

**CITY OF HILDALE PROFESSIONAL SERVICES AGREEMENT
FOR SERVICES WITH CAMPBELL ARCHITECTURE, LLC, a subsidiary of
JONES & DEMILLE ENGINEERING, INC.**

This Agreement is made and entered into this 2nd day of July, 2024, by and between the City of Hildale, a municipal corporation, with offices at 320 Newell Ave., Hildale, Utah 84784 (hereinafter called the “CITY”), and Campbell Architecture, LLC, a subsidiary of Jones & DeMille Engineering, Inc., with offices at 1535 South 100 West, Richfield, Utah 84701 (hereinafter called “ARCHITECT”).

WITNESSETH THAT:

WHEREAS CITY desires professional services to be performed and has solicited ARCHITECT to provide general engineering services on Hildale City ▪ Maxwell Park Renovation and Improvements (2404-011) (hereinafter called the PROJECT); and

WHEREAS, ARCHITECT has submitted a proposal, which outlines the general scope of services to be provided and the hourly rate for the PROJECT; and

WHEREAS CITY selected ARCHITECT to perform the services for the PROJECT;

NOW, THEREFORE, for the consideration hereinafter set forth, the parties hereto do mutually agree as follows:

1. **ENGAGEMENT OF ARCHITECT.**

- 1.1 ARCHITECT is a professional licensed by the State of Utah and the City of Hildale. ARCHITECT has all licenses, permits, and approvals that are legally required for ARCHITECT to practice its profession and shall keep them in effect at all times during the term of this Agreement.
- 1.2 ARCHITECT states that it has the necessary knowledge, experience, abilities, skills, and resources to perform its obligations under this Agreement and agrees to perform its obligations under this Agreement in a professional manner, consistent with prevailing industry standards and practices as observed by competent practitioners of the profession in which ARCHITECT and its Consultants or agents are engaged.
- 1.3 ARCHITECT certifies that it does not and will not during the performance of this contract knowingly employ, or subcontract with any entity which employs workers in violation of 8 USC §1324(a). ARCHITECT agrees to require all Consultants at the time they are hired for this project to sign a Certification of Legal Work Status

and submit the Certification to THE CITY OF HILDALE prior to any work being performed by the Consultants. ARCHITECT agrees to produce, at CITY OF HILDALE'S request, documents to verify compliance with applicable State and Federal laws. If ARCHITECT knowingly employs workers or Consultants in violation of 8 USC § 1324(a), such violation shall be cause for unilateral cancellation of the contract between ARCHITECT and CITY OF HILDALE. In addition, ARCHITECT may be suspended from participating in future projects with CITY OF HILDALE for a period of one (1) year. In the event this contract is terminated due to a violation of 8 USC § 1324(a) by ARCHITECT or a subcontractor of ARCHITECT, ARCHITECT shall be liable for any and all costs associated with such termination, including, but not limited to, any damages incurred by CITY OF HILDALE as well as attorney fees. For purposes of compliance, CITY OF HILDALE requires ARCHITECT and Consultants to use E-Verify or other federally accepted forms of verification to verify the employment eligibility of all employees as allowed by law and the E-Verify procedures. ARCHITECT and Consultants must maintain authorized documentation of the verification.

- 1.4 ARCHITECT shall not, either during or after the term of this Agreement, make public any reports or articles, or disclose to any third party any confidential information relative to the work of City of Hildale or the operations or procedures of CITY OF HILDALE without the prior written consent of CITY OF HILDALE, or unless under legal obligations through a court order from the state of Utah or federal government
- 1.5 ARCHITECT further agrees that it shall not, during the term of this Agreement, take any action that would affect the appearance of impartiality or professionalism.
- 1.6 ARCHITECT, by execution of this Agreement, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability, or marital status in its employment practices.
- 1.7 ARCHITECT expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve ARCHITECT from any obligation to comply with all applicable requirements of CITY OF HILDALE during the term of this Agreement including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies, and procedures of CITY OF HILDALE, except as modified or waived in this Agreement.
- 1.8 ARCHITECT shall comply with all applicable federal, state, and local laws, regulations, and ordinances that affect those employees or those engaged by ARCHITECT on the PROJECT, and will procure all necessary licenses, permits and insurance required.
- 1.9 CITY OF HILDALE acknowledges that ARCHITECT may employ various specialized Consultants for up to 15% of the services provided herein.

ARCHITECT shall give written notice to CITY OF HILDALE at least seven (7) