



REQUEST FOR QUALIFICATIONS

**STRUCTURAL ENGINEERING SERVICES**

**10<sup>th</sup> & FRONT GARAGE  
STRUCTURAL DAMAGE PREVENTION**

**PROPOSALS DUE: DECEMBER 19, 2019 by 2 P.M. local time**

**December 2, 2019**

Dear Proposer:

In accordance with the qualification-based selection process set forth in Idaho Code § 67-2320, Capital City Development Corporation (CCDC) will accept proposals about qualifications to perform Structural Engineering services for the agency's 10<sup>th</sup> & Front Garage Structural Damage Prevention Project. Proposers must be licensed as a structural engineer in the State of Idaho.

Written proposals will be accepted at the offices of CCDC at 121 N. 9<sup>th</sup> Street, Suite 501, Boise, Idaho 83702 until 2 p.m. local time on December 19, 2019. Proposals will be evaluated on the basis of qualifications as specified in this Request for Qualifications (RFQ). A selection committee will evaluate each of the proposals and may choose to conduct interviews with one or more of the Proposers.

CCDC reserves the right to reject any and all proposals, to waive any irregularities in the proposals received, and to accept the proposal that is in the best interest of CCDC and the public. The issuance of this RFQ and the receipt and evaluation of proposals does not obligate CCDC to award a contract. CCDC will pay no costs incurred by Proposers in responding to this RFQ. CCDC may, in its discretion, cancel this process at any time prior to execution of a contract without liability.

CCDC appreciates your interest in meeting the needs of the citizens of Boise.



Kathy Wanner  
Contracts Specialist



121 N 9TH ST, SUITE 501 BOISE, ID 83702  
208-384-4264 [WWW.CCDCBOISE.COM](http://WWW.CCDCBOISE.COM)



**REQUEST FOR QUALIFICATIONS  
STRUCTURAL ENGINEERING SERVICES  
10<sup>th</sup> & FRONT GARAGE STRUCTURAL DAMAGE PREVENTION**

Issue Date: December 2, 2019  
Statement of Qualifications Due: December 19, 2019 by 2:00 p.m. local time

Capital City Development Corporation (CCDC), the urban renewal agency for the city of Boise, is seeking Statements of Qualifications from Idaho-licensed Structural Engineers for services related to structural maintenance and rehabilitation projects at the 10<sup>th</sup> & Front Parking Garage.

**PROJECT DESCRIPTION AND SCOPE OF WORK**

CCDC's 10<sup>th</sup> & Front Parking Garage (the "Garage") was built in 1978 and consists of five levels with a total of 543 parking spaces. The building consists of a post-and-lintel type structure of cast-in-place concrete reinforced with mild steel rebar. The decks are supported by beams spanning to columns along both sides and the middle. The roof decks are Post-Tension (PT) construction. Much of level 1 and the subgrade level are largely slab-on-ground construction. The Garage is not mixed use but is adjacent to a hotel and operates 24 hours a day seven days a week. CCDC possesses a very limited set of original construction drawings, consisting of the Structural pages from 1977 scanned into PDF format and additional detail pages from a top deck rebuild in 1989.

The Garage has undergone annual maintenance projects since 2017 to address deteriorated concrete resulting from reinforcing steel corrosion. The services and experience required of the Structural Engineer are related to the repair of deteriorating concrete.

This Request for Qualifications (RFQ) seeks structural engineers with the following types of Basic Requirements and Desired Experience:

**Basic Requirements**

- Preparation and coordination of structural plans, stamped construction drawings, and specifications.
- Regulatory code analysis specific to public buildings, parking facilities, and universal accessibility.
- Assisting with public bidding processes including preparation of addenda.
- Obtaining permits and inspections from Authorities Having Jurisdiction (AHJ).
- Providing construction administration services.
- Attending or presenting in public meetings as CCDC's representative.

### Desired Experience

- Completed concrete structural system rehabilitation projects, particularly in parking garages.
- Expertise in designing repairs of deteriorated concrete resulting from reinforcing steel corrosion. This includes horizontal repairs to topside and underside of decks, and vertical repairs, including within the column reinforcing steel.
- Expertise in phasing projects to allow for a facility to stay operational during a repair project.
- Expertise in designing and/or reviewing designs for shoring.

Selected Respondent will have all personnel, materials, and equipment to perform and accurately record the work. Selected Respondent will have the technical knowledge and skills necessary to perform the work as well as current professional registration, licensure, and/or certification in the State of Idaho.

