

CITY OF BOISE
ARTS AND HISTORY
REQUEST FOR PROPOSAL



SRFP 19-152
Arts and History Brand Awareness and Engagement

Addenda	
1.	_____
2.	_____
3.	_____
4.	_____
5.	_____

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INVITATION TO PROPOSE

November 27, 2018

Dear Proposer:

The City of Boise, Idaho will accept sealed bids/proposals at the Purchasing Office, 150 N. Capitol Blvd., Boise, Idaho, 83702, until **January 9, 2019, at 1:00 PM local time**. Immediately thereafter, all bids/proposals will be opened and publicly read in the presence of the Proposers at Boise City Hall.

Bids/Proposals Will Consist of: **SRFP 19-152; ARTS AND HISTORY BRAND AWARENESS AND ENGAGEMENT, ARTS AND HISTORY, Boise City**

Scope of Work: The purpose of this Request for Proposal (RFP) is to solicit proposals from qualified consulting firms with solid experience in audience research and analysis (both quantitative and qualitative), message/positioning development, and government identity/branding including development of a brand activation campaign; recommendations for techniques and rollout to include interactive and social media marketing, as well as traditional marketing, media and promotions; and recommendations for results tracking/measurement. The Boise City Department of Arts & History (A&H) is seeking the development of brand activation efforts to help increase awareness of and engagement in the department, its services, and programs.

Bids/Proposals will be prepared per the specifications detailed within the Request for Proposal document. Bid/Proposal documents are available at no charge with registration through DemandStar or BidNet (links provided on City Website) www.cityofboise.org or a CD copy can be picked up at the Purchasing Office of the City of Boise, 150 North Capitol Blvd., Boise, Idaho.

IMPORTANT DATES:	DATE/TIME
Questions & Clarification Due	January 4, 2019, at noon, Local Time
Bids/Proposals Due	January 9, 2019, at 1:00 PM Local Time

In determining the best qualified proposal, Purchasing will consider all acceptable bids/proposals on a basis consistent with SRFP requirements.

The City intends to award contract to one supplier; however, the City reserves the right to award to more than one proposer.

The City of Boise reserves the right to reject any and all bids/proposals, to waive any irregularities in the bids/proposals received and to accept the proposal(s) that are in the best interest of the City. Boise City is an Equal Opportunity Employer. The City of Boise is exempt from Federal and State taxes and will execute the required exemption certificates.

CITY OF BOISE, IDAHO

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PROPOSAL INSTRUCTIONS AND INFORMATION

- The submission package or envelope **SHOULD BE SEALED** and **PLAINLY MARKED** with the following:

Boise City Purchasing Office

150 N Capitol Blvd

Boise, ID 83702

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- **Submit PROPOSALS to the Boise City Purchasing Office, 150 North Capitol Blvd., Boise, Idaho 83702.**
- Submittal packages must include one (1) copy of your proposal along with one (1) electronic copy. The electronic copy **MUST** be identical in content and is to be formatted into one (1) PDF file, it **MUST** include signed signature page.

OR

- **E-Proposals:** Electronic Proposals submitted through DemandStar or BidNet in will also be accepted for this project. Proposals must be signed and submitted in same required format. Submit one (1) electronic copy if using E-Bidding. After uploading your bid/proposal, Bidders are encouraged to verify the successful upload of the document.
- **Sign your electronic proposal. Proposals without written signature will not be accepted.**
- All E-Proposals must be submitted before the scheduled bid/proposal opening. In the event of a technology failure, the City reserves the right to accept all proposals submitted and electronically time stamped prior to bid/proposal opening. The City will require bid/proposal receipt document to be on file as proof of timely submission. Bidders are encouraged to confirm the successful upload of their bid/proposal document. The City will not accept proposals after the scheduled time for opening.
- The Owner is the City of Boise.
- **ALL PROPOSALS MUST BE SIGNED.**
- If a "Bid Schedule" is present, the Schedule should be completely filled in by the Bidder and included in their Proposal. Where proposal formats are requested, Bidder is to comply with all specifications.
- Additional sheets may be included if more room is needed for technical information, answers, and explanations.

