gratuity, contribution, loan or reward to any person administering, conducting, or making decisions regarding this procurement process.
3. I certify that the named Proposer has registered and is participating in the Status Verification System in accordance with Utah Code Ann. § 63G-12-302 (*see* Part 3 (B) for more information).
4. I acknowledge receipt of the following addenda to this IFB:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

#### B. No Collusion

By submitting a Bid, the Proposer represents and warrants that its Bid is genuine and not a sham, and that the Proposer has not colluded with any other parties regarding this procurement process. If UTA learns that the Bid is not genuine, or that the Proposer did collude with other parties, or engaged in any anti-competitive or fraudulent practices in connection with this procurement process, UTA may immediately terminate any resulting contract and seek any remedies available in equity or at law

#### C. E-VERIFY

Each Proposer and each person signing on behalf of any Proposer certifies as to its own entity, under penalty of perjury, that the named Proposer has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor’s new employees that are employed in the State of Utah in accordance with applicable immigration laws including UCA Section 63G-12-302.

Signing the Bid is deemed the Proposer’s certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including Utah Code Ann. § 63G-12-302.

The successful Proposer shall require that the following provision be placed in each subcontract at every tier: “The subcontractor shall certify to the main (prime or general) contractor by affidavit that the

subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302 and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work.”

UTA will not consider a Bid for award, nor will it make any award where there has not been compliance with this Section. Furthermore, non-compliance with this section is a material breach of the Contract.

**D. SUBCONTRACTOR CAPABILITY**

The undersigned bidder/proposer certifies that it and each of its subcontractors possess an adequate supply of workers qualified to perform the work specified herein; that there is no existing or impending dispute between it and any labor organization; and that it is prepared to comply fully with prevailing wage requirements, minimum wages, maximum hours of work, and equal opportunity provisions contained in the general conditions of the contract.

**E. UTAH ANTIDISCRIMINATION ACT:**

Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.

In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

**F. UTAH ANTI-BOYCOTT ISRAEL ACT:**

Offeror certifies that it is not currently engaged in a boycott of the State of Israel; and agrees not to engage in a boycott of the State of Israel for the duration of this contract.

**G. DISCLOSURE OF ORGANIZATION CONFLICT OF INTEREST**


Proposers must provide a narrative describing any Organizational Conflicts of Interest, either real or perceived. See Part 3 of the IFB for more information. Proposers must describe in detail how it has managed such organizational conflicts of interest to ensure that the Proposer has not gained an unfair competitive advantage.

Use the space below, and additional sheets if necessary.

Failure to acknowledge receipt of all addenda may cause the Bid to be rejected as non-responsive.


Further, this Bid is submitted upon the declaration that I have reviewed the terms and conditions of the IFB, including the Standard Contract Terms, and accept all the terms and conditions stated therein

The undersigned is authorized to make the foregoing declarations, acknowledgements, and certifications set forth above.

<u>Harmon City Inc.</u> (Contractor's Name)	 (Signature)
	<u>Nicole Lengel</u> (Print Name)

**H. CONTRACTOR'S OFFER**

By signing below, the Contractor makes a firm offer to deliver all supplies and/or perform all services or construction as set forth in the IFB (including any amendments), for the price set forth on Contractor's Bid Sheet Form. Signature must be by an officer of your company authorized to bind your company in contractual matters.

<u>Harmon City Inc.</u> (Contractor's Name)	 (Signature)
<u>3540 South 4000 W. # 500</u> (Contractor's Address)	<u>Nicole Lengel</u> (Print Name)
<u>801- 969-8261</u> (Contractor's Phone Number)	<u>CFO</u> (Title)
<u>terrymcdonald@harmonsgrocery.com</u> (Contractor's Email Address)	<u>10-4-2022</u> (Date)
<u>87-0230875</u> (Contractor's EIN)	

**B. UTA'S ACCEPTANCE**

By signing below, UTA accepts Contractor's offer. This acceptance creates a binding Contract, which consists of the IFB, including any amendments, and Contractor's Bid. No additional contractual documents are necessary. In the event of a conflict between the IFB and Contractor's Bid, the terms of the IFB shall govern. The effective date of the Contract is the date of the last signature on this page.

\_\_\_\_\_  
UTA Representative / Title

\_\_\_\_\_  
UTA Representative / Title

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

DocuSigned by:

*Tim Merrill*

10/14/2022

Approved as to Form and Content  
Assistant Attorney General  
UTA Counsel

Bidders Name: Harmon City, Inc.

**Price Form**

	Quantity	Value of Gift Card (each)	Cost Prior to Discount	Discount (%)	Value of Discount	Total Cost
	2,700	\$150.00	\$405,000.00	13%	52,650	\$352,350
*Option 1	100	\$150.00	\$15,000	13%	1,950	\$13,050

Payment Type Accepted:     ACH     Credit Card     Check

\*If UTA decides to exercise option. UTA will issue a modification or decide to purchase at time of award.