Compensation to Selected Respondent will be based on the types of personnel required for the work, the complexity of the work, the time required to complete the work, and the Selected Respondent's rates as negotiated and included in the professional services contract (sample attached). For this RFQ, please do not submit rate schedules as they cannot be considered and will be discarded. Payment is typically based on hourly rates and reimbursable expenses.

## **GENERAL CONDITIONS OF THIS RFQ**

### **2.1 Intent of RFQ**

It is the intent of CCDC to run a Qualification Based Selection process to select a firm capable of providing the structural engineering services outlined within this RFQ.

### **2.2 Reserved Rights**

CCDC reserves the right to act in the public best interest and in furtherance of the purposes of the Idaho Code Title 50, Chapter 20 (Idaho Urban Renewal Law) and Idaho Code Title 67, Chapter 28 (Purchasing by Political Subdivisions). CCDC reserves the right to waive any formalities or defects as to form, procedure, or content with respect to its Request for Qualifications and any irregularities in the submittals received, to request additional data and information from any and all Respondents, to reject any submissions based on real or apparent conflict of interest, to reject any submissions containing inaccurate or misleading information, to reject all submittals, and to accept the submittal that is in the best interest of CCDC and the public. The issuance of this RFQ and the receipt and evaluation of submittals does not obligate CCDC to select a firm nor award a contract. CCDC may in its discretion cancel, postpone, or amend this RFQ at any time without liability.

### **2.3 Public Records**

CCDC is a public agency. All documents in its possession are public records subject to inspection and copying under the Idaho Public Records Act, Chapter 1, Title 74, Idaho Code. The Public Records Act contains certain exemptions – one of which that is potentially applicable to part of your response is an exemption 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 any Respondent claims any part of a submittal is exempt from disclosure under the Idaho Public Records Act, the Respondent must: 1.) Indicate by marking the pertinent document "CONFIDENTIAL"; and 2.) Include the specific basis for the position that it be treated as exempt from disclosure. Marking the entire proposal as "Confidential" is not in accordance with Idaho Public Records Act and will not be honored.

CCDC, to the extent allowed by law and in accordance with these Instructions, will honor a nondisclosure designation. By claiming materials to be exempt from disclosure under the Idaho Public Records Act, Respondent expressly agrees to defend, indemnify, and hold CCDC harmless from any claim or suit arising from CCDC's refusal to disclose such materials pursuant to the Respondent's designation. Any questions regarding the applicability of the Public Records Act should be addressed to your own legal counsel prior to submission.

#### **2.4 Insurance**

Prior to executing a professional services agreement with CCDC, the Selected Respondent will be required to provide evidence of the coverages listed below and pay all costs associated with insurance coverage. Insurance policies or certificates of insurance will name CCDC as the named insured, and the Selected Respondent will maintain these minimum insurance coverages for the duration of the contract:

- a. Professional Liability insurance coverage with minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence and a minimum aggregate policy limit of One Million Dollars (\$1,000,000.00).
- b. Commercial General Liability insurance coverage with minimum coverage of Two Million Dollars (\$2,000,000.00) on an occurrence basis (not claims-made basis).
- c. Worker's Compensation Insurance in an amount required by statute and Employer's Liability Insurance in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) for each occurrence, for all the company's employees to be engaged in work under the contract.

Selected Respondent using design professionals as subconsultants will be required to obtain evidence that subconsultants have obtained the same minimum insurance coverages as is required above.

# SUBMISSION PROCESS

## 3.1 Proposal Information

The submission package or envelope must be sealed and plainly marked for delivery as follows:

Capital City Development Corporation  
Attn: Kathy Wanner, Contracts Specialist  
121 N. 9<sup>th</sup> Street, Suite 501  
Boise, Idaho 83702

Mark the proposal "10th & FRONT GARAGE STRUCTURAL DAMAGE PREVENTION PROJECT - SEALED PROPOSAL ENCLOSED" somewhere on the outside of the envelope. Don't forget to sign your proposal. Unsigned proposals will not be accepted.

Late or incomplete submissions will not be accepted. Email or fax submissions will not be accepted. DO NOT EMAIL OR FAX YOUR PROPOSAL.

**PROPOSAL DEADLINE is 2:00 p.m. local time, DECEMBER 19, 2019**

Respondent assumes full responsibility for the timely delivery of its submittal package to CCDC. Respondent will be responsible for all costs (including site visits where needed) incurred in preparing or responding to this RFQ. All materials and documents submitted in response to this RFQ become the property of CCDC and will not be returned.

