

**AGENDA ITEM SUMMARY**

DATE: 11/29/10 DEPARTMENT: DEPT. HEAD SIGNATURE: Mary Cone

**SUBJECT:**

Motion to ratify mayor's signature on J-U-B Engineers agreement for a not to exceed amount of \$5,000 with J-U-B Engineers for Grant Assistance on the River St. ICDBG Grant application for the Phase 1 work with city attorney review and approval (previously approved dollar amount in 10/11/10 meeting)

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS**

Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments:

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)**

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	_____
___ Safety Committee	___ P & Z Commission	___ Police	_____
___ Streets	___ Public Works, Parks	___ Mayor	_____

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to ratify mayor's signature after confirming city attorney review and approval.

**FOLLOW-UP REMARKS:**

\*



# J-U-B ENGINEERS, Inc. AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 10 - 10 - 75

J-U-B Project Manager: \_\_\_\_\_

This Agreement entered into and effective this 1st day of October 2010, between City of Hailey, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

### WITNESSETH:

WHEREAS the CLIENT intends to: Prepare an Idaho Community Development Block Grant application for the River Street Downtown Revitalization Project hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

### MUTUAL RESPONSIBILITIES

This Agreement is based upon a mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, the CLIENT and J-U-B, with a positive commitment to honesty and integrity, agree that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the Agreement.

### CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, rules and laws which CLIENT or others will require to be included in the drawings and specifications upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment, 2) appropriate professional interpretations of all of the foregoing, 3) environmental assessment and impact statements, 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws, and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B: any additional information and documentation which pertains to the project.

### PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

#### For the CLIENT:

1.	Name	<u>Tom Hellen</u>	Work telephone	<u>208-788-4221</u>
	Address	<u>City of Hailey</u>	Home/cell phone	_____
		<u>115 Main Street, South</u>	FAX telephone	<u>208-726-2924</u>
		<u>Hailey, ID 83333</u>	E-mail address	<u>tom.hellen@haileycityhall.org</u>

#### For J-U-B:

1.	Name	<u>Lisa Bachman</u>	Work telephone	<u>208-467-5252</u>
	Address	<u>217 W. Georgia Avenue</u>	Cell phone	<u>206-577-8752</u>
		<u>Suite 120</u>	FAX telephone	<u>208-467-6631</u>
		<u>Nampa, ID 83686</u>	E-mail address	<u>lbachman@jub.com</u>

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.

**SERVICES TO BE PERFORMED BY J-U-B ("Services")**

J-U-B will perform the Services described as follows (or as described in Attachment 1, if provided): See attached letter dated October 1, 2010.

J-U-B assumes no responsibility to perform work not listed as Services.

**SCHEDULE OF SERVICES TO BE PERFORMED**

J-U-B will perform said Services as follows (or as described in Attachment 1, if provided): See attached letter dated October 1, 2010.

This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

**BASIS OF FEE**

The CLIENT will pay J-U-B for their Services and reimbursable expenses as follows (or as described in Attachment 1, if provided): See attached letter dated October 1, 2010.

Yes *Management Reserve Fund.* If "YES", the CLIENT will establish a management reserve fund of \$\_\_\_\_\_ to provide the CLIENT's Authorized Representative the flexibility of authorizing additional funds to the Agreement for allowable unforeseen costs or paying J-U-B for Additional Services beyond those defined in this Agreement.  
 No

Yes *Retainer.* If "YES", the CLIENT will pay J-U-B a retainer of \$\_\_\_\_\_ prior to the Notice to Proceed. The retainer will be applied to the final billing(s) at the completion of the Services rendered under the Agreement.  
 No

Other work that J-U-B performs, which is not defined as Services at the request or acquiescence or knowledge of the CLIENT, is "Additional Services". Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis.

File Folder Title: City of Hailey - Grant Writing Services - PHASE 1 ONLY

Remarks: \_\_\_\_\_

**The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

**CLIENT:**  
Rick Davis, Mayor

NAME  
115 Main Street, South

STREET  
Hailey, ID 83333

CITY / STATE / ZIP CODE

BY (Signature)  
*Rick Davis*

NAME / TITLE

BY (Signature)

ADDITIONAL NAME / TITLE

**J-U-B ENGINEERS, Inc.:**  
217 W. Georgia Avenue, Suite 120

STREET  
Nampa, ID 83686

CITY / STATE / ZIP CODE

BY (Signature)  
*Kent Gingrich*  
Kent Gingrich, Nampa Area Manager

NAME / TITLE

*Applicable Attachments or Exhibits to this Agreement are indicated as marked.*

Attachment 1 – Scope of Services and/or Schedule and/or Basis of Fee

Attachment 2 – Special Provisions

Standard Exhibit A – Electronic Documents Reuse Provisions

Standard Exhibit B – Construction Phase Services

DISTRIBUTION: Accounting; Project File; CLIENT

REV: 1/09

**J-U-B ENGINEERS, Inc.**  
**TERMS AND CONDITIONS**

**GENERAL**

J-U-B shall provide for the CLIENT the Services as set forth herein. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESSED OR IMPLIED ON BEHALF OF IT OR OTHERS.** The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations; and, J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and any contact or action of the CLIENT or others with third parties. CLIENT, therefore, indemnifies and holds J-U-B harmless from the actions and omissions of CLIENT and third parties involved in the Project.

J-U-B shall not be required to sign any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions whose existence J-U-B cannot ascertain. The CLIENT also agrees not to make resolution of any dispute with J-U-B or payment of any amount due to J-U-B in any way contingent upon J-U-B signing any such certification.

CLIENT acknowledges that in soil investigation work and in determining subsurface conditions for the Project, the characteristics may vary greatly between successive test points and sample intervals.

Resetting of survey and/or construction stakes shall constitute Additional Services.

Any sales tax or other tax on the Services rendered under this Agreement shall be paid by the CLIENT.

**REUSE OF DOCUMENTS**

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B. All printed materials, any magnetic media, or other communication or information formats ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project and shall remain the property of J-U-B whether or not the Project is completed. Although CLIENT may make and retain copies of Documents for information and reference in connection with use on the Project by CLIENT, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused without J-U-B's written consent. Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall indemnify and hold J-U-B harmless from any claims, damages, losses and expenses arising out of or resulting from such reuse. Files in electronic media format of text, data, graphics, or of other types that are otherwise furnished by J-U-B to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

If submittal of electronic files are included as part of the Project, the requirements of **Standard Exhibit A – Electronic Documents Reuse** Provisions apply to this Agreement.

**CONSTRUCTION PHASE SERVICES**

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give J-U-B control over contractor(s) work; nor, shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s) failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

If Construction Phase Services are included as part of the Project, the requirements of **Standard Exhibit B – Construction Phase Services** apply to this Agreement.

**OPINIONS OF COST**

Since J-U-B has no control over the cost of labor, materials, equipment or Services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, J-U-B's opinions of probable total Project costs and construction, if any, are to be made on the basis of J-U-B's experience and qualifications, and represent J-U-B's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but J-U-B cannot and does not guarantee that proposals, bids or actual total Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. If the CLIENT wishes assurance as to total Project or construction costs, CLIENT shall employ an independent cost estimator. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT.

