

REQUEST FOR QUALIFICATIONS
PROFESSIONAL ON-CALL SERVICES
FOR VARIOUS PLANNING DEPARTMENT PROJECTS AND PROGRAMS
HEBER CITY CORPORATION
July 29, 2019

The Heber City Planning Department (department) is seeking written statement of qualifications from consultants to perform a variety of services to support the department for several general assistance program areas.

Assistance with Department services as follows:

- Annexation Application Processing
- Annexation Policy Plan Analysis Review
- Architectural Review
- Business Improvement District Financing Analysis
- Conditional Use Permit Review
- Entitlement and Development Review
- Feasibility Study
- Fiscal Impact Study
- General Plan Revisions
- Market Study
- Municipal Code and Zoning Map Revisions
- Other Planning Related Consulting Services (Specify as necessary)
- Project Management
- Site Plan Review
- Tax Increment Financing Study

Statement of Qualifications (SOQ) may be provided for all or a portion of the requested services listed. Consultants must indicate with SOQ which services are included for consideration. Partnerships with specialized service firms are acceptable, as are SOQ's directly from specialized firms. Staffing proposed should include as wide a range of levels as the firm has expertise.

All Consultants whether under existing or former on-call or professional services contracts from previous RFQ's **must** respond to this RFQ for consideration of ongoing on-call/professional services contracts.

BACKGROUND

Heber City desires to qualify a number of consultants to assist the City with the above general assistance program areas. The City maintains a small, Department staff, and requires the assistance of consultants to develop and deliver various programs and projects associated with development projects. The City is looking for consultants that:

- Understand the City facilities, processes, and operations
- Respond quickly to City and developer needs
- Efficiently develop and deliver programs and projects
- Provide valuable services at a competitive cost to the City consistent with the funding available
- Have a depth of staff available with advance notice

The projects and programs are funded by a combination of permit fees and developer reimbursement.

SELECTION SCHEDULE

The tentative selection process schedule is as follows:

| | |
|--|-------------------------|
| City Issues RFQ | July 29, 2019 |
| Qualification Submittals due to City | September 3, 2019 |
| Minimum Qualifications Review | September 3 – 13, 2019 |
| Potential Interviews | September 9 - 20, 2019 |
| Draft Contracts sent to Selected Firms | September 23 – 27, 2019 |
| City Council Approval | October 1 - 15, 2019 |

CONTENTS OF STATEMENT OF QUALIFICATIONS (SOQ) SUBMITTAL

1. Cover Letter (No more than one page): Indicate the availability of key staff and the level of commitment the consultant is willing to make to City programs and projects (signed by project team member authorized to make commitments on behalf of proposer).
2. Statement of Understanding and Services Proposed: Identify which services you are submitting qualifications for by filling out Attachment A; and for each service describe proposer's understanding of the project/program and the needs of Heber City.
3. Proposed Team (maximum of 5 pages): For individual areas of expertise, identify proposed key staff available for specific areas. For larger, multiple discipline projects, identify proposed key staff, describe how the proposed team would work together and work closely with City staff. Include organization chart.

Provide overview of each key staff member and current office location for each key staff member. Include background of the firm/team, number of professionals (by discipline) and support staff, major focus of practice, range of services and references. (Resumes for team members are to be located in Appendix).

4. Sub-consultants (No more than one page per Sub): Provide qualifications of each sub-consultant (City may choose to directly retain consultant services instead of as a sub-consultant, or select a different consultant to serve the same functions as the sub-consultant). Include the project name, location, scope of services, approximate dollar value of past projects and consultant's services, key proposed project staff involved and their involvement, and project references. Focus on describing similar projects lead by proposed key staff. Provide resumes of key staff in the Appendix.
5. Local Firms: An estimate of the percentage of work to be performed locally. Local firm means a firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by, or pays business taxes in Wasatch County. Indicate other offices/locations that might provide services.
6. Approach (No more than one page for each of the service tasks in Attachment A): Describe how the Firm/Team will approach each service to minimize overall City program costs while completing the tasks in a timely manner and providing a service or end product that meets the City's needs.
7. Scope of Work (No more than 1 page): Provide a detailed scope of services available (see Attachment A for an outline of the scope of services) for each service task you are proposing. Indicate which key team members will work on each task including the task leader, who will be responsible for day to day implementation of each task and who will be responsible for quality control and oversight of the task (one team member may have multiple roles on a task).
8. Hourly Rates for Services: Provide a table showing hourly rates for each area of service in the proposed scope of work including support staff.
9. Resumes: Resumes of proposed staff are to be located in an appendix (there are no page limits to this resume appendix; however resumes for individual team members shall be a maximum of two pages).
10. References: A list of references including names, positions and telephone numbers for the individuals identified in the qualifications.
11. Acknowledgement: A signed statement of acknowledgement with the following:

By signing this state of acknowledge, I understand and agree to abide by all terms and conditions set forth within the RFQ. I request that of Heber City accept my proposal subject to the identified terms and conditions therein.
12. Contract Comments: Comments, if any, objecting to any clause(s) in the Contract for Services shall be included in the consultant's SOQ.