## 3.3 Forms to be Submitted

Respondents must submit the following completed forms by the due date and time:

- RFQ Submittal Cover Sheet – Attached to this RFQ as Exhibit A
- RFQ Waiver and Release – Attached to this RFQ as Exhibit B
- ONE (1) signed original proposal
- a digital (PDF) version of the entire proposal on *either* one (1) flash drive or one (1) compact disk.

Failure to submit all requested information may render any submittal unresponsive.

## 3.4 Addenda

In the event it becomes necessary to revise any part of this RFQ, addenda will be issued. It is the Respondent's responsibility to check for addenda prior to submitting the SOQ. Failure to do so may result in the proposal being declared non-responsive. No addenda will be issued fewer than four (4) business days before the proposal deadline unless the deadline is extended. Proposer shall indicate within their cover letter the addenda number(s) which they have incorporated into their submittal.

## 3.5 Modification or Withdrawal of Submittal

A submittal may be modified or withdrawn by the Respondent prior to the submission deadline set forth in this RFQ. After the submission deadline, the submittal shall remain in effect for a minimum of 90 days for evaluation purposes.

# REQUIRED CONTENT, EVALUATION, AND SELECTION

## 4.1 Required Submission Format

To be considered responsive to this RFQ and to facilitate evaluations, the Statement of Qualifications (SOQ) shall be organized per the outline given below. The submittal should be clear and concise, with an emphasis placed on specific desired experience and qualifications of the people who will actually perform the services. CCDC does not require nor desire elaborate brochures and other representations beyond that which is sufficient to present the information requested in this RFQ.

### SOQ outline to follow:

- A. RFQ Submittal Cover Sheet (Exhibit A)
- B. RFQ Waiver and Release (Exhibit B)
- C. Signed Letter of Interest (Cover Letter) One page, double sided, maximum limit.

#### D. Detailed Proposal

Evidence of Firm's Ability to Perform Services.

Proposals are to be limited to five (5) pages, double sided (10-page total). The 5-page limit does not include the RFQ Submittal Cover Sheet, RFQ Waiver and Release Form, Letter of Interest (cover letter), tabs, or appendices. Detailed Proposal must be organized with the following information:

#### ORGANIZATION QUALIFICATIONS

Outline your organization's relevant experience on the scope of work required for this project, including firm's history, size, resources, philosophy of service, and project management techniques and methods.

Describe how your firm meets the Basic Requirements outlined in the Scope of Services section.

#### PERSONNEL QUALIFICATIONS

Describe the personnel and project team you are proposing most likely to supply structural engineering services to CCDC; include an organization chart of proposed staff, including specific sub-consultants, if any. Include each staff member's professional licenses, certifications, office location, and years of employment at Respondent's firm.

Describe how your project team works with clients, sub consultants, AHJs, and contractors.

Describe how your team performs stakeholder engagement at each of these typical project stages: concept design, permitting, and construction.

#### PROJECT EXPERIENCE

Submit three (3) projects and include a detailed description explaining how the project exemplifies this RFQ's Basic Requirements and Desired Experience (refer to this RFQ's Scope of Services section for further information). At least one (1) project should be from

public agency clients other than CCDC. Include information that demonstrates schedule and budget compliance. For each project mentioned, include the name, email address, and phone number of a person who can be contacted regarding your performance on the project.

**E. Appendix**

1. Resumes: Provide resumes of key personnel that will work directly with or on CCDC projects. Resumes shall not exceed 2 pages per person.

**4.2 Evaluation and Selection Process**

In determining the best qualified Respondent, CCDC will consider all acceptable proposals on a basis consistent with this RFQ. SOQ's will be evaluated based on the responses and qualifications submitted, including the following factors:

- Organizations Qualifications (35%)
- Personnel Qualifications (30%)
- Project Experience (35%)

CCDC will create an Evaluation Team to evaluate the SOQ's and provide a selection recommendation to the CCDC Board of Commissioners. Before a Respondent is selected, CCDC may conduct reference investigations. CCDC may or may not conduct interviews in order to evaluate the performance record, the ability of the Respondent to perform the work, and the quality of the service being offered. By submitting an SOQ, the Respondent authorizes CCDC to conduct reference investigations and interviews as needed where the Respondents will be evaluated based on the information described in this RFQ.

**4.3 Qualification Based Selection**

Selection will be based on the procurement rules set forth in Idaho Code § 67-2320. CCDC staff will recommend to the CCDC Board of Commissioners which Respondent should be selected for the 10<sup>th</sup> & Front Garage Structural Damage Prevention Project. Final selection is made by the CCDC Board of Commissioners.