**TIMES OF PAYMENTS**

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day. If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

**TERMINATION**

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. If the Agreement is terminated by the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid, in addition to any other remedies at law or equity, an allowance as determined by J-U-B,

including but not limited to: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, obtaining and engaging in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

#### **RISK ALLOCATION**

The CLIENT is aware of the risks, rewards, and benefits of the Project and J-U-B's Basis of Fee for Services. The risks are hereby allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the total combined liability of J-U-B, its officers, employees, successors, partners, heirs and assigns to the CLIENT, for professional errors or omissions, directly or through third parties, for all injuries, claims, expenses, costs, fees, and legal fees, damages or claims of expenses arising out of this Agreement from any cause, shall not exceed the amount of J-U-B's fees paid on this Agreement. Such causes include, but are not limited to, J-U-B's negligence, errors, omissions, strict liability, and breach of this Agreement. In no event shall J-U-B be liable for any incidental, indirect or consequential damages.

J-U-B's liability for any cause or claim other than for professional errors or omissions, including, but not limited to, negligence, strict liability, or breach of contract or warranty, express or implied, shall not exceed the total insurance proceeds (excluding fees, costs and expenses of investigation, claims adjustment, defense and appeal) paid on behalf of or to J-U-B by J-U-B's insurers in settlement or satisfaction of such causes or claim under the terms and conditions of J-U-B's insurance policies applicable thereto.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation. To the extent allowed by law, CLIENT may not recover for economic loss from J-U-B through third parties.

#### **HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS**

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project Site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

#### **RIGHT OF ENTRY**

The CLIENT shall provide for J-U-B's right to enter the property owned by the CLIENT and others in order for J-U-B to fulfill the Services to be performed hereunder. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from procedures associated with testing or investigative activities or connected in any way with the Project, Services, or discovery of hazardous materials or suspected hazardous materials on the property.

#### **MEDIATION BEFORE LITIGATION**

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the CLIENT and J-U-B agree that all disputes between them arising out of or relating to this Agreement, the Project, or the Services, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation as a condition precedent to litigation unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors and consultants on the Project, and also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among the parties to all those agreements.

#### **LEGAL FEES**

In the event of any action brought by J-U-B to enforce the payment provisions of the Agreement, the prevailing party shall be entitled to such reasonable amounts for fees, costs and expenses including attorney's fees as may be set by a court.

#### **SURVIVAL**

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

#### **EXTENT OF AGREEMENT**

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

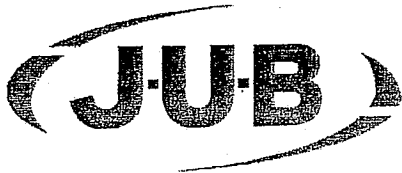
#### **SUCCESSORS AND ASSIGNS**

CLIENT and J-U-B and their partners, successors to this Agreement, executors, administrators and legal representatives of such other party, each is hereby bound in respect to all the covenants, agreements and obligations of this Agreement. Neither CLIENT nor J-U-B may assign, sublet, or transfer any rights under or interest (including, without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against J-U-B. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

#### **CONTROLLING LAW, JURISDICTION, AND VENUE**

This Agreement is to be governed by the laws of the state in which the Project is primarily located. Any action or proceeding arising from or in connection with this Agreement shall be subject to the exclusive jurisdiction of said state.



217 W. Georgia Avenue, Ste. 120, Nampa, ID 83686  
p 208 467 5252 f 208 467 6631 w www.jub.com

**J-U-B ENGINEERS, INC.**

October 6, 2010

Mr. Tom Hellen  
City of Hailey  
115 S. Main Street  
Hailey, Idaho 83333

Attachment 1: City of Hailey River Street Downtown Revitalization Project – Grant Writing and Project Planning – Idaho Community Development Block Grant (ICDBG) Application

Dear Tom,

Thank you for the opportunity to assist with your ICDBG application and grant administration for the River Street Downtown Revitalization project.

We have prepared a scope of work for grant writing and project planning (phase 1) and grant administration (phase 2).

The scope of services includes the following:

**Phase 1: Grant Writing and Project Planning**

**A. Design Workshops and Coordination Meetings**

- A1. Kick-Off Meeting:** J-U-B will attend a project kick-off meeting to discuss the goals, schedule, and deliverables. The meeting will include J-U-B, City of Hailey staff, and the Design Professional.
- A2. Design Workshop Participation:** J-U-B will participate in the Design Workshop scheduled on October 7, 2010.
- A3. City and Agency Coordination:** J-U-B will coordinate with City staff and the Department of Commerce as the grant application is being developed. J-U-B will attend one public hearing prior to ICDBG application submittal.

**B. Project Planning and Development**

- B1. Project Description and Community Information:** J-U-B will incorporate details about the community, site characteristics, existing and needed infrastructure, as provided by city staff and the Design Professional.
- B2. Budget:** J-U-B will incorporate the overall project budget as provided by City staff and the Design Professional. The budget will outline funding sources and include documentation of other sources as

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required. This task includes collecting documentation of in-kind services, and justification of other downtown revitalization efforts to include as match.

**B3. Environmental Checklist:** J-U-B will include the completed environmental checklist and agency comment solicitations prior to ICDBG application submittal.

**B4. Citizen Participation Plan:** J-U-B will review and include the citizen participation plan, as approved by city council. This plan will outline public hearings prior to application submittal and a second public hearing when funds have been obtained. The community will be able to review the ICDBG application and discuss questions and/or concerns about the project. The public meeting documentation will be included in the final application package.

**B4. Redevelopment Resolution Review and Coordination:** J-U-B will coordinate with the public works director, city staff and the Design Professional to identify the official downtown redevelopment area, and will incorporate the information created by your Design Professional. Documentation of sub-standard infrastructure should include the linear footage and quantifiable dimensions of sub-standard infrastructure within the redevelopment area. J-U-B will include this documentation and map with the redevelopment area resolution to be passed by the city council prior to ICDBG application submittal.

**B5. Fair Housing Resolution:** J-U-B will include in the ICDBG application the completed Fair Housing Resolution as approved by City Council.

#### **C. ICDBG Application Preparation and Submittal**

**C1. Assemble Application:** J-U-B will assemble and submit the required documents for the ICDBG application. Application will be submitted to the Idaho Department of Commerce no later than the application due date of November 18, 2010. The application is anticipated to include the following items:

- Cover letter from the Mayor
- Cover and Table of Contents
- Community Demographic Profile, Community information and project details
- Legal Notices
- Environmental Checklist
- Citizen Participation Plan & documentation of hearings, business participation, and planning efforts
- Redevelopment Resolution and associated attachments
- Other Project Information – includes budget forms, funding sources, detailed cost analysis and project cost estimate, letters of support, procurement documents, certification and assurances, project schedule

**C.2 Assemble Application Addendum:** J-U-B will assemble the necessary documents and provide presentation support for the application addendum. The addendum process typically includes:

- Submittal of additional information requested by the Idaho Department of Commerce – due Early March 2011
- A presentation to the Economic Advisory Council – Middle of April 2011

Phase 1 will be billed on a time and materials basis, not to exceed \$5,000. Attached is a J-U-B standard agreement for completion of Phase 1 for grant writing and project planning services.