INSTRUCTIONS FOR SUBMITTING SOQ

Submittals must be submitted electronically in PDF format through email, or USB thumb drive. Submittals must be delivered to the following address not later than **3:00 p.m., Tuesday September 3, 2019** for consideration:

Email: tkohler@heberut.gov

OR

Heber City
Attention: Anthony Kohler, Planning
Director
75 N. Main Street
Heber City, UT 84032

SELECTION PROCESS AND CRITERIA

To be selected for the on-call list, 80% of the total points must be obtained. Qualification submittals will be evaluated using the following criteria:

| | |
|--|------------|
| Qualifications and relevant experience of firm | 20 Points |
| Experience with Public Agencies | 20 Points |
| Understanding of City facilities, processes and operations | 15 Points |
| Demonstrated ability to respond quickly | 10 Points |
| Approach to projects / tasks | 10 Points |
| Cost effectiveness | 15 Points |
| Other Factors | 10 Points |
| <hr/> | |
| Total Points Possible: | 100 Points |

Responsiveness of Submittals. All submittals must be in writing and fully responsive to this RFQ. Non-responsive submittals or submittals found to be irregular or not in conformance with the requirements and instructions contained herein may be rejected. Other conditions which may lead to the selection committee's decision not to evaluate a submittal include obvious lack of experience, expertise or adequate resources to perform the required work, and/or failure to perform or meet financial obligations on previous contracts. The City reserves the right to reject any and all submittals for any reason whatsoever.

Waivers. The City may waive informalities or irregularities in submittals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other submittals.

Interviews. The City may schedule interviews with some proposers to assist in selecting the best consultant or consultants for general assistance program areas listed above. Proposers will be notified by telephone or mail if they have been selected to participate in the interview process. Note: the City may select qualified consultants for the on-call services list without conducting interviews – at the discretion of the City.

Negotiation. Following selection of the most qualified consultants for each service area, negotiations with the most qualified consultants will proceed as individual work

Term. The agreements for each program shall be a 3 year term with an option for the City to extend one year. The City reserves the right to terminate the agreements at any time for any reason.

QUESTIONS

Please address any questions to [Anthony L. Kohler at tkohler@heberut.gov](mailto:tkohler@heberut.gov) with a subject heading of "Planning Department Services RFQ".

Thank you for your interest and cooperation.

Attachments:

- **Attachment A.** Professional on-call Planning Department Service Tasks
- **Attachment B.** Heber City Contract for Services

~ Heber City ~

ATTACHMENT A

OUTLINE OF SCOPE OF WORK FOR PLANNING, AND OTHER SPECIALTY ON-CALL CONSULTING SERVICES

Scope of Work

The scope of work is for on-call professional planning services and technical expertise on an as-needed basis. The consultant/contractor services are needed to function as support to City staff or as lead planners overseeing the processing of various discretionary development applications within the City, including, but not limited to:

- Annexation Application Processing
- Annexation Policy Plan Analysis Review
- Architectural Review
- Business Improvement District Financing Analysis
- Conditional Use Permit Review
- Entitlement and Development Review
- Feasibility Study
- Fiscal Impact Study
- General Plan Revisions
- Market Study
- Municipal Code and Zoning Map Revisions
- Other Planning Related Consulting Services (Specify as necessary)
- Project Management
- Site Plan Review
- Tax Increment Financing Study

As planners on projects, duties may include coordination of applications with other City Departments and outside agencies, preparation of staff reports and supporting documentation, and presentation at public hearings. In addition the City may require from time to time services that involve research and drafting of City Zoning regulations and

policies, as well as other research projects associated with the Planning Department, and other such services requested by the City and within the scope of the land use planning profession.