It is the Respondent's responsibility to conform to all applicable federal, state, and local statutes or other applicable legal requirements. The information provided herein is intended to assist Respondents in meeting applicable requirements but is not exhaustive, and CCDC will not be responsible for any failure by any Respondent to meet applicable requirements.

CCDC will not pay costs incurred by Respondents in responding to this RFQ. CCDC may in its discretion cancel this process at any time prior to execution of a contract without liability.

**4.4 QUESTIONS**

Direct questions to: Kathy Wanner, CCDC Contracts Specialist  
(208) 384-4264 or [kwanner@ccdcbiose.com](mailto:kwanner@ccdcbiose.com)

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**EXHIBITS TO THIS RFQ:**

- A: RFQ Submittal Cover Sheet
- B: RFQ Waiver and Release
- C: Sample Professional Services Agreement



**EXHIBIT A**

**SUBMITTAL COVER SHEET  
(REQUIRED FOR SUBMISSION)**

**RFQ: 10<sup>TH</sup> & FRONT GARAGE STRUCTURAL DAMAGE PREVENTION PROJECT**

TO: Capital City Development Corporation  
Attn: Kathy Wanner, Contracts Specialist  
121 N. 9<sup>th</sup> Street, Suite 501  
Boise, Idaho 83702

As of the submission date, Respondent should have at least one employee licensed in the State of Idaho and available to CCDC.

FROM:

**Company Name:** \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Physical Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Company officer responsible to CCDC for services contemplated by this RFQ:**

**SIGNATURE: X** \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

**EXHIBIT B**

**REQUIRED WAIVER & RELEASE  
(REQUIRED FOR SUBMISSION)**

The undersigned has read this release and fully accepts the Capital City Development Corporation's ("CCDC") discretion and non-liability as stipulated herein, and expressly for, but not limited to, CCDC's decision to proceed with a qualifications based selection process in response to the Request for Qualifications (RFQ) for the 10<sup>th</sup> & Front Garage Structural Damage Prevention Project.

A. Discretion of CCDC: The firm or individual submitting a response to the this RFQ ("Respondent") agrees that CCDC has the right, in its sole discretion and judgment for whatever reason it deems appropriate to, at any time unless contrary to applicable state law to:

- 1) Modify or suspend any and all aspects of the process seeking responses and making any decisions concerning the structural engineering services for the 10<sup>th</sup> & Front Garage Structural Damage Prevention Project RFQ.
- 2) Obtain further information from any person, entity, or group, including, but not limited to any Respondent, and to ascertain the depth of Respondent's capability and experience for supplying structural engineering services as described in this RFQ and in any and all other respects to meet with and consult with any Respondent or any other person, entity, or group;
- 3) Waive any formalities or defects as to form, procedure, or content with respect to CCDC's RFQ to select a structural engineer for the 10<sup>th</sup> & Front Garage Structural Damage Prevention Project and any response by any Respondent thereto;
- 4) Accept or reject any sealed Submission received in response to the RFQ, including any sealed Submission submitted by the undersigned; or select any one Submission over another in accordance with the selection criteria; and
- 5) Accept or reject all or any part of any materials or statements, including, but not limited to, the nature and type of Submission.

B. Non-Liability of CCDC

- 1) The undersigned agrees that CCDC shall have no liability whatsoever of any kind or character, directly or indirectly, by reason of all or any decision made at the discretion of CCDC as identified above.
- 2) The undersigned, including all team members, have carefully and thoroughly reviewed the RFQ and has found it to be complete and free from ambiguities and sufficient for their intended purpose.

**SIGNATURE:** **X** \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C**

**SAMPLE PROFESSIONAL SERVICES AGREEMENT**  
*(11 pages)*



**NAME OF FIRM**

**PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the Urban Renewal Agency of the City of Boise, also known as Capital City Development Corporation, an independent public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Idaho Urban Renewal Law of the State of Idaho, title 50, chapter 20, Idaho Code, and the Local Economic Development Act, title 50, chapter 29, Idaho Code (“CCDC”), and NAME OF FIRM, an Idaho [type of firm] (“CONSULTANT”). CCDC and CONSULTANT may hereinafter collectively be referred to as the “Parties” and individually as a “Party.”