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## Phase 2: Grant Administration

- A. Project Set-Up:** J-U-B will prepare written reports, checklists or legal notices to ensure compliance with state and federal environmental requirements. Idaho department of Commerce's concurrence and approval will be maintained throughout the project.
- B. Management Plan:** J-U-B will draft a management plan that includes file set up, financial management procedures, meeting requirements, planning sessions, responses to inquiries, and explanations of ICDBG requirements.
- C. Procurement and Construction:** J-U-B will ensure contractors are procured in accordance with ICDBG requirements; including participation in pre-bid, pre-construction and construction progress meetings, reviewing of bid documents; construction progress monitoring/reporting and construction close out. Ensure proper disbursement and documentation of ICDBG expenditures.
- D. Project Files and Maintenance:** Establish and maintain grant administration files, documentation and reports as needed.
- E. Budget Review:** Review all proposed project expenditures to ensure their propriety and proper allocation to the project budget.
- F. Pre-Construction Participation:** J-U-B will participate in the pre-construction conference and periodic construction progress meetings to assure ongoing compliance with grant requirements.
- G. Labor Monitoring:** As the City's designated Labor Standards Officer, J-U-B will ensure construction contractors are meeting the requirements of the Davis Bacon Act, Copeland Act, CWHSSA, and Fair Labor Standards Act. We will educate contractors about the labor requirements, providing labor documents and forms, identify appropriate wage determination, review and track payrolls, conduct labor interviews, identify and investigate errors, report and facilitate the correction of errors or problems, and complete labor reports.
- H. Civil Rights Compliance:** J-U-B will facilitate and complete the required Section 3 Reporting, Contractor/Sub-contractor Activity Report and open and fair bidding practices. The Uniform Relocation Assistance and Real Property Acquisition Policies Act, prepare Equal Employment Opportunity Plan and Fair Housing Resolution.
- I. City Council Involvement:** J-U-B will attend City Council meetings, provide project status reports, and represent the project at other public meetings as needed.
- J. 504 Analysis and Transition Plan:** J-U-B will assist the City of Hailey in conducting a self evaluation of its facilities and services in compliance with Section 504 of the Rehabilitation Act of 1973 and developing a transition plan.
- K. Project Close-Out:** J-U-B will prepare documentation that the City of Hailey has met their ICDBG national objective and contractual performance requirements, and ensure that all project and close-out documents are submitted and approved by IDCBG. Requested documents, findings and concerns will be addressed and resolved.

Phase 2 will be billed on a time and materials basis, not to exceed \$48,000.

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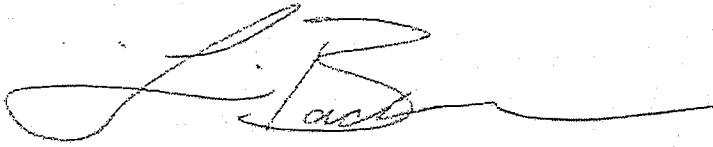


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INC.**  
a J-U-B Company



If you have any questions I can be reached at (208) 467-5252.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa M. Bachman', with a long horizontal flourish extending to the right.

Lisa M. Bachman, PCED  
Planner/Funding Specialist  
J-U-B ENGINEERS, Inc.

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Date: October 06, 2010  
 Downtown Revitalization / River Street Grant Writing & Project Planning  
 City of Hailey, Idaho  
 Phase 1 - Grant Writing

	PROJECT MANAGER	PLANNER/GRANT W.	PUBLIC INV.	CLERICAL		
	110.00	93.00	110.00	54.00		
<b>A. Design Workshops and Coordination Meetings</b>						
A1. Kick-off Meeting with Staff and Design Professional		0				
A2. Design Workshop Participation, Oct. 7th		2				
A3. City and Agency Coordination, attend one public hearing		8				
Total Hours	0	10	0	0	0	0
Subtotal	\$0	\$930	\$0	\$0	\$0	\$0
					Task	\$930
					Travel Task A	\$690
					<b>Total</b>	<b>\$1,620</b>

<b>B. Project Planning and Development</b>						
B1. Project Description and Community Information		1				
B.2 Budget		1				
B.3 Environmental Checklist		1		0		
B.4 Citizen Participation Plan		1				
B.5 Redevelopment Resolution Review and Coordination		1				
B.6 Fair Housing Resolution Preparation		1				
Total Hours	0	6	0	0	0	0
Subtotal	\$0	\$558	\$0	\$0	\$0	\$0
					Task	\$558
					Travel Task B	\$0
					<b>Total</b>	<b>\$558</b>

<b>C. ICDBG Application Preparation and Submittal</b>						
C1. Assemble & Submit Application		8			1	
C2. Assemble & Submit Application Addendum		6			1	
C.3 Assist with and Attend the Economic Advisory Council Presentation		6	4			
Total Hours	0	20	4	2	0	0
Subtotal	\$0	\$1,860	\$440	\$108	\$0	\$0
					Task	\$2,408
					Travel Task C	\$459
					<b>Total</b>	<b>\$2,867</b>

Travel and per diem summary	Miles	Cost/Mile	Per Diem	Days	# Persons	Total
A.1 - A.2 Kick-off Meeting & Workshop Participation	300	\$0.55	\$180	1	1	\$345
A3. City and Agency Coordination	300	\$0.55	\$180	1	1	\$345
C. ICDBG Application Preparation and Submittal	180	\$0.55	\$180	2	1	\$459
<b>Total Travel</b>						<b>\$1,149</b>

**Total Phase 1  
 (Labor + Travel): \$5,045**

Date: October 06, 2010  
 Downtown Revitalization / River Street Grant Administration  
 City of Hailey, Idaho  
**Phase 2 - Grant Administration**

	PROJECT MANAGER 93.00	GRANT ADMIN. 93.00	PUBLIC INV. 110.00	CLERICAL 54.00		
<b>A. Project Set-Up</b>						
Prepare written reports, checklists or legal notices - environmental	2	24		4		
Total Hours	2	24	0	4	0	0
Subtotal	\$186	\$2,232	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$2,634</b>
<b>B. Management Plan</b>						
Management plan: file set up, financial management procedures, meetings, planning sessions, responses to inquiries, & explanations of ICDBG requirements	2	20		2		
Total Hours	2	20	0	2	0	0
Subtotal	\$186	\$1,860	\$0	\$108	\$0	\$0
					<b>TOTAL</b>	<b>\$2,154</b>
<b>C. Procurement and Construction</b>						
Contractor procurement / ICDBG ; participate in pre-bid, pre-construction & construction progress meetings, review bid documents; construction progress monitoring/reporting & construction close-out; disbursement & documentation of ICDBG expenditures	2	48		6		
Total Hours	2	48	0	6	0	0
Subtotal	\$186	\$4,464	\$0	\$324	\$0	\$0
					<b>TOTAL</b>	<b>\$4,974</b>
<b>D. Project Files and Maintenance</b>						
Establish & maintain grant administration files, documentation & reports	2	14		2		
Total Hours	2	14	0	2	0	0
Subtotal	\$186	\$1,302	\$0	\$108	\$0	\$0
					<b>TOTAL</b>	<b>\$1,596</b>
<b>E. Budget Review</b>						
Review all proposed project expenditures to ensure their propriety & proper allocation to the project budget	2	48		4		
Total Hours	2	48	0	4	0	0
Subtotal	\$186	\$4,464	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$4,866</b>
<b>F. Pre-Construction Participation</b>						
Pre-construction conference & periodic construction progress meetings to assure ongoing compliance with grant requirements	4	36		4		
Total Hours	4	36	0	4	0	0
Subtotal	\$372	\$3,348	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$3,936</b>