Fiscal and Other Specialty Services Scope of Work

The scope of work is for on-call Fiscal and other specialty professional services and technical expertise on an as-needed basis. The consultant/contractor services are needed to function as support to City staff and/or consultants who are overseeing the processing of public projects and various private discretionary development applications within the City, including, but not limited to:

- Annexation Application Processing
- Annexation Policy Plan Analysis Review
- Architectural Review
- Business Improvement District Financing Analysis
- Conditional Use Permit Review
- Entitlement and Development Review
- Feasibility Study
- Fiscal Impact Study
- General Plan Revisions
- Market Study
- Municipal Code and Zoning Map Revisions
- Other Planning Related Consulting Services (Specify as necessary)
- Project Management
- Site Plan Review
- Tax Increment Financing Study

In addition the City may require from time to time services that involve research and analysis of specific development issues associated with the Planning Department, and other such services requested by the City and within the scope of the specialty review profession.

Work will be performed on an on-call basis to provide a variety of services during the contract City Services have been divided into categories in Table 1 below.

Table 1 – Services Included in SOQ

| <p style="text-align: center;">Services</p> | <p style="text-align: center;">Included? (Yes / No)</p> |
|---|--|
| <ul style="list-style-type: none"> • Annexation Application Processing | |
| <ul style="list-style-type: none"> • Annexation Policy Plan Analysis Review | |
| <ul style="list-style-type: none"> • Architectural Review | |
| <ul style="list-style-type: none"> • Business Improvement District Financing Analysis | |
| <ul style="list-style-type: none"> • Conditional Use Permit Review | |
| <ul style="list-style-type: none"> • Entitlement and Development Review | |
| <ul style="list-style-type: none"> • Feasibility Study | |
| <ul style="list-style-type: none"> • Fiscal Impact Study | |
| <ul style="list-style-type: none"> • General Plan Revisions | |
| <ul style="list-style-type: none"> • Market Study | |
| <ul style="list-style-type: none"> • Municipal Code and Zoning Map Revisions | |
| <ul style="list-style-type: none"> • Other Planning Related Consulting Services (Specify as necessary) | |
| <ul style="list-style-type: none"> • Project Management | |
| <ul style="list-style-type: none"> • Site Plan Review | |
| <ul style="list-style-type: none"> • Tax Increment Financing Study | |

Proposers are directed to indicate on this table (as part of submittal) which service areas/tasks are included in the Statement of Qualifications for consideration.

Attachment B
CONTRACT FOR SERVICES

THIS CONTRACT is made on _____, 20__ by
and between HEBER CITY (“City”), and _____ (“Consultant”).

WITNESSETH:

WHEREAS, the City desires **to retain Consultant to perform on-call engineering as described in the attached Scope of Work and as needed and requested by the City;**

WHEREAS, the Consultant has presented a proposal for such services to the City, dated _____, 20__, attached hereto and incorporated herein as **Exhibit A**, and is duly licensed, qualified and experienced to perform those services;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF SERVICES:

A. Consultant/Contractor shall do all work, attend all meetings, produce all reports and carry out all activities necessary for the completion of the services described in **Exhibit A** (“Scope of Work”). This Contract and its exhibits shall be known as the “Contract Documents.” Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

B. Consultant/Contractor enters into this Contract as an independent contractor and not as an employee of the City. The Consultant/Contractor shall have no power or authority by this Contract to bind the City in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant/Contractor are employees, agents, contractors or subcontractors of the Consultant/Contractor and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant/Contractor by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

C. The Consultant/Contractor agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

2. TERM OF CONTRACT:

A. The on-call services of Consultant/Contractor shall be available upon execution of this contract, provided, however, that specific services shall not commence until the Consultant

/Contractor receives a notice to proceed with such specific work from the City, and shall be undertaken and completed in accordance with the Schedule of Performance, attached hereto and incorporated herein by this reference as **Exhibit B**.

B. The Consultant/Contractor's failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 3.

C. The term of this Contract shall expire _____, 20___. The City Manager or his or her designee may, by written instrument signed by the Parties, extend the duration of this Contract for a period of up to one (1) year additional in the manner provided in Section 5, provided that the extension does not require the payment of compensation in excess of the authority vested in the City Manager by ordinance or resolution.

3. COMPENSATION:

A. The Consultant/Contractor shall be paid monthly for the actual fees, costs and expenses for all time and materials required and expended, but in no event shall total compensation exceed the amounts specified in the Notice to Proceed, as described at paragraph 2.A Account Code Number/Account Description for Scope of Work to be charged as directed by the City.

B. Said amount shall be paid upon submittal of a monthly billing showing completion of the tasks that month. Consultant/Contractor shall furnish City with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the monthly billings as specified in **Exhibit E**. If Consultant/Contractor's performance is not in conformity with the Schedule of Performance, payments may be delayed or denied, unless the Consultant/Contractor's failure to perform in conformity with the Schedule of Performance is a documented result of the City's failure to conform to the Schedule of Performance, or if the Schedule of Performance is extended pursuant to Section 5.

C. If the work is halted at the request of the City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 4.

4. TERMINATION:

A. This Contract may be terminated by either party, provided that the other party is given not less than **thirty (30)** calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.

B. The City may temporarily suspend this Contract, at no additional cost to City, provided that the Consultant/Contractor is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant/Contractor shall immediately suspend its activities under this Contract.

C. Notwithstanding any provisions of this Contract, Consultant/Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Consultant/Contractor, and the City may withhold any payments due to

Consultant/Contractor until such time as the exact amount of damages, if any, due the City from Consultant/Contractor is determined.

D. In the event of termination, the Consultant/Contractor shall be compensated as provided for in this Contract, except as provided in Section 4.C. Upon termination, the City shall be entitled to all work, including, but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 7 hereof.

5. AMENDMENTS, CHANGES OR MODIFICATIONS:

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties hereto.

6. EXTENSIONS OF TIME:

Consultant/Contractor may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section X5X.

7. PROPERTY OF CITY:

A. It is mutually agreed that all materials prepared by the Consultant/Contractor under this Contract shall become the property of the City, and the Consultant/Contractor shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Consultant/Contractor shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant/Contractor in performing this Contract which is not Consultant/Contractor's privileged information, as defined by law, or Consultant/Contractor's personnel information, along with all other property belonging exclusively to the City which is in the Consultant/Contractor's possession.

B. Additionally, it is agreed that the parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant/Contractor hereunder (the "Work") to be a work made for hire. Consultant/Contractor acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the City.

8. COMPLIANCE WITH ALL LAWS; PREVAILING WAGES:

A. Consultant/Contractor shall comply with all applicable laws, ordinances, and codes of federal, state and local governments, as applicable, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. If necessary, it shall be City's responsibility to obtain all rights of way and easements to enable Consultant/Contractor to perform its services hereunder. Consultant/Contractor shall assist City in providing the same.

9. WARRANTIES AND RESPONSIBILITIES - CONSULTANT/CONTRACTOR:

A. Consultant/Contractor agrees, represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required for Consultant/Contractor to practice its profession and to properly provide the services set forth in **Exhibit A** in a manner which is consistent with the generally accepted standards of Consultant/Contractor's profession. Consultant/Contractor represents and warrants to City that Consultant/Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits and approvals which are legally required for Consultant/Contractor to practice its profession at the time the services are performed.

B. Consultant/Contractor shall designate a project manager who at all times shall represent the Consultant/Contractor before the City on all matters relating to this Contract. In the event that City, in its sole discretion, at any time during the term of this Contract, desires the removal of any person or persons assigned by Consultant/Contractor, including but not limited to the project manager, to perform services pursuant to this Contract, Consultant/Contractor shall remove any such person immediately upon receiving notice from City of the desire of City for the removal of such person or persons.

C. Except as set forth in **Exhibit D**, Consultant/Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant/Contractor only the facilities, equipment, and other materials listed in **Exhibit D** according to the terms and conditions set forth in **Exhibit D**.

D. Consultant/Contractor shall provide corrective services without charge to the City for services which fail to meet the above professional and legal standards and which are reported to Consultant/Contractor in writing within sixty (60) days of discovery. Should Consultant/Contractor fail or refuse to perform promptly its obligations, the City may render or undertake performance thereof and the Consultant/Contractor shall be liable for any expenses thereby incurred.

10. SUBCONTRACTING:

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City, which will not be unreasonably withheld. Consultant/Contractor shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant/Contractor.

11. ASSIGNABILITY:

Consultant/Contractor shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the City which will not be unreasonably withheld. However, claims for money due or to become due to Consultant/Contractor from the City under this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

12. INTEREST IN CONTRACT:

Consultant/Contractor covenants that neither it, nor any of its employees, agents, contractors, and subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant/Contractor shall make all disclosures required by the City's conflict of interest code or policy, in accordance with the category designated by the City, unless the City Manager determines in writing that Consultant/Contractor's duties are more limited in scope than is warranted by the category designated by the City code or policy, and that a narrower disclosure category should apply. Consultant/Contractor also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this Contract, City determines and notifies Consultant/Contractor in writing that Consultant/Contractor's duties under this Contract warrant greater disclosure by Consultant/Contractor than was originally contemplated. Consultant/Contractor shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

13. MATERIALS CONFIDENTIAL:

All of the materials prepared or assembled by Consultant/Contractor pursuant to performance of this Contract are confidential and Consultant/Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

14. LIABILITY OF CONSULTANT/CONTRACTOR-NEGLIGENCE:

Consultant/Contractor shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Consultant/Contractor's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant/Contractor or its employees, agents, contractors or subcontractors.