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GENERAL CONDITIONS

These General Conditions are presented for clarification of the Terms and Conditions included with the Contract Agreement and are not intended to replace or take precedence over those Terms and Conditions.

1.1 Intent of Proposal

It is the intent of this proposal to describe the services being sought in sufficient detail to secure qualified proposals. Proposals will be evaluated using a weighted scoring method. Proposals not conforming to the requested format or not in compliance with the specifications will not receive full scoring.

1.2 Proposer's Costs

The Proposer will be responsible for all costs (including site visits where needed) incurred in preparing or responding to this SRFP. All materials and documents submitted in response to the SRFP become the property of the City and will not be returned.

1.3 Evaluation of Proposer

Before a contract will be awarded, the City may conduct reference investigations as is necessary to evaluate and determine the performance record and ability of the top ranked Proposer(s) to perform the size and type of work to be contracted, and to determine the quality of the service being offered. By submitting a proposal, you authorize the City to conduct reference investigations as needed. Proposals will be evaluated by a selection committee comprised of City of Boise employees and may include citizens of the City.

1.4 Insurance

The Contractor will provide the insurance coverage designated hereinafter and pay all costs associated with the insurance coverage. Any submitted insurance policy, or certificate of insurance will name the City as a named insured (Attn: Purchasing), where appropriate, and such insurance policy or certificate of insurance will be kept and maintained in full force and effect at all times during the term or life of this contract. The insurance policy or certificate of insurance must be filed with Purchasing prior to commencing work under this contract and no insurer will cancel the policy or policies or certificate of insurance without first giving thirty (30) days written notice thereof to the Contractor and the City, but the contractor may, at any time, substitute a policy or policies or certificate of insurance of a qualified insurance company or companies of equal coverage for the policy or policies or certificate then on file with Purchasing.

In case of the breach of any provision of this article, the City, at its option, may take out and maintain at the expense of the Contractor, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Contractor under this contract.

- a. Contractor's and Subcontractor's Insurance. The Contractor will not commence providing service under the contract until Contractor has obtained all the insurance required hereunder and such insurance has been reviewed by the City. Review of the insurance by the City will not relieve or decrease the liability of the Contractor hereunder.
- b. Compensation and Employer's Liability Insurance. The Contractor will maintain during the life of this contract, the statutory workers' compensation, in addition, employer's liability insurance in an amount not less than \$500,000 for each occurrence, for all of his employees to be engaged in work on the project under the contract, and, in case any such work is

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sublet, the Contractor will require the Subcontractor similarly to provide workers' compensation and employer's liability insurance for all of the latter's employees to be engaged in such work.

The minimum limits of insurance described above will not be deemed a limitation of the Contractor's covenant to indemnify.

1.5 Reserved Rights

The City of Boise reserves the right to accept or reject bids/proposals. The City may select a firm on the basis of the written proposal or may request oral presentations from the most highly rated firms under the evaluation criteria outlined above. The firm selected through this process as the best qualified will then be requested to negotiate a contract.

1.6 Public Records

The Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a State or local agency regardless of the physical form or character. All, or most, of the information contained in your Bid or Proposal will be a public record subject to disclosure under the Public Records Act and will be available for inspection and copying by any person. The Public Records Act contains certain exemptions. One exemption potentially applicable to part of your response may be for trade secrets. Trade secrets include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy.

If you consider any element of your Bid or Proposal to be a trade secret, or otherwise protected from disclosure, you **must**:

- a. Indicate by marking **each page** of the pertinent document confidential; and,
- b. Include the specific basis for your position that it be treated as exempt from disclosure. Prices quoted in your Bid or Proposal are not a trade secret.

The following is not acceptable or in accordance with the Public Records Act and **will not be honored**:

- a. Marking your entire Bid or Proposal as exempt; or,
- b. Placing a statement or legend on one (1) page stating that all or substantially all of the response is exempt.