<b>G. Labor Monitoring</b>							
Ensure construction contractors are meeting the requirements of the Davis Bacon Act, Copeland Act, CWHSSA, & Fair Labor Standards Act. Educate contractors about the labor requirements, provide labor documents & forms, identify appropriate wage determination, review & track payrolls, conduct labor interviews, identify & investigate errors, report & facilitate the correction of errors or problems, & complete labor reports	4	72		18			
	Total Hours	4	72	0	18	0	0
	Subtotal	\$372	\$6,696	\$0	\$972	\$0	\$0
					<b>TOTAL</b>	<b>\$8,040</b>	

<b>H. Civil Rights Compliance</b>							
Section 3 Reporting, contractor/sub-contractor activity report & open and fair bidding practices. Uniform Relocation Assistance/Real Property Acquisition Policies Act, prepare Equal Employment Opportunity Plan & Fair Housing Resolution	2	40		4			
	Total Hours	2	40	0	4	0	0
	Subtotal	\$186	\$3,720	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$4,122</b>	

<b>I. City Council Involvement</b>							
City Council meetings, provide project status reports, & represent the project at other public meetings	8	44		4			
	Total Hours	8	44	0	4	0	0
	Subtotal	\$744	\$4,092	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$5,052</b>	

<b>J. 504 Analysis and Transition Plan</b>							
Assist the City of Hailey in conducting a self evaluation of its facilities & services in compliance with Section 504 of the Rehabilitation Act of 1973 & developing a transition plan	2	30		4			
	Total Hours	2	30	0	4	0	0
	Subtotal	\$186	\$2,790	\$0	\$216	\$0	\$0
					<b>TOTAL</b>	<b>\$3,192</b>	

<b>K. Project Close-Out</b>							
Documentation that the City of Hailey has met their ICDBG national objective & contractual performance requirements, & ensure that all project and close-out documents are submitted & approved by IDCBG. Requested documents, findings & concerns will be addressed & resolved.	8	36		6			
	Total Hours	8	36	0	6	0	0
	Subtotal	\$744	\$3,348	\$0	\$324	\$0	\$0
					<b>TOTAL</b>	<b>\$4,416</b>	

**Total Labor \$44,982**

Travel and per diem summary	Miles	Cost/Mile	Per Diem	Days	# Persons	Total
8 trips from Nampa, ID to Hailey, ID @ 300 mi./trip	2,400	\$0.55	\$180	8	1	\$2,760
5 trips to IDOC @ 38 mi./trip	190	\$0.55	\$180	0	0	\$105

**Total Travel \$2,865**

<b>Total Phase 2 (Labor + Travel):</b>	<b>\$47,847</b>
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AGENDA ITEM SUMMARY

DATE: 11/29/10 DEPARTMENT: DEPT. HEAD SIGNATURE: Mary Cone

SUBJECT: Motion to ratify signature on J-U-B Engineers agreement for Woodside Reconstruction Project for a not to exceed amount \$178,234 and authorize the mayor to sign with approval from city attorney. (previously approved dollar amount in 10/11/10 meeting)

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS

Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_  
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	_____
___ Safety Committee	___ P & Z Commission	___ Police	_____
___ Streets	___ Public Works, Parks	___ Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to ratify mayor's signature after confirming city attorney review and approval.

FOLLOW-UP REMARKS:

\*



# J-U-B ENGINEERS, Inc. AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 83-10-043  
J-U-B Project Manager: Lori Labrum

This Agreement entered into and effective this 15 day of October 2010, between City of Hailey, Idaho at 115 Main Street South, Suite H, Hailey, Idaho 83333, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

### WITNESSETH:

WHEREAS the CLIENT intends to: Provide Preliminary Engineering Services for the Woodside Blvd Reconstruction Project hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

### MUTUAL RESPONSIBILITIES

This Agreement is based upon a mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, the CLIENT and J-U-B, with a positive commitment to honesty and integrity, agree that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the Agreement.

### CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, rules and laws which CLIENT or others will require to be included in the drawings and specifications upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment, 2) appropriate professional interpretations of all of the foregoing, 3) environmental assessment and impact statements, 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws, and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B: N/A

### PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

#### For the CLIENT:

1.	Name	<u>Tom Hellen</u>	Work telephone	<u>208-788-9830 x14</u>
	Address	<u>115 Main Street South, Suite H</u>	Home/cell phone	<u></u>
		<u>Hailey, Idaho 83333</u>	FAX telephone	<u>208-788-2924</u>
		<u></u>	E-mail address	<u>Tom.Hellen@haileycityhall.org</u>

#### For J-U-B:

1.	Name	<u>Lori Labrum</u>	Work telephone	<u>801-886-9052</u>
	Address	<u>2875 South Decker Lake Drive, Suite 575</u>	Cell phone	<u>801-214-4379</u>
		<u>Salt Lake City, Utah 84119</u>	FAX telephone	<u>801-886-9123</u>
		<u></u>	E-mail address	<u>LLabrum@jub.com</u>

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.

**SERVICES TO BE PERFORMED BY J-U-B ("Services")**

J-U-B will perform the Services described as follows (or as described in Attachment 1, if provided): Preliminary engineering services for the Woodside Blvd Reconstruction project in Hailey, Idaho. The project generally consists of: Developing 30% preliminary plans for the entire Woodside Blvd corridor, public involvement, topographic survey, and 50% preliminary design for a proposed roundabout at Fox Acres Road/Woodside Blvd intersection. See the attachment 1 for the Work Plan details.

J-U-B assumes no responsibility to perform work not listed as Services.

**SCHEDULE OF SERVICES TO BE PERFORMED**

J-U-B will perform said Services as follows (or as described in Attachment 1, if provided): Phase I scope of services to be completed by February 22, 2011.

This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

**BASIS OF FEE**

The CLIENT will pay J-U-B for their Services and reimbursable expenses as follows (or as described in Attachment 1, if provided): Time and Materials Not to Exceed \$178,234.

- Yes *Management Reserve Fund.* If "YES", the CLIENT will establish a management reserve fund of \$\_\_\_\_\_ to provide the CLIENT's Authorized Representative the flexibility of authorizing additional funds to the Agreement for allowable unforeseen costs or paying J-U-B for Additional Services beyond those defined in this Agreement.
- No
- Yes *Retainer.* If "YES", the CLIENT will pay J-U-B a retainer of \$\_\_\_\_\_ prior to the Notice to Proceed. The retainer will be applied to the final billing(s) at the completion of the Services rendered under the Agreement.
- No

Other work that J-U-B performs, which is not defined as Services at the request or acquiescence or knowledge of the CLIENT, is "Additional Services". Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis.

File Folder Title: Woodside Blvd Reconstruction - Preliminary Design Phase I

Remarks: \_\_\_\_\_

**The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

CLIENT:  
City of Hailey

NAME  
115 Main Street, Suite H

STREET  
Hailey, Idaho 83333

CITY / STATE / ZIP CODE

BY (Signature)  
Tom Hellen/Public Works Director

NAME / TITLE  
*Rick Davis*

BY (Signature)  
*Rick Davis / Mayor*  
ADDITIONAL NAME / TITLE

J-U-B ENGINEERS, Inc.:  
2875 South Decker Lake Drive, Suite 575

STREET  
Salt Lake City, Utah 84119

CITY / STATE / ZIP CODE  
*Chuck Larson*

BY (Signature)  
Chuck Larson/Vice President

NAME / TITLE

*Applicable Attachments or Exhibits to this Agreement are indicated as marked.*

- Attachment 1 – Scope of Services and/or Schedule and/or Basis of Fee
- Attachment 2 – Special Provisions
- Standard Exhibit A – Electronic Documents Reuse Provisions
- Standard Exhibit B – Construction Phase Services

DISTRIBUTION: Accounting; Project File; CLIENT

REV: 1/09

## GENERAL

J-U-B shall provide for the CLIENT the Services as set forth herein. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESSED OR IMPLIED ON BEHALF OF IT OR OTHERS.** The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations; and, J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and any contact or action of the CLIENT or others with third parties. CLIENT, therefore, indemnifies and holds J-U-B harmless from the actions and omissions of CLIENT and third parties involved in the Project.