**RECITALS**

- A. CCDC has a need for nonexclusive professional structural engineering services related to structural damage prevention at the 10<sup>th</sup> & Front Parking Garage, Boise, Idaho.
- B. On December 2, 2019, CCDC issued a Request for Qualifications for the 10<sup>th</sup> & Front Garage Structural Damage Prevention Project. On [DATE], the CCDC Board of Commissioners adopted Resolution No. XXXX selecting CONSULTANT to provide services for the project.
- C. CONSULTANT is specially licensed, trained, experienced, and competent to perform such services and has agreed to provide such services under the terms and conditions described herein.
- D. CCDC desires to retain CONSULTANT to provide professional services on a non-exclusive basis. As a public agency, CCDC reserves all rights to seek services from other consultants through any procedure deemed to be in the best interests of CCDC and in compliance with any applicable law, rule, or regulation.
- E. The Parties acknowledge and understand that nothing in this Agreement precludes CONSULTANT from responding to any Requests for Qualifications or Proposals for any additional services or work products contemplated by CCDC or any other public agency.

NOW, THEREFORE, in consideration of the above Recitals, which are incorporated into this Agreement; the mutual covenants contained herein; and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## AGREEMENT

1. **SCOPE OF SERVICES.** Upon execution of this Agreement, CONSULTANT shall perform and furnish to CCDC all services as described in Exhibit A, ("Scope of Services" or "Scope"), incorporated herein by this reference, together with any amendments that may be agreed to in writing by the Parties.
2. **EFFECTIVE DATE.** The effective date of this Agreement ("Effective Date") shall be the date on which this Agreement was signed by the last of the Parties to execute it.
3. **TERM OF AGREEMENT.** This Agreement shall begin on the Effective Date and shall expire 1) upon completion of services, or 2) on [Enter Date].
4. **NOTICE TO PROCEED.** Services to be performed under this Agreement shall commence upon CCDC issuing a written notice to proceed. The written notice to proceed may be transmitted by U.S. Mail, courier, E-Mail or Fax.
5. **PAYMENT.**
  - (a) Method of Payment. CCDC agrees to pay CONSULTANT for services rendered under this Agreement based on time and expenses an amount not to exceed [amount in words; caps] (amount in numbers; dollar sign) for the Scope based on the time expended by CONSULTANT.
  - (b) Hourly rates. CONSULTANT shall perform services at the hourly rates set forth in the rates schedule attached as Exhibit B.
  - (c) Reimbursable Expenses. Reimbursable expenses may include general out-of-pocket expenses, such as long-distance telephone charges, copying expenses, overnight or standard mailing expenses, travel-related expenses and the like, and shall be billed to CCDC at the actual cost to CONSULTANT with no mark-up.
  - (d) NOTICE REQUIRED PRIOR TO OVERAGES. CONSULTANT must notify CCDC if CONSULTANT anticipates that costs for the Scope of Services will exceed the not-to-exceed limit issued under this Agreement. CCDC will determine in its sole judgment if an amendment to the not-to-exceed limit is appropriate. Any amendment must be approved by CCDC in writing prior to the CONSULTANT incurring costs in excess of the not-to-exceed limit.
  - (e) Invoices. Monthly Invoices shall be submitted to CCDC by email to [accounting@ccdcbosie.com](mailto:accounting@ccdcbosie.com). Each invoice shall be in a format acceptable to CCDC and shall include the assigned purchase order number, **PO# XXXXXX**. Each invoice also shall specify current billing and previous payments, with a total of costs incurred and payments made to date.
  - (f) Payment of Invoices. All invoices shall be paid by CCDC within thirty (30) days of receipt of invoice, subject to Correction of Deficiencies, herein set forth, and Termination provisions set forth below. Disputes of any invoiced amounts must be sent to CONSULTANT in writing within five (5) business days of billing.

**6. CONSULTANT RESPONSIBILITIES.** CONSULTANT assumes all responsibility for production and delivery of all materials and services detailed in this Agreement, whether or not the CONSULTANT is the manufacturer or producer of the materials or services. CONSULTANT shall supply, at CONSULTANT's sole expense, all equipment, tools, materials and/or supplies to accomplish the services specified in the Agreement. Further, CONSULTANT will be the sole point of contact on contractual matters, including payment of charges resulting from the use or purchase of items selected.

**7. CONSULTANT WARRANTY.** CONSULTANT represents that it possesses the requisite skill, knowledge, and experience necessary to perform the services under this Agreement. CONSULTANT warrants that its services under this Agreement shall be performed in a professional manner consistent with the professional skill and care ordinarily provided by structural engineering professionals practicing in the same or similar locality under the same or similar circumstances. In the event of nonconformity, to the extent the professional standard of care for design professionals has not been met, and without limitation upon any other remedy, CCDC shall have no financial obligation in regard to the nonconforming goods or services. This right is not to the exclusion of any other right that CCDC has in law or equity. Without limiting the foregoing, CONSULTANT recognizes its obligation to work with CCDC to correct any errors resulting from its negligence.