The City, to the extent allowed by law and in accordance with these Instructions, will honor a designation of nondisclosure. If you claim material to be exempt from disclosure under the Idaho Public Records Act, the Bidder/Proposer will expressly agree to defend, indemnify and hold harmless the City from any claim or suit arising from the City's refusal to disclose any such material. Any questions regarding the applicability of the Public Records Act should be addressed to your own legal counsel – **Prior to submission**.

1.7 Taxes

The City of Boise is exempt from Federal and State taxes and will execute the required exemption certificates for items purchased and used by the City. Items purchased by the City and used by a contractor are subject to Use Tax. All other taxes are the responsibility of the Contractor and are to be included in the Contractor's Proposal pricing.

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1.8 Request for Clarification

Any Bidder who wishes to request clarifications on the requirements, standards, specifications or processes outlined in this Request for Proposal may submit a written notification to the Purchasing Office to be received no later than January 4th at noon.

Written requests are to be directed to:

Tammi Leatham
City of Boise Purchasing
150 N. Capitol Blvd
Boise ID 83702
Fax: 208-384-3995
tleatham@cityofboise.org

1.9 Proposal Questions

Questions and responses of any one Proposer, which the City of Boise deems may affect or cause an ambiguity in proposal responses, will be supplied to all prospective Proposers by addendum.

The City of Boise may, by written notice to all respondents, cancel, postpone or amend the Request for Proposal (SRFP) prior to the due date. If, in the opinion of the City of Boise, the revisions or amendments will require additional time for a response, the due date will be extended to all participants. If revisions and amendments are not furnished to respondents prior to the due date, proposals shall be considered withdrawn and the process shall be re-initiated without further discussion.

1.10 Award Criteria

Criteria necessary to evaluate the proposals in relation to the service being sought are included in the RFP documents and will be established and weighted. At a minimum, criteria will include experience, references, compliance to the specifications and requirements for the service. The contract may be awarded to one or multiple Proposers.

SCORE

Item	Points
Letter of Interest	Pass/Fail
Qualifications of Firm	150
Qualifications of Individual(s)	150
Approach to Project	150
Examples of Work	250
Compensation	200
*References	100
Total Points	1000

1.11 Addenda to the SRFP

If specifications are modified by the Purchasing Office, the modifications will be sent to each plan-holder in writing. Verbal modifications are not binding on the City or the Bidder. No oral changes will be considered or acknowledged. Proposers are requested to acknowledge each addendum received in their Proposal.

1.12 Modification and Withdrawal of Proposal

A proposal may be modified or withdrawn by the Proposer prior to the set date and time for the opening of proposals.

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1.13 Discrimination Prohibited

In performing the Services required herein, the Contractor, sub-recipient, or subcontractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity/expression, national origin or ancestry, age or disability. It is the Contractor's responsibility to ensure that the sub-contractor is in compliance with this section.

Further, if this is a Department of Transportation assisted contract, the Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of the contract. It is the Contractor's responsibility to ensure that all sub-contractors are in compliance with these requirements as well. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City deems appropriate.

1.14 Highest Ranked Proposer

The selection committee shall recommend to City Council that the contract or award of proposals be awarded to the highest ranked Proposer, with all evaluation criteria considered, provided that, the City Council may award contracts to the Proposer it determines appropriate.

1.15 Proposal and Price Guarantee

It is desired that the submitted proposal remains in effect for a minimum of 120 days, along with all proposal pricing. If this is not accepted, Proposer is to so indicate.

1.16 Payments and Billings

The awarded Proposer will submit all invoices to:

City of Boise
Boise City Department of Arts & History
P.O. Box 500
Boise, ID 83701-0500
Attn: Jennifer Yribar

Payments through City Hall are processed weekly. The awarded Proposer can expect the City to issue and mail payment within 45 days after receipt of invoice.

1.17 Stop Work Order

Any "Stop Work Order" given to Awarded Proposer will cause all physical work to stop and a complete cessation of all expenditures, ordering of materials, etc., on the part of the Awarded Proposer and/or his assigns.

1.18 Disadvantaged Business Enterprises (D.B.E.)

D.B.E. firms and business enterprises are encouraged to submit a proposal. Women owned and minority owned firms are encouraged to submit a proposal. The City actively encourages any bids/proposals by D.B.E. firms for goods and services for the City.