J-U-B shall not be required to sign any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions whose existence J-U-B cannot ascertain. The CLIENT also agrees not to make resolution of any dispute with J-U-B or payment of any amount due to J-U-B in any way contingent upon J-U-B signing any such certification.

CLIENT acknowledges that in soil investigation work and in determining subsurface conditions for the Project, the characteristics may vary greatly between successive test points and sample intervals.

Resetting of survey and/or construction stakes shall constitute Additional Services.

Any sales tax or other tax on the Services rendered under this Agreement shall be paid by the CLIENT.

## REUSE OF DOCUMENTS

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B. All printed materials, any magnetic media, or other communication or information formats ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project and shall remain the property of J-U-B whether or not the Project is completed. Although CLIENT may make and retain copies of Documents for information and reference in connection with use on the Project by CLIENT, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused without J-U-B's written consent. Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall indemnify and hold J-U-B harmless from any claims, damages, losses and expenses arising out of or resulting from such reuse. Files in electronic media format of text, data, graphics, or of other types that are otherwise furnished by J-U-B to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

If submittal of electronic files are included as part of the Project, the requirements of **Standard Exhibit A – Electronic Documents Reuse Provisions** apply to this Agreement.

## CONSTRUCTION PHASE SERVICES

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give J-U-B control over contractor(s) work; nor, shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s) furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

If Construction Phase Services are included as part of the Project, the requirements of **Standard Exhibit B – Construction Phase Services** apply to this Agreement.

## OPINIONS OF COST

Since J-U-B has no control over the cost of labor, materials, equipment or Services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, J-U-B's opinions of probable total Project costs and construction, if any, are to be made on the basis of J-U-B's experience and qualifications, and represent J-U-B's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but J-U-B cannot and does not guarantee that proposals, bids or actual total Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. If the CLIENT wishes assurance as to total Project or construction costs, CLIENT shall employ an independent cost estimator. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT.

## TIMES OF PAYMENTS

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day. If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

## TERMINATION

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. If the Agreement is terminated by the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid, in addition to any other remedies at law or equity, an allowance as determined by J-U-B,



including but not limited to: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, obtaining and engaging in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

#### **RISK ALLOCATION**

The CLIENT is aware of the risks, rewards, and benefits of the Project and J-U-B's Basis of Fee for Services. The risks are hereby allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the total combined liability of J-U-B, its officers, employees, successors, partners, heirs and assigns to the CLIENT, for professional errors or omissions, directly or through third parties, for all injuries, claims, expenses, costs, fees, and legal fees, damages or claims of expenses arising out of this Agreement from any cause, shall not exceed the amount of J-U-B's fees paid on this Agreement. Such causes include, but are not limited to, J-U-B's negligence, errors, omissions, strict liability, and breach of this Agreement. In no event shall J-U-B be liable for any incidental, indirect or consequential damages.

J-U-B's liability for any cause or claim other than for professional errors or omissions, including, but not limited to, negligence, strict liability, or breach of contract or warranty, express or implied, shall not exceed the total insurance proceeds (excluding fees, costs and expenses of investigation, claims adjustment, defense and appeal) paid on behalf of or to J-U-B by J-U-B's insurers in settlement or satisfaction of such causes or claim under the terms and conditions of J-U-B's insurance policies applicable thereto.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation. To the extent allowed by law, CLIENT may not recover for economic loss from J-U-B through third parties.

#### **HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS**

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project Site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

#### **RIGHT OF ENTRY**

The CLIENT shall provide for J-U-B's right to enter the property owned by the CLIENT and others in order for J-U-B to fulfill the Services to be performed hereunder. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from procedures associated with testing or investigative activities or connected in any way with the Project, Services, or discovery of hazardous materials or suspected hazardous materials on the property.

#### **MEDIATION BEFORE LITIGATION**

In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the CLIENT and J-U-B agree that all disputes between them arising out of or relating to this Agreement, the Project, or the Services, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation as a condition precedent to litigation unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors and consultants on the Project, and also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among the parties to all those agreements.

#### **LEGAL FEES**

In the event of any action brought by J-U-B to enforce the payment provisions of the Agreement, the prevailing party shall be entitled to such reasonable amounts for fees, costs and expenses including attorney's fees as may be set by a court.

#### **SURVIVAL**

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

#### **EXTENT OF AGREEMENT**

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

#### **SUCCESSORS AND ASSIGNS**

CLIENT and J-U-B and their partners, successors to this Agreement, executors, administrators and legal representatives of such other party, each is hereby bound in respect to all the covenants, agreements and obligations of this Agreement. Neither CLIENT nor J-U-B may assign, sublet, or transfer any rights under or interest (including, without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against J-U-B. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

#### **CONTROLLING LAW, JURISDICTION, AND VENUE**

This Agreement is to be governed by the laws of the state in which the Project is primarily located. Any action or proceeding arising from or in connection with this Agreement shall be subject to the exclusive jurisdiction of said state.



J-U-B ENGINEERS, Inc.  
ENGINEERS • SURVEYORS • PLANNERS

J-U-B ENGINEERS, Inc.  
AGREEMENT FOR PROFESSIONAL SERVICES

**Attachment 1 – Scope of Services and / or Schedule and / or Basis of Fee**

The Agreement for Professional Services is amended and supplemented to include the following provisions regarding the Scope of Services, and/or Schedule of Services, and/or the Basis of Fee:

For the purposes of this attachment, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

**SCOPE OF SERVICES**

J-U-B's Services under this Agreement are limited to the following:

Preliminary Engineering Services for the Woodside Blvd Reconstruction Project. See attached Executive Summary of Work Plan for details.

**SCHEDULE OF SERVICES**

Predicated upon timely receipt of CLIENT-provided information, typical review periods, and active direction during work, J-U-B anticipates the following schedule for the Services listed:

Completion on or before February 22, 2011

**BASIS OF FEE**

J-U-B's Basis of Fee for the Services listed in the Agreement is as follows:

Time and Materials Not to Exceed \$178,234.00. See attached Cost Estimate dated 10/8/2010.



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City of Hailey Project Manager: Tom Hellen  
J-U-B Project Manager: Lori Labrum  
Project #: 83-10-043  
Project Name: Woodside Blvd Reconstruction Project  
Project Location: Hailey, Idaho  
Project Description: Intersection Improvement Project  
Agency: City of Hailey  
Date: October 8, 2010

## EXECUTIVE SUMMARY

J-U-B ENGINEERS, Inc. (J-U-B) has been selected by the City of Hailey to perform Engineering Services for the Woodside Blvd Reconstruction project in Hailey, Idaho.

The tasks outlined in this scope of services focus on "Phase 1" design services, which generally include:

- Development of "30% preliminary plans" for the entire corridor including preliminary evaluation of drainage issues, potential utility relocations, roadway capacity analysis and "complete streets" evaluation
- Completion of public involvement
- Topographic surveying for the entire corridor
- 50% preliminary design plans for a proposed roundabout at Fox Acres Road/Woodside Boulevard Intersection

Consultant Team: J-U-B will act as Lead Consultant and Project Administrator, and will use the following Sub-consultants:

- The Langdon Group will perform public involvement;
- Benchmark Associates will perform the surveying;
- Butler Associates will prepare the geotechnical design;
- L2 Data Collection will collect existing traffic data.