15. INDEMNITY AND LITIGATION COSTS:

Consultant/Contractor shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising in any manner by reason of negligent acts or negligent failure to act, recklessness, errors, omissions or willful misconduct incident to the performance of this Contract on the part of Consultant/Contractor. The provisions of this paragraph shall survive termination or suspension of this Contract.

16. CONSULTANT/CONTRACTOR TO PROVIDE INSURANCE:

A. Consultant/Contractor shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A:VII.

B. Prior to execution of this Contract and prior to commencement of any work, the Consultant/Contractor shall furnish the City with certificates of insurance and copies of original endorsements providing evidence of coverage for all policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The Consultant/Contractor agrees to furnish one copy of each required policy to the City, and additional copies as requested in writing, certified by an authorized representative of the insurer. The failure of Consultant/Contractor or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Contract. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant/Contractor.

C. In addition to any other remedy the City may have, if Consultant/Contractor fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due Consultant/Contractor under this Contract.

D. No policy required by this Contract shall be endorsed to suspended, voided, canceled, terminated by either party, or reduced in coverage or in limits unless the Consultant/Contractor has provided thirty (30) days' prior written notice by certified mail, return receipt requested, to the City.

E. Any deductibles, aggregate limits, pending claims or lawsuits which may diminish the aggregate limits, or self-insured retentions, must be declared to, and approved by, the City.

F. Aggregate Limits/Impairment.

If any of the insurance coverages required by this section contain annual aggregate limits, the Consultant/Contractor must give the City notice of any pending claim or lawsuit which may diminish the aggregate. The Consultant/Contractor must take steps to restore the impaired aggregates or provide replacement insurance protection. The City has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect City's protection are allowed without City's prior written consent.

G. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant/Contractor are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant/Contractor under the Contract.

H. The Consultant/Contractor and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by Consultant/Contractor and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of Consultant/Contractor or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Contract.

I. Worker's Compensation and Employer's Liability Insurance.

J.

1. Worker's Compensation Insurance to protect the Consultant/Contractor, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and federal statutes and regulations.

2. Consultant/Contractor shall provide a Waiver of Subrogation endorsement in favor of the City, its officers, officials, employees, agents and volunteers for losses arising from work performed by the Consultant/Contractor

K. Commercial General Liability Insurance

1. The insurance shall be provided on form CG0001, or its equivalent, and shall include coverage for claims for bodily injury or property damage arising out of premises/operations, products/completed operations, contractual liability, and sub-consultant's work and personal and advertising injury resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$1,000,000.00 per occurrence and \$2,000,000 general and products/completed operations aggregates.

2. The commercial general liability insurance shall also include the following:

a. Endorsement equivalent to CG 2010 1185 naming the City, its officers, officials, employees, agents, and volunteers as additional insureds. The endorsement shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

b. Endorsement stating insurance provided to the City shall be primary as respects the City, its officers, officials, employees and any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.

c. Provision or endorsement stating that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

d. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the City, its officers, officials, employees, or volunteers.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Consultant/Contractor under the Contract, including, without limitation, set forth in Section 15, Indemnity and Litigation Costs.

L. Commercial Automobile Liability Insurance.

1. The commercial automobile liability insurance shall include, but shall not

be limited to, protection against claims for death, bodily or personal injury, or property damage for owned, non-owned, and hired automobiles resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than [\$1,000,000.00] per occurrence.

2. The commercial automobile liability insurance shall include the same endorsements as required for Commercial General Liability Insurance (16.J.2 above.)

M. Professional Liability.

The Consultant/Contractor and its contractors and subcontractors shall secure and maintain in full force, during the term of this Contract and for five years thereafter, professional liability insurance policies appropriate to the respective professions and the work to be performed as specified in this Contract. The limits of such professional liability insurance coverage shall not be less than **\$1,000,000** per claim.