The City of Boise reserves the right to reject any and all bids/proposals, to waive any irregularities in the bids/proposals received, to award on an "each item" basis (however, the Proposer may indicate "all or none"), and to accept the bid/proposal deemed most advantageous to the best interest of the City of Boise.

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TERMS AND CONDITIONS

2.1 Assignment or Subcontracting

The Consultant may not assign or transfer this agreement or any interest therein or claim there under, or subcontract any portion of the work there under, without the prior written approval of the City of Boise. If the City of Boise consents to such assignment or transfer, the terms and conditions of this Agreement shall be binding upon any assignee or transferee.

2.2 Contract

The selected firms(s) will be expected to execute a contract with the City of Boise. Specific exception must be proposed prior to bid/proposal opening.

2.3 Ownership and Access to Records

While ownership of confidential or personal information about individuals shall be subject to negotiated agreement between the City of Boise and the Consultant, records will normally become the property of the City of Boise and subject to state law and City of Boise policies governing privacy and access to files.

2.4 Examination of Records

The City of Boise shall have access to and the right to examine any pertinent books, documents, papers, and records of the Consultant involving transactions and work related to this Agreement until the expiration of five years after final payment hereunder. The Consultant shall retain project records for a period of five years from the date of final payment.

2.5 Conflict of Interest

2.5.1. The Consultant shall not hire any officer or employee of the City of Boise to perform any service covered by this Agreement.

2.5.2. The Consultant affirms that to the best of his/her knowledge there exists no actual or potential conflict between the Consultant's family, business, or financial interests and the services provided under this Agreement, and in the event of change in either private interests or service under this Agreement, any question regarding possible conflict of interest which may rise as a result of such change will be raised with the City of Boise.

2.5.3. The Consultant shall not be in a reporting relationship to a City of Boise employee who is a near relative, nor shall the near relative be in a decision-making position with respect to the Consultant.

2.6 Copyright

The City of Boise shall own, solely and exclusively, the copyright and all copyright rights to any written or otherwise copyrightable material delivered under this Agreement. The Consultant warrants that all creators of copyrightable material delivered under this Agreement to the City of Boise are, at the time of the material's creation, bona fide employees or subcontractors of the Consultant, and that such creation is within the course and scope of the creator's employment.

2.7 Non-Waiver

Waiver or non-enforcement by either party of a term or condition shall not constitute a waiver or non-enforcement of any other term or condition or of any subsequent breach of the same or similar term or condition.

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2.8 No Third-Party Rights

Nothing in this Agreement is intended to make any person or entity that is not signatory to the agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

2.9 Standard for Performance

The parties acknowledge that the City of Boise, in selecting the Consultant to perform the services hereunder, is relying upon the Consultant's reputation for excellence in the performance of the services required hereunder. The Consultant shall perform the services in the manner of one who is a recognized specialist in the types of services to be performed. All deadlines set forth in the Agreement are binding and may be modified only by subsequent written agreement of the parties. The Consultant shall devote such time to performance of its, her, or his duties under this Agreement as is reasonably necessary for the satisfactory performance of such duties within the deadlines set forth herein. Nothing in the foregoing shall be construed to alter the requirement that time is of the essence in this Agreement.

2.10 Attorney's Fees

In the event of any action brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts of fees, costs and expenses, including attorneys' fees, as may be set by the Court.

2.11 Applicable Law

The laws of the State of Idaho shall govern this agreement.

2.12 Rejection of Proposals

The City of Boise may, at its sole option, reject any and all proposals, for any reason, and reserves the right to re-solicit proposals in the event no response to the SRFP is acceptable to the City of Boise. City of Boise is in no way obligated to any respondent for the work as set forth in the specifications.

2.12.1 The City of Boise reserves the right to accept or reject proposals on each item separately or the SRFP as a whole, without further discussion.

2.12.2 Proposals, which are incomplete, will be considered non-responsive to this solicitation and may be rejected without further consideration.