### **Project Unknowns**

Project unknowns at this time include:

- Subsurface Utility Exploration is not included in the work plan. For the purposes of preliminary design, as-built drawings provided by the City and utility companies within the corridor will be used. Additional sub-surface investigation may be required as a part of Phase II design efforts and will be negotiated at that time.

## PHASE “1” WORK PLAN

The following task items are anticipated and proposed to be completed for Phase “1” design scope of services.

### **1. Kick-off Meeting / Initial Site Walk Through**

The kick-off meeting is an important initial step in this project to help ensure all parties have an understanding of the project goals, issues, and concerns prior to embarking on design efforts.

J-U-B will facilitate an initial kick-off meeting with the City of Hailey to identify design features that need to be evaluated / included to successfully complete the project. This meeting will focus on discussing in detail the goals and issues associated with the project, reviewing previously completed studies and engineering efforts in the corridor, obtaining as-built drawings from the City, discussing lines of communication, as well as identifying other pertinent issues associated with this project. The intent of this meeting is to review the project scope, schedule and budget and develop consensus from all team members.

Following the kick-off meeting, team members from J-U-B and key staff personnel from the City will walk the project to further identify potential issues in the field and discuss concerns or past issues the City may have within the corridor. These issues are anticipated to include drainage, impacts to adjacent properties, utilities, etc.

J-U-B will prepare for, invite attendees, conduct, and document the meeting. J-U-B will deliver a preliminary schedule, phasing, budget (from the Tiger Grant Application) and concept plan to attendees before the meeting. It is anticipated that an internal team partnering process will be included in the meeting agenda. A scroll plot with the aerial shown will be provided for the meeting.

Following the meeting, J-U-B will prepare a technical memorandum summarizing discussions and findings from the meeting and distribute to all team members.

### **2. Preliminary Geotechnical Investigation**

Butler Associates will perform the geotechnical soils investigation, soil testing, preparation of pavement design, and preparation of a Pavement Conditions Report. J-U-B will coordinate with Butler and provide assistance with traffic counts and other project information needed to complete the pavement design and evaluation. See the Butler Associates Work Plan (attached) for further detail.



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Butler will prepare a Pavement Conditions Report included in the Geotechnical Engineering Report which will include a pavement conditions, pavement design and typical section.

Deliverables:

- Geotechnical Engineering Report

### 3. Develop Base Mapping/Existing Surface

Benchmark will conduct a field survey and topography base mapping of Woodside Blvd from Fox Acres Road south approximately 2.5 miles to SH 75. The mapping will continue on Fox Acres; 200 feet West of Woodside Blvd and 200 feet East of Woodside Blvd and continue on SH 75; 600 feet north of Woodside Blvd and 600 feet south of Woodside Blvd. The following elements will be located within the existing right-of-way:

- Roadway cross sections every 50 feet, including centerline, edge of travel lane, edge of pavement, curb, gutter and sidewalk, bike path, top and toe of slope, ditches, etc.;
- All visible utilities and utilities identified from Digline markings;
- All trees larger than 6 inch diameter trunk size;
- All signs;
- All Driveways and other road intersections;
- Any other significant improvements within said right-of-way areas;
- Centerline and paint lines on SH 75.

Benchmark will provide final drawing of the mapping area in AutoCAD format to include:

- One foot contour interval map;
- All improvements located during the survey;
- Existing Right-of-way lines;
- Ascii File of Spot elevations taken on the pavement of SH 75, Fox Acres Road and Woodside Blvd;
- Overlay all mapping onto September, f2009 0.5' pixel digital orthophotography.

Benchmark will coordinate with Digline to mark the horizontal location of existing utilities. Benchmark will survey the horizontal location of the utilities and create an existing utilities map. Existing utilities identified from as-built and field topographic survey will be included in the project base map. See the Benchmark Work Plan (Attached).

Deliverables:

- Develop Base Maps for Preliminary Design



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- Data will be incorporated into plan sheets and DTM surface

#### **4. Obtain Preliminary Utility Information and Mapping**

J-U-B will provide utility companies with formal notification of the project, including authorization to make design engineering expenditures. J-U-B will also request that utility companies provide the City of Hailey with current plans of their facilities located within the proposed project limits. J-U-B will perform a quality review of the information obtained from the utility companies.

Deliverables:

- Copies of the Utility Submittal Letters
- Copies of information and documents received from utilities

#### **5. Develop Initial Public Involvement Plan**

The Langdon Group will prepare a draft Public Involvement (PI) Plan that will identify potential stakeholder groups and develop preliminary plans for the PI activities. The draft plan will be reviewed with city staff for concurrence as well as to verify if all initial stakeholders that should be included in the process have been identified.

Deliverables:

- PI Activities Schedule
- Stakeholder Database
- Media Outreach Plan
- Initial List of Stakeholder Groups
- Initial Plan for PI Activities

#### **6. Conduct Stakeholder Meetings / Interviews**

Following approval of the public involvement plan from the City, The Langdon Group will meet and conduct interviews with key stakeholders to develop an understanding of issues and challenges associated with the project. This scope assumes a total of three stakeholder meetings. The goal of this scope item is to actively engage the stakeholders early in the process prior to initiating preliminary design activities. The Langdon Group will prepare maps showing the limits of the project to help promote discussion with the stakeholders.

All meetings will be documented and summarized for inclusion in the project file and environmental clearance documentation. It is anticipated that the following stakeholders will be interviewed during this process:

- Woodside Elementary Administration
- Wood River High School Administration
- Blaine County School District Staff
- Blaine County Recreation District
- Idaho Health and Welfare



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- Head Start
- Wood River Technical Academy
- La Alianza
- Silver Creek Alternative School
- Wood River Trails Committee
- Hailey Parks and Trails Committee
- Mountain Rides
- Valley of Peace Lutheran Church
- College of Southern Idaho - Blaine County Campus
- Blaine County Aquatic Center
- Area Businesses including: Power Engineers, Tune-Up Express, Platt Electric Supply, Southwood Self Storage, Trinh Nail Salon, Building Material Thrift.

**Deliverables:**

- Display maps showing the limits of the project

**7. Analyze / Assess Existing Hydraulic Conditions**

Drainage patterns and hydraulics along Woodside Boulevard will be evaluated early on to identify potential problem areas. Information from the kick-off meeting site visit pertaining to drainage / hydraulics will be reviewed to identify potential drainage design improvements and or issues related to potential roadway improvements. Drainage design criteria for the project will be developed and reviewed with the City. A memorandum will be completed and submitted to the City summarizing the field findings and recommendations for storm drainage design criteria and a summary of potential drainage issues. Information contained in this memorandum will be used for final drainage design activities.

J-U-B will develop a preliminary layout for the drainage design for the full corridor length, including dry wells, pipe culverts, etc. New storm drain facilities will be sized to account for the increased width along Woodside, and to eliminate problem areas that have the potential to create standing or frozen water.

Drainage computations will be completed in accordance with City of Hailey roadway development guidelines. An initial drainage design concept summary, initial drainage design, Preliminary drainage estimate will be included in the preliminary design report summary submitted to the City.