17. MISCELLANEOUS PROVISIONS:

A. Compliance with Laws. Consultant/Contractor shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

B. Inspection of Records. Consultant/Contractor shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant/Contractor.

C. Entirety of Agreement. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

D. Notices. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

CITY: Matthew Brower, City Manager
75 N. Main Street
Heber City, UT
84032

CONSULTANT/CONTRACTOR:

Attn:

Address line 1

Address line 2

E. Governing Law. This Contract shall be interpreted and governed by the laws of the State of Utah.

F. Venue. Any action arising out of this Contract shall be brought in Wasatch County, Utah, regardless of where else venue may lie.

G. Attorneys' Fees. In any action brought by either party to enforce the terms of this Contract, each party shall bear responsibility for its attorney's fees and all costs regardless of whether one party is determined to be the prevailing party.

H. Counterparts. The parties may execute this Contract in two or more counterparts, which shall, in the aggregate, be signed by all the parties, each counterpart shall be deemed an original instrument as against any party who has signed it.

I. Severability. If any term, provision, covenant, or condition of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

NAME/COMPANY/ADDRESS

HEBER CITY,
a municipal corporation

(Authorized Signature)

Matthew Brower, City Manager

Print Name

Dated

ATTEST:

APPROVED AS TO FORM:

City Clerk

J. Mark Smedley, City Attorney

Dated

Dated

City Accountability:

Department responsible for contract:

Staff responsible for contract:

ATTACHMENTS:

- CONTRACT FOR SERVICES (*signed by Consultant/Contractor*)
- Current Insurance Certificate (*applicable to the contract*)
- Detailed Scope of Work & Specifications, including hourly rates, etc.
- Current City Business License (required if working in Heber City)

EXHIBIT A
SCOPE OF WORK

See Attachment

EXHIBIT B**SCHEDULE OF PERFORMANCE**

When on-call services are required, the City will provide Consultant/Contractor with the appropriate information/application regarding the task and requesting Consultant/Contractor to respond with the identification of Consultant's staff member to be assigned to the work, a proposed schedule and an estimate of time and costs allocated to various aspects of the task, along with a total project cost based upon the hourly charges included in this contract, along with materials costs and any contingency. For private development improvement plan review, the consultant will be provided a budget and will be expected to meet standard review times (typically a maximum of two (2) weeks) for each submittal. If approved by the City, City will provide Consultant with a written Notice to Proceed with an identified scope and cost identified. Notwithstanding anything to the contrary in this contract, the City shall not be charged for the Consultant/Contractor's preparation of the proposal for a task(s), as described herein.

EXHIBIT D**FACILITIES, EQUIPMENT, OTHER MATERIALS**

Consultant/Contractor shall be responsible for providing all necessary facilities, equipment and personnel to undertake the necessary task(s) outlined in **Exhibit A**, except Consultant/Contractor may use City facilities and equipment solely for City work when working from City offices, subject to reasonable restrictions by City.

EXHIBIT E**INVOICE REQUIREMENTS**

Consultant hourly rates shall be fully burdened, meaning that only direct hours may be charged towards the project. All administrative or general office functions of the Consultant are to be included in the fully burdened rates.

The City will only pay for consultant hours that have been documented through firm invoices and substantiated to the City's approval and developer's acceptance. Payment of the consultant's invoices associated with development will be made after the developers have been given 30 days to review and accept the charges to their respective projects.

Consultant shall have the following responsibilities:

- Begin authorized services once the City has established the project description, scope of work, project number, schedule, and budget in an On-Call Contract and a Notice to Proceed.
- Submit monthly invoices by the 15th of each month for the immediate preceding month to the City.
- Each project **shall be invoiced separately**, including a detailed listing of charges for the month and a summary of charges comparing the budget estimate to the total charges and percentages complete.
- A summary of all individual project invoices must be submitted indicating the total amount due from the City's held developer deposit funds.
- Keep the City management informed of all issues requiring attention.
- Assist City staff in responding to questions from developers regarding charges to specific projects.
- No overtime will be paid without prior written approval from the City.
- No increase to rates once consultant staff has been assigned to a project.

The developers will be allowed 30 days to review and question the consultant charges applied to their deposit accounts. The questioned costs must be submitted to the City in writing to the attention of a manager designated by the City. All questioned costs must be resolved by the Consultant with the developer before payment is made by the City.

After the 30 day developer review has expired, all costs that have not been questioned will be paid through Accounts Payable to Consultant. If the approved costs are different from the original invoice, Consultant shall provide a new invoice to reflect only the approved charges.