2.12.3 If, in the opinion of the City of Boise, the solicitation does not result in reasonable prices to the City of Boise, considering price and cost factors associated with the acquisition described herein, then all proposals shall be rejected. All participating respondents shall be notified of the rejection, the reasons for the rejection, and advised of the disposition of the requirement.

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PROJECT DESCRIPTION AND INFORMATION

A. PURPOSE

1. A&H requests proposals by qualified firms to research, create, and develop an implementation plan for brand activation efforts. Responses to this RFP will provide A&H with the information required to assess, evaluate, and select a consultant based on prior experience, qualification, methodology and approach, and work performed in the government sector and in similarly sized communities. It is important to note that this is a brand activation campaign rather than an initiative to create a new brand or an effort to rebrand the agency.
2. The primary goals/objectives to be achieved by the brand activation campaign include, but are not limited to:
 - a. **Audience Research** – Understand how people perceive the department, use its services, and participate in its programming;
 - b. **Awareness & Engagement** – Increase department awareness and service/program engagement through:
 - i. **Identification & Pride** – Identify and promote what A&H stands for and makes it distinct and appealing both locally and in a regionally competitive environment;
 - ii. **Uniformity** – Convey a common message and image of the department to audiences both within and outside the City of Boise;
 - c. **Endorsement** – The brand activation efforts must be authentic and resonate with stakeholder groups, citizens, businesses, and community/cultural organizations within the City of Boise and throughout the region to ensure public trust.
 - d. **Tracking & Measurement** – Provide ways to accurately track and measure brand activation efforts, including, but not limited to, brand sentiment, awareness and engagement

B. ELIGIBILITY

1. To be eligible to respond to the RFP, the consultant must demonstrate significant experience with brand activation efforts. Priority will be given to those firms that have experience with local governments.
2. A&H desires to issue a contract to a single qualified consultant to lead the project. Consulting proposals based on a consortium approach where more than one firm will provide support within a consulting team are acceptable with single project manager.
3. The awarded firm will be working with a City of Boise project team consisting of members from multiple departments, including but not limited to, Arts and History, Office of Community Engagement, Parks and Recreation and Public Works.

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PROPOSAL FORMAT

Proposals are to be submitted in a format that allows uniform review and easy access to information by the Evaluation Committee. The Proposals should be clear and to the point. Emphasis should be placed on specific qualifications of the people who will actually provide the service and the firm's ability to manage the service.

A page is considered one side of a two-dimensional sheet of 8.5 by 11-inch paper. Firms are welcome to supply supplemental materials in appendices. To assist in the evaluation process, the proposal shall contain the following information:

Letter of Interest and Signature Page (Pass/Fail) Maximum 3 pages including signature page.

- This letter should include general information about the Firm, such as: description of all services offered, the total years in business, number of employees, office location(s), etc. Include name, home and email for authorized contact concerning proposal.
- **Proposal must be signed**

Basic Qualifications of the Firm (150 Points) 3 Page Limit

- Provide a list with brief descriptions of similar past projects the firm has participated in within the last 5 years.
- Outline experience with audience research and analysis (both quantitative and qualitative), message/positioning development, and government identity/branding including development of a brand activation campaign.
- Describe and provide examples of your approach to brand activation campaign rollout, including interactive and social media marketing, as well as traditional marketing, media and promotions.
- Describe and provide examples of your approach to tracking and measuring brand activation campaign results.

Specific Qualifications of Individuals (150 Points) 3 Page Limit

- Provide an overview of the qualifications of your project manager(s) and key project staff (if applicable), including anticipated sub-contractors (if applicable).
- Describe who will perform the various tasks, and their anticipated level of involvement and responsibilities.
- Include resume of individual(s) and include in appendix (not included in page count).
- Please indicate the location of the office that staff will work from while services are performed.

Approach to Project (150 Points) 3 Page Limit

Include a statement describing how you would approach this project, and how you will work with the members of the project team.

Examples of Work (250 Points) Ten (10) examples Maximum

Illustrate your experience with audience research and analysis (both quantitative and qualitative), message/positioning development, and government identity/branding. Also, provide examples of successful brand activation campaigns your firm has

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developed and executed. Examples of similar campaign work in the cultural sector is a plus.