**Assumptions:**

- No existing storm drain system exists within the project area
- Storage capacity will be provided through underground dry well storage facilities

**Deliverables:**



- Preliminary Drainage Design Concept Summary
- Drainage computations in accordance with City of Hailey roadway development guidelines
- Preliminary drainage estimate included in the Engineer's Estimate

## 8. Assess Multi-Modal Needs

J-U-B will review the bicycle, pedestrian and transit accommodation plans for the project area. J-U-B will review the Complete Streets Plan from the City of Hailey and will coordinate with and review the Mountain Rides and La Alianza bus service plans for Woodside Blvd.

Input obtained from the stakeholder interviews and discussions with adjacent residents will also be reviewed as a part of this task to truly understand the multi-modal goals and needs that need to be accomplished with the design.

A written evaluation summarizing Bicycle and Pedestrian Accommodations, and strategy to Accommodate Multi-Modal Needs will be prepared and included in the preliminary design report.

Deliverables:

- Bicycle, Pedestrian and Transit Evaluation/Strategy

## 9. Assess Roadway Capacity and Safety

J-U-B will obtain existing traffic volumes, forecast future volumes (from the City), crash data, and other studies (if available) pertaining to traffic / safety data within the corridor. J-U-B will develop or review alternatives to accommodate existing, incremental, and future traffic volumes.

Preliminary recommendations on specific design features (i.e. turn lanes, roundabout geometry and intersection queue storage) will be developed as a part of this task. In addition, J-U-B will provide a preliminary traffic analysis outlining specific recommendations for improving existing capacity at the intersection of Fox Acres Road/Woodside Blvd.

A report summarizing these findings will be submitted to the City for review and comment. After review by the City of Hailey, J-U-B will address comments on the Preliminary Capacity Summary and provide a Final Traffic Analysis Report to be included in the preliminary design report.

Deliverables:

- Preliminary Capacity Summary Report

## 10. Preliminary Intersection Evaluations

*Fox Acres Road/Woodside Boulevard* - This intersection has been identified for a potential roundabout location. As a part of this task, J-U-B will create and calibrate a





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baseline intersection model that will be used to evaluate intersection alternatives including traffic signal, stop control and a roundabout configuration.

This evaluation will include preliminary geometric layouts that will identify potential impacts from each improvement alternative (i.e. impacts to adjacent residential properties, the bike path, etc.). Traffic queues will be evaluated to ensure that eastbound Fox Acres Road traffic will not back to SH-75 intersection. The roundabout capacity and operational analysis will be completed with both SIDRA and RODEL roundabout software packages.

Preliminary lane configurations will be developed for the intersection based on the capacity analysis. A summary of the roundabout geometric requirements, capacity analysis, and selection criteria will be completed and submitted to the City as a part of the preliminary design package.

The remaining intersections within the project corridor will be evaluated based on existing traffic counts provided by the city. Sight distance triangles will be reviewed and modifications included in the preliminary design plans as necessary.

Deliverables:

- SIDRA and RODEL roundabout analysis data
- Summary of the roundabout geometric requirements, capacity analysis, and selection criteria

#### **11. Develop Preliminary Roadway Geometry and Preliminary Roadway Plans**

Based on input received from the City and key stakeholders, in addition to the field evaluation and preliminary utility and drainage design, J-U-B will develop the preliminary roadway horizontal and vertical alignment and the typically roadway sections. The preliminary design will be completed in accordance with City of Hailey Standards, the AASHTO Green Book, Complete Street recommendations and guidelines, and MUTCD requirements.

The preliminary roadway design will be modeled to create a design surface which J-U-B will use to check for design conflicts, and verify that the new improvements tie-in to the existing features while meeting the intent of the City's goals for the project. J-U-B will evaluate connections to existing driveways and identify sight distance requirements for intersections and driveways in accordance with published standards.

It is assumed that if any retaining walls are required they will be four feet or less in height and will not require a geotechnical soil investigation or a structural design for an MSE wall. J-U-B will perform quality control review of the roadway design, model, PDC and estimate.

Assumptions:

- Retaining walls will be four feet or less.



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**Deliverables:**

Plan & Profile Sheets, (1"=20' scale) for the entire corridor to identify the limits of roadway construction and potential additional right of way requirements

**Preliminary Design Plan Sheet Estimate**

- 1 - Title Sheet
- 1 - Total Ownership Map
- 1 - Typical Sections
- 24 - Plan & Profile Sheets
- 2 - Intersection Plan Sheets
  - Woodside/Fox Acres Road
  - Woodside/SH-75
- 12 - Cross Section Sheets
- 41 - Total Sheets

**12. Develop Preliminary Construction Cost Estimate**

A preliminary estimated opinion of probable construction cost will be developed based on quantities developed throughout preliminary design. The cost estimate will be based on the full length of roadway and include contingencies associated with a 30% level of plans. A summary of the preliminary cost estimate will be submitted to the City for review as a part of the 30% design review meeting.

**Assumptions:**

- Engineers Estimate will be derived from 30% level design information for Woodside Boulevard and 50% at the intersection of Fox Acres and Woodside.

**Deliverables:**

- Engineer's Estimate

**13. Preliminary Geometry Review Meeting 30% Plans**

J-U-B will prepare for, invite attendees, conduct and document the meeting to review the preliminary design plans. J-U-B will deliver a preliminary schedule, engineer's estimate and initial geometry layout to attendees before the meeting. J-U-B will document comments from the project team, city staff, and pertinent regulatory agencies (as applicable) and will prepare comment resolution forms to track comment resolutions. This meeting will include reviews to determine consistency, accuracy, and constructability within the project scope and to discuss available funding. The design review will be completed on a scroll plot.

**Deliverables:**

- Preliminary Schedule
- Comment Resolution Forms



- Preliminary 30% Scroll Plot

#### **14. Develop Graphics for Citizen Information Meetings**

Following the City's review of the 30% preliminary design, J-U-B and The Langdon Group will develop graphics for a citizen's advisory meeting to present the initial design concepts for the corridor. The graphics are anticipated to include large scale plots of the corridor, identification of existing property owners and right of way, larger scale views of intersection improvements (including the potential roundabout), graphical cross sections of the roadway, etc. The intent of the graphics is to allow the public to understand potential improvements and generate input from the public for the project.

Deliverables:

- Large Scale Roll Plot
- Graphical Cross Section Displays
- Intersection View (Roundabout)

#### **15. Conduct Citizen Information Meetings**

Following completion of the initial stakeholder interviews, The Langdon Group will conduct a citizen information meeting to provide the public with an opportunity to provide additional input on the project, and to discuss project concept plans and exhibits. The location and time of the meeting will be coordinated with the City and The Langdon Group will coordinate the logistics for the meeting. The Langdon Group will coordinate advertisement and/or legal notice for opportunity for citizen information meeting and will prepare all Meeting Materials and Displays. A summary of citizen comments will be developed on submitted to the design team and City for inclusion in the preliminary design report.

Assumptions:

- A total of two (2) citizen information meetings are anticipated for preliminary design

Deliverables:

- Coordinate the Advertisement and/or Legal Notice for Citizen Information Meetings
- Conduct Citizen Information Meetings
- Provide a Summary of Citizen Comments

#### **16. Evaluate Additional Funding Alternatives**

J-U-B's funding specialist will meet with the design team to review the project's preliminary design and discuss potential additional funding alternatives for the project. A funding strategy matrix will be developed summarizing relevant funding sources, conditions for obtaining funding, timelines / deadlines for grant submissions, and other pertinent information to allow the City to review alternative funding



opportunities. A copy of the funding strategy matrix and support documentation will be included in the preliminary design report.