**8. CONSULTANT RELIANCE.** CONSULTANT shall be entitled to rely on the accuracy and completeness of any information furnished by CCDC, except in such circumstances that CONSULTANT should, in the exercise of reasonable care, consistent with the professional skill and care ordinarily provided by consultants practicing under the same or similar circumstances, know the information to be incorrect, unreliable or incomplete. CONSULTANT shall provide prompt notice to CCDC if CONSULTANT becomes aware of any errors, omissions, or inconsistencies in such information.

**9. CORRECTING DEFICIENCIES.** If a service or work product subject to a specific invoice does not meet the requirements of this Agreement as CCDC may reasonably determine, CCDC shall notify CONSULTANT in writing and identify specific deficiencies in the service or work product that do not meet the requirements. CONSULTANT shall have ten (10) business days to correct or modify the service or work product to comply with the requirements of the Agreement as set forth in the CCDC's written notice. If CCDC again reasonably determines the services or work product fails to meet the requirements, CCDC may withhold payment until deficiencies have been corrected to CCDC's reasonable satisfaction or may terminate this Agreement for cause as set forth in this Agreement.

**10. RIGHT OF CONTROL.** CCDC agrees that it will have no right to control or direct the details, manner, or means by which CONSULTANT accomplishes the results of the services performed hereunder. CONSULTANT has no obligation to work any particular hours or days or any particular number of hours or days. CONSULTANT agrees, however, that its other contracts and services shall not interfere with the performance of the services outlined by this Agreement. CCDC agrees to coordinate project schedules, respective commencements, and deadlines with CONSULTANT as needed.

**11. PROPRIETARY RIGHTS.** All documents, reports, and any other data developed by CONSULTANT for CCDC in the performance of this Agreement, whether finished or not finished, shall become the property of CCDC, shall be forwarded to CCDC at its request, and may be used

by CCDC as it sees fit. CCDC agrees that if it uses products prepared by CONSULTANT for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold CONSULTANT harmless therefrom.

**12. CONFIDENTIALITY.** The Parties acknowledge that the existence and the terms of this Agreement and any oral or written information exchanged between the Parties in connection with the preparation and performance of this Agreement are regarded as confidential information. Each Party shall maintain confidentiality of all such confidential information and, without obtaining the written consent of the other Party, it shall not disclose any relevant confidential information to any third parties, except for the information that: a.) is or will be in the public domain (other than through the receiving Party's unauthorized disclosure); b.) is under the obligation to be disclosed pursuant to the applicable laws or regulations or orders of the court or other government authorities; or c.) is required to be disclosed by any Party to its own officers, board members, legal counsels, or financial advisors regarding the transaction contemplated hereunder, provided that such officers, board members, legal counsels, or financial advisors shall be bound by the confidentiality obligations similar to those set forth in this Section. Disclosure of any confidential information by the staff members or agencies hired by any Party shall be deemed disclosure of such confidential information by such Party, which Party shall be held liable for breach of this Agreement. This Section shall survive the termination of this Agreement for any reason.

**13. RELATIONSHIP OF PARTIES.** CONSULTANT is an independent contractor and is not an officer, employee, servant, or agent of CCDC. CCDC shall determine the services and work products to be done by CONSULTANT, but CONSULTANT shall determine the legal means by which it accomplishes the services and work projects specified by CCDC. This Agreement shall not be construed to create any employer-employee relationship between CCDC and CONSULTANT. CONSULTANT shall not be entitled to any benefits provided by CCDC to employees.

**14. FEDERAL, STATE, AND LOCAL PAYROLL TAXES.** Neither federal, state, or local income taxes nor payroll taxes of any kind shall be withheld and paid by CCDC on behalf of CONSULTANT or the employees of CONSULTANT. CONSULTANT shall not be treated as an employee with respect to the services performed hereunder for federal or state tax purposes.

**15. DISCRIMINATION PROHIBITED.** In performing the services required by this Agreement, CONSULTANT shall not discriminate against any person on the basis of age, race or ancestry, color, national origin, disability or handicap, creed or religion, sex, sexual orientation, gender identity, gender expression, or marital status. Violation of this section shall constitute a material breach of this Agreement and be deemed grounds for cancellation, termination, or suspension of the Agreement by CCDC, in whole or in part, and may result in ineligibility to perform additional services for CCDC.