Proposed Fees (200 Points)

Please outline your billing methodology:

- Blended rate per hour
- Any other pertinent fee structures
- Methodology for invoicing describing your company's capability to address City requirements

References (100 Points)

Please provide three references from similar projects. Each reference should include: name, company/agency, current title and title during project interface, telephone number, and email. Clearly identify which project(s) the reference was involved with and identify the reference's role(s) and duties in the project.

EVALUATION AND SELECTION PROCESS

The Evaluation committee will use a point formula during the review process to score proposals. Each member of the Evaluation Committee will first score each proposal by the criteria described. The full Evaluation Committee will then convene to review and discuss these evaluations and to combine the individual scores to arrive at a composite score for each firm. Proposers will be selected based on their approach to the project, experience and cost. If more than one firm remains under consideration, the Selection Panel may interview such firms and then reach consensus on the best qualified firm. The City will conduct reference checks by contacting those individuals submitted by the Proposer with their proposal in response to this RFP. In addition, the City may contact references not listed by the Firm.

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Return with Bid Proposal
BID PROPOSAL SIGNATURE PAGE

Name of Business:			
	Please print or type		
Address:			
City:			
State:		Zip Code:	
Phone No.:			
Signature:			
Printed Name:			
E-Mail			
Title:			
Date:			

Significant Local Economic Presence: ____ Yes; __ No

(Misstatement of local presence may result in disqualification of the bid or proposal by the City Council).

Provide local address if different than mailing address.

Proposer Acknowledge Receipt of the Following Addenda:

Addendum #1 Addendum #2 Addendum #3 Addendum #4

The above signed proposes to provide services in accordance with the specifications for this project for the City of Boise, Idaho and to bind themselves, on the acceptance of this Bid/Proposal, to enter into and execute a contract, of which this Bid/Proposal, terms and conditions, and specifications will be part. Submission of this signed proposal signifies agreement with the solicitation's specifications and specifically constitutes a waiver of any objections to them.

The above signed acknowledges the rights reserved by the City to accept or reject any or all Bids/Proposals as may appear to be in the best interest of the City and is authorized to do business in Idaho.

Proposal Guarantee

Number of days price will be guaranteed:	
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(Request minimum of 90 days)

PUBLIC AGENCY CLAUSE

Bid prices will be made available to other "Public Agencies" as defined in Section 67-2327 of the Idaho Code, to include any city or political subdivision of this state including, but not limited to counties; school districts; highway districts; port authorities; instruments of counties; cities or any political subdivision created under the laws of the State of Idaho; any agency of the state government; and any city or political subdivision of another state. It will be the responsibility of the "Public Agency" to independently contract with the vendor and/or comply with any other applicable provisions of Idaho Code governing public contracts. Typically, other municipalities buy from our agreement.

Accept Public Agency Clause? Yes _____ No _____

SAMPLE PROFESSIONAL SERVICES CONTRACT AGREEMENT

PURCHASING CONTRACT NUMBER **SRFP 19-152**

Project: **Arts and History Brand Awareness and Engagement**

Consultant: **(Insert Consultant's Name)**

Owner: **Arts and History Department**, City of Boise, Ada County, Idaho, a municipal corporation

THIS AGREEMENT, made this ___ day of _____, 2___, by and between the City of Boise, a municipal corporation organized under the laws of the State of Idaho, hereinafter referred to as "City", and (Insert Consultant's Name), hereinafter referred to as "Consultant", duly authorized to do business in the State of Idaho.

1. Scope of Services: Consultant shall perform all services, and comply in all respects, as described herein for the consideration stipulated, and in compliance with State and City Codes. Contract documents consist of the following together with any amendments that may be agreed to in writing by both parties:

Bid Proposal	Liability Insurance
Contract Agreement	Automobile Insurance
Specifications	Workers' Compensation
Acknowledgement	Professional Liability Insurance (Errors & Omission)

2. Time of Performance: All work and products described in the Scope of Services shall be completed within **(Insert # of Days)** days from the date hereof. The term may be modified by mutual written agreement of the parties.