Deliverables:

- Funding Strategy Matrix

#### **17. Prepare Preliminary Design Report**

A preliminary design report will be developed summarizing the preliminary design activities and recommendations. Design evaluation criteria, public involvement, utility coordination, summaries of environmental issues, drainage computations / recommendations, updated construction cost estimate, comments and resolutions from the preliminary design review, and other pertinent design features will be summarized in a technical memorandum for presentation to the City and City Council.

Deliverables:

- Preliminary Design Report

#### **18. Attend City Council Meeting**

J-U-B's project manager will attend the City Council meeting to present the findings of the preliminary design activities for the project and to review pertinent information contained within the preliminary design report. Potential funding alternatives for future improvements will be discussed as well as any design issues or concerns that were generated as a part of the preliminary design process and public involvement.

Deliverables:

- Preliminary Design Documentation for Phase 1
- Presentation to City Council

#### **19. Progress Meetings**

A bi-weekly telephone conference between the City Engineer, JUB Project Manager and Project Engineer will be held. At these meetings, project issues will be discussed and action plans determined. Updates from key team members will be presented. Minutes of these meetings will be recorded and stored in the project files. Action items will be tracked from meeting to meeting. Budget and schedule updates will be addressed once a month.

Deliverables:

Meeting minutes will be distributed via e-mail to team members within three days

J-U-B ENGINEERS, Inc.  
AGREEMENT FOR PROFESSIONAL SERVICES

**Attachment 2 – Special Provisions**

The TERMS AND CONDITIONS of the Agreement for Professional Services are amended to include the following Special Provisions:

For the purposes of this attachment, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

**SPECIAL PROVISIONS**

1. Delete paragraph 2 under RISK ALLOCATION page 4 of 4 on Agreement for Professional Services.

2. Replace "J-U-B's fees paid on this Agreement." in second sentence of paragraph 1, page 4 of 4, under RISK ALLOCATION, and replace with \$1,000,000.

3. Delete "LEGAL FEE" paragraph on page 4 of 4 and replace with the following:  
ATTORNEY'S FEES.

If a suit, action, or other proceeding arising out of or related to this Agreement is instituted by any party to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, expert witness fees, and costs (i) incurred in any settlement negotiations, (ii) incurred in preparing for, prosecuting or defending any suit, action, or other proceeding, and (iii) incurred in preparing for, prosecuting or defending any appeal of any suit, action, or other proceeding. For the purpose of this section, "attorney fees" shall mean and include (i) attorney fees and (ii) paralegal fees. This section shall survive and remain enforceable notwithstanding any rescission of this Agreement or a determination by a court of competent jurisdiction that all or any portion of the remainder of this Agreement is void, illegal, or against public policy.



J-U-B ENGINEERS, Inc.  
AGREEMENT FOR PROFESSIONAL SERVICES

Standard Exhibit A – Electronic Documents Reuse Provisions

The Agreement for Professional Services is amended and supplemented to include the following agreement of the parties with respect to electronic documents reuse.

For the purposes of this exhibit, 'Agreement for Professional Services' and 'the Agreement' shall refer to the document entitled 'Agreement for Professional Services,' executed between J-U-B and CLIENT to which this exhibit and any other exhibits have been attached.

For the purposes of this exhibit, 'Media' are the instruments on which Electronic Documents are stored and transferred.

For the purposes of this exhibit, 'Electronic Documents' are files in electronic format including text, data, graphics, or other types of electronic information provided as part of the Agreement.

ELECTRONIC DOCUMENTS DESCRIPTION

The following Electronic Documents will be delivered to the CLIENT as instruments of service under the Agreement:

Project Name and J-U-B Project Number: Woodside Blvd Reconstruction Project - 83-10-043  
Electronic Document(s) Description: Documents, Reports, Preliminary Drawings  
File Type (pdf, jpg, doc, xls, dwg, etc.): pdf, jpg, doc, xls, dgn  
Media (cd, email, web, etc.): cd, email, web

REUSE PROVISIONS

1. *Reuse License.* CLIENT acknowledges and agrees that J-U-B owns all rights, title and interest in the information in the Media (except to the extent that third party ownership is identified), and all proprietary and intellectual rights in and to such information, including without limitation, copyright and trade secret rights. J-U-B grants to CLIENT a nonexclusive, non-transferable license to use Media in compliance with the terms and conditions of this Agreement. Further, CLIENT is not granted any rights in connection with any trademarks or service marks of J-U-B, any of its suppliers, or any third parties whose components are offered in conjunction with or as a component of the Media.
2. *Reuse Restrictions.* This license and use of the Media is restricted to the original site and Project for which it was originally prepared, and shall not be used for other projects or sites, nor shall it be transferred or conveyed to any other party for any use whatsoever without the prior written consent of J-U-B. Except for intended use on the Project, the CLIENT has no right to use, disclose, modify, transfer, sublicense or otherwise distribute the media, and shall use every reasonable effort to maintain the same as confidential. Reuse or reproduction of the Media for any purpose not originally intended by J-U-B, or reuse by an entity not a party to this agreement is prohibited.

If Documents include files to be used in the CLIENT's Geographic Information System (GIS), J-U-B grants the right to the CLIENT to allow third-party access to the data for purposes of GIS system operations and maintenance as well as review by the public as allowed in the CLIENT's GIS program.

3. *Reuse Limitations.* CLIENT acknowledges that electronically stored information may not be compatible with their own computer system and may be subject to translation errors or undetectable alteration or deterioration. Because the Media is in electronic format, significant difference may exist between the Media and corresponding hard copy contract documents. J-U-B makes no representation regarding the accuracy or completeness of the Media. If, for any reason, a conflict occurs between the Media and stamped, signed documents, or contract documents, the stamped, signed documents, or contract documents, shall govern.

If Documents include files to be used in the CLIENT's GIS, the accuracy of said GIS files is limited to the accuracy and tolerances of the data used to create said files and information provided by others. The GIS data, therefore, shall not be considered an accurate representation of actual field conditions for many purposes including, but not limited to, planning, design, construction, or system operation.

J-U-B SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT THE MEDIA WILL BE UNINTERRUPTED OR ERROR FREE.

4. *Release of Liability / Indemnification.* Neither J-U-B nor its agents shall be liable for any damages arising out of the use or misuse of the Media, nor for any claim of any kind or nature, including J-U-B's negligence, arising out of or in any way related to the use or misuse of the Media, whether such claim is based in contract, negligence or otherwise. Further, CLIENT hereby releases and shall, to the fullest extent permitted by law, defend, indemnify and hold J-U-B harmless from any and all claims, damages, losses and expenses ("claims") including attorney fees, arising out of or resulting from the use or misuse of the Media, including but not limited to, claims involving the completeness of accuracy of the Media.

J-U-B SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES WHATSOEVER THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION OR TRANSMISSION, ANY ELECTRONIC "VIRUS," "ADWARE" OR "MALWARE" OR ANY FAILURE OF PERFORMANCE RESULTANT FROM USE OF THE MEDIA.

5. *Relationship.* Nothing herein creates a partnership, joint venture, contractual privity, or a third-party contractual beneficiary relationship between J-U-B and the CLIENT.
6. *Assignment.* This Agreement is not assignable or transferable by CLIENT and any attempted assignment or transfer shall be null and void and of no force or effect.