**16. ACCESS TO RECORDS AND AUDITS.** CONSULTANT shall maintain complete and accurate records with respect to costs incurred and manpower expended under this Agreement. All such records shall be maintained according to generally accepted accounting principles, shall be clearly identified, and shall be readily accessible. Upon request, such records shall be available for review by CCDC representatives for three (3) years after final payment.

**17. SUBCONSULTANTS.** CONSULTANT may propose the use of subconsultants ("SUBCONSULTANTS") for performance of a particular aspect of the services. CCDC shall have the right to approve the use of SUBCONSULTANTS and the amount and method of



SUBCONSULTANTS' compensation prior to commencement of any services by SUBCONSULTANTS, and such approval shall be in writing. CCDC shall also determine whether the selection of SUBCONSULTANTS should be made through any required selection process or through a selection process CCDC deems in its best interest. CCDC shall have the right to approve any change in the use of SUBCONSULTANTS. Such changes in SUBCONSULTANTS shall be approved by CCDC in writing and shall not affect the amount of payment stated in the Agreement unless specifically authorized by CCDC in writing. CCDC shall have no liability to SUBCONSULTANTS and CONSULTANT shall be responsible for services performed or work product produced by the SUBCONSULTANTS and payment to SUBCONSULTANTS.

**18. COORDINATION WITH OTHER CONSULTANTS.** CONSULTANT recognizes that CCDC has or may enter into agreements with other consultants. Upon request, CONSULTANT agrees to coordinate with and work in conjunction with other Consultants when the need arises.

**19. INDEMNIFICATION.** CONSULTANT agrees to indemnify, defend, and hold harmless CCDC and its officers, agents, and employees from and against all claims, losses, actions, or judgments for damages or injury to persons or property, including attorney fees, arising from any negligent or tortious acts or omissions of CONSULTANT, its employees, or subconsultants. In case any action or proceeding is brought against CCDC or its officers, agents, or employees by reason of negligent or tortious acts or omissions of CONSULTANT, its employees, or subconsultants, CONSULTANT, upon written notice from CCDC, shall resist or defend such action or proceeding at CONSULTANT's expense.

**20. INSURANCE.** Prior to commencing services under this Agreement, CONSULTANT shall obtain at its sole cost and expense, and thereafter maintain for the term of this Agreement, at least the minimum insurance coverages set forth below. All insurance coverage shall be written on an occurrence basis and provided by a company or companies which are authorized to do business in Idaho. CONSULTANT shall provide to CCDC proof of insurance coverage before commencing its performance as herein provided, and shall require insurer to notify CCDC a minimum of ten (10) days prior to cancellation of said policy or policies.

- (a) Worker's compensation as required by applicable law or regulation. If worker's compensation insurance is not required under the circumstances, CONSULTANT shall provide proof to CCDC that such coverage is not required.
- (b) Employer's liability insurance in the minimum amount required by applicable law or regulation.
- (c) Commercial general liability insurance policy with minimum coverage of \$1,000,000 per occurrence, and a minimum aggregate policy limit of \$2,000,000. The commercial general liability insurance policy shall name CCDC as an Additional Insured and protect its officers, agents, and employees from and against any and all claims, losses, actions, and judgments for damages or injury to persons or property arising out of or in connection with the CONSULTANT's negligence during the performance of this Agreement.
- (d) Professional liability insurance with minimum limits of liability of \$1,000,000 per occurrence and \$1,000,000 aggregate.

**21. DEFAULT AND TERMINATION.**



- (a) FOR CAUSE. If through any cause CONSULTANT shall fail to perform any of the covenants or conditions of this Agreement or fails to fulfill its obligations in compliance with the schedule under this Agreement, and CONSULTANT does not cure such defects in performance within ten (10) days after receipt of written notice, CCDC shall thereupon have the right to terminate this Agreement. Upon termination for cause, CONSULTANT shall be paid an amount for the actual services satisfactorily performed in accordance with this Agreement through the default date. CONSULTANT shall provide CCDC all work products generated prior to date of termination.
- (b) TERMINATION FOR CONVENIENCE OF CCDC. CCDC may terminate this Agreement for its convenience at any time, for any reason, upon giving ten (10) business days written notice. If this Agreement is terminated by CCDC for convenience, CONSULTANT shall be paid an amount for the actual services satisfactorily performed to the date of termination. Consultant shall also provide CCDC all work products of consulting generated to date of termination. Notwithstanding any other provision in this Agreement, CCDC may terminate this Agreement immediately if CONSULTANT becomes insolvent or voluntarily or involuntarily bankrupt, or if a receiver or other liquidating officer is appointed for substantially all of the business of the CONSULTANT or if CONSULTANT makes an assignment for the benefit of creditors.

**22. DISPUTES.** In the event that a dispute arises between CCDC and the CONSULTANT regarding application or interpretation of any provision of this Agreement, the aggrieved Party shall promptly notify the other Party to this Agreement of the dispute within ten (10) days after such dispute arises. If the Parties shall have failed to resolve the dispute within thirty (30) days after delivery of such notice, the Parties may first endeavor to settle the dispute in an amicable manner by mediation. If the Parties elect to mediate their dispute, the Parties will select a mediator by mutual agreement and agree to each pay half of the mediator's costs and fees. The mediation will take place in Boise, Idaho, unless otherwise agreed by the Parties in writing. Should the Parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each Party shall have the right to pursue any rights or remedies it may have at law or in equity. If the Parties do not mutually agree to mediate the dispute, either Party may pursue any rights or remedies it may have at law.

**23. ATTORNEY FEES.** Should any litigation be commenced between the Parties hereto concerning this Agreement and the services rendered hereunder, the prevailing Party shall be entitled, in addition to any other relief as may be granted, to 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.

**24. NONWAIVER.** Failure of either Party to exercise any of the rights under this Agreement, or breach thereof, shall not be deemed to be a waiver of such right or a waiver of any subsequent breach.

**25. 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

delivered in person, by courier, or mailed in the United States mail, certified, return receipt requested, addresses as follows:

To CCDC:

John Brunelle, Executive Director  
Capital City Development Corporation  
121 N. 9<sup>th</sup> Street, Suite 501  
Boise, Idaho 83702  
#208-384-4264  
[jbrunelle@ccdcbiose.com](mailto:jbrunelle@ccdcbiose.com)

To CONSULTANT:

Company Head or Managing Partner  
Name of Firm  
Address  
Address  
Phone #  
Email

Telephone numbers and e-mail addresses are for convenience and not to be used for notices required to be in writing. Informal notices and communication may be delivered in person or by telephone, mail, courier, e-mail, or fax. Either Party may, by written notice, change the contact information listed above.

**26. GENERAL ADMINISTRATION AND MANAGEMENT.** The Executive Director of CCDC or his/her designee shall be CCDC's representative and shall oversee and approve all services to be performed, coordinate all communications, review and approve all invoices, and carry out any and all tasks as may be required of CCDC under this Agreement.

**27. TIME IS OF THE ESSENCE.** Time is of the essence for each and every provision of this Agreement and will be strictly followed by the Parties.

**28. ENTIRE AGREEMENT.** This Agreement, along with any and all Exhibits, attached hereto and incorporated herein by reference, 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. This Agreement covers services or work products CONSULTANT has not completed, but does not cover services or work products that have been completed and CCDC has paid CONSULTANT'S fee. All waivers of the provisions of this Agreement must be in writing and signed by the Parties.

**29. AMENDMENTS.** This Agreement may be amended only in writing, upon mutual agreement of both CCDC and CONSULTANT.

**30. 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 CCDC.

**31. COUNTERPARTS.** This Agreement may be executed in any number of counterparts. Such counterparts shall be deemed to be original instruments. Counterparts together shall constitute one (1) agreement.

**32. GOVERNING LAW.** Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the State of Idaho.

**33. SEVERABILITY.** If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.

**34. SUCCESSORS IN INTEREST.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereby, and their respective successors and assigns.

**35. THIRD PARTY BENEFICIARIES.** CCDC and CONSULTANT are the only Parties to this Agreement. The Parties do not intend that any non-party or third party will have any rights whatsoever under this Agreement.

END OF AGREEMENT | *Signatures appear on the following page.*

SAMPLE

IN WITNESS WHEREOF, CCDC and CONSULTANT have executed this Agreement with an effective date as of the last date written below.

**CAPITAL CITY DEVELOPMENT CORP.**

**CONSULTANT:  
NAME OF FIRM**

\_\_\_\_\_  
John Brunelle, Executive Director

\_\_\_\_\_  
Name, Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBITS**

- A. CONSULTANT'S Proposal dated .....
- B. CONSULTANT'S Rate Schedule

SAMPLE

**EXHIBIT A**

**Consultant's Proposal**

SAMPLE

**EXHIBIT B**

**Consultant's Rate Schedule**

SAMPLE