3. Indemnification and Insurance: With respect to acts, errors or omissions in the performance of professional services, Consultant agrees to indemnify and hold harmless the City from and for any and all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorney fees, arising directly out of negligent acts, errors or omissions of Consultant, its servants, agents, employees, guests and business invitees, in the performance of its professional services under the terms of this contract.

With respect to all acts or omissions which do not arise out of the performance of professional services including, but not limited to those acts or omissions normally covered by general and automobile liability insurance, Consultant agrees to indemnify and hold harmless the City from and for all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorney fees, caused or incurred by Consultant's rendering services under this contract; and not caused by or arising out of the tortious conduct of the City or its employees.

In addition, Consultant shall maintain, and specifically agrees that it will maintain, throughout the term of this Agreement, liability insurance, in which the City shall be named an additional insured in the minimum amount as specified in the Idaho Tort Claims Act set forth in Title 6, Chapter 9 of the Idaho Code. The limits of insurance shall not be deemed a limitation of the covenants to indemnify and save and hold harmless City; and if City becomes liable for an amount in excess of the insurance limits, herein provided, Consultant covenants and agrees to indemnify and save and hold harmless City from and for all such losses, claims, actions, or judgments for damages or liability to persons or property. Consultant shall provide City with a Certificate of Insurance, or

other proof of insurance evidencing Consultant's compliance with the requirements of this paragraph and file such proof of insurance with the City. In the event the insurance minimums are changed, Consultant shall immediately submit proof of compliance with the changed limits.

Consultant shall maintain automobile insurance with a limit of no less than \$500,000 per occurrence for owned, non-owned and hired vehicles. If Consultant has no owned motor vehicles, then hired and non-owned motor vehicle liability coverage with limits not less than \$500,000 per accident for bodily injury and property damage is required. Where applicable, the City of Boise shall be named as an additional insured.

Additionally, the Consultant shall have and maintain during the life of this contract, statutory Workers Compensation, regardless of the number of employees, or lack thereof, to be engaged in work on the project under this agreement (including himself) in the statutory limits as required by law. In case any such work is sublet, the Consultant shall require the subConsultant to provide Workers Compensation Insurance for himself and any/all the latter's employees. It is mutually agreed and understood by the parties that the Consultant and the Consultant's employees, agents, servants, guests and business invitees, and are acting as independent Consultants and are in no way employees of the City.

4. Errors and Omission: Consultant will maintain Professional Liability Insurance with a minimum limit as specified in the Idaho Tort Claims Act as set forth in Title 6, Chapter 9 of Idaho Code (\$500,000).

Proof of all insurance shall be submitted to City of Boise, **Purchasing**, P.O. Box 500, Boise, ID. 83701.

5. Independent Consultant: In all matters pertaining to this agreement, Consultant shall be acting as an independent Consultant, and neither Consultant, nor any officer, employee or agent of Consultant will be deemed an employee of City. The selection and designation of the personnel of the City in the performance of this agreement shall be made by the City.

6. Compensation: For performing the services specified in Section 1 herein, the City agrees to pay THE SUM OF **\$25,000**. Change Orders may be issued, subject to Purchasing/Council approval.

7. Method of Payment: Consultant will invoice the **Boise City Department of Arts & History**, directly for all current amounts earned under this Agreement. City will pay all invoices within forty-five days after receipt.

8. Notices: Any and all notices required to be given by either of the parties hereto, unless otherwise stated in this agreement, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

**City of Boise
Department of Arts & History
150 N. Capitol Blvd.
Boise, Idaho 83702**

**(Insert Contractor's Name)
(Insert Contractor's Address)
(City), (State) (Zip Code)**

Either party may change their address for the purpose of this paragraph by giving written notice of such change to the other in the manner herein provided.

9. Attorney Fees: Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.

10. Time is of the Essence: The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of, and a default under, this Agreement by the party so failing to perform.

11. Force Majeure: Any delays in or failure of performance by Consultant shall not constitute a breach or default hereunder if and to the extent such delays or failures of performance are caused by occurrences beyond the reasonable control of Consultant, including but not limited to, acts of God or the public enemy; compliance with any order or request of any governmental authority; fires, floods, explosion, accidents; riots, strikes or other concerted acts of workmen, whether direct or indirect; or any causes, whether or not of the same class or kind as those specifically named above, which are not within the reasonable control of Consultant. In the event that any event of force majeure as herein defined occurs, Consultant shall be entitled to a reasonable extension of time for performance of its Services under this Agreement.

12. Assignment: It is expressly agreed and understood by the parties hereto, that Consultant shall not have the right to assign, transfer, hypothecate or sell any of its rights under this Agreement except upon the prior express written consent of City.

13. Discrimination Prohibited: In performing the Services required herein, the Contractor, sub-recipient, or subcontractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity/expression, national origin or ancestry, age or disability. It is the Contractor's responsibility to ensure that the sub-contractor is in compliance with this section.

Further, if this is a Department of Transportation assisted contract, the Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of the contract. It is the Contractor's responsibility to ensure that all sub-contractors are in compliance with these requirements as well. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City deems appropriate.

14. Reports and Information: At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Agreement.

15. Audits and Inspections. At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of Consultant's records with respect to all matters covered by this Agreement. Consultant shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

16. Publication, Reproduction and Use of Material: No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

17. Compliance with Laws: In performing the scope of services required hereunder, Consultant shall comply with all applicable laws, ordinances, and codes of Federal, State, and local governments.

18. Changes: The City may, from time to time, request changes in the Scope of Services to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant's compensation, which are mutually agreed upon by and between the City and Consultant, shall be incorporated in written amendments to this Agreement.

19. Termination for Cause: If, through any cause, Consultant shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to Consultant of such termination and specifying the effective date thereof at least fifteen (15) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by Consultant under this Agreement shall, at the option of the City, become its property, and Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily complete hereunder.

Notwithstanding the above, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by Consultant, and the City may withhold any payments to Consultant for the purposes of set-off until such time as the exact amount of damages due the City from Consultant is determined. This provision shall survive the termination of this agreement and shall not relieve Consultant of its liability to the City for damages.

20. Termination for Convenience of City: The City may terminate this Agreement at any time by giving at least fifteen (15) days' notice in writing to the Consultant. If the Agreement is terminated by the City as provided herein, Consultant will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of Consultant covered by this Agreement, less payments of compensation previously made. If this Agreement is terminated due to the fault of Consultant, Section 19 hereof relative to termination shall apply.

21. Consultant to Pay or Secure Taxes: The Consultant in consideration of securing the business agrees: 1) To pay promptly when all taxes due (other than on real property), excises and license fees due the state, its subdivisions, and municipal and quasi-municipal corporations therein, accrued or accruing in accordance with conditions of this Agreement, whether or not the same shall be payable at the end of such term; 2) That if said taxes, excises and license fees are not payable at the end of said term, but liability for the payment thereof exists, even though the same constitute liens upon the Consultant's property, to secure the same to the satisfaction of the respective officers charged with the collection thereof; and that; 3) That, in the event of default in the payment or securing of such taxes, excises, and license fees, that City may withhold from any payment due the Consultant hereunder the estimated amount of such

accrued taxes, excises and license fees for the benefit of all taxing units to which said Consultant is liable.

22. Severability: If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

23. Entire Agreement: This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

24. Non-Appropriation: Should funding become not available, due to lack of appropriation, the City may terminate this agreement upon 30 (thirty) days' notice.

25. Applicable Law: This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Idaho, and the ordinances of the City of Boise.

26. Renewal: This agreement shall not be valid for more than one year from the date of approval by the City. This agreement is renewable upon mutual agreement by both parties. Three **(3)** annual renewals shall be allowed.

27. Approval Required: This Agreement shall not become effective or binding until approved by the City.

END OF AGREEMENT

SRFP 19-152

APPROVED AS TO FORM AND CONTENT:

Department Date

Purchasing Agent Date

CITY OF BOISE

CONTRACT AMOUNT:
Not to Exceed \$ 25,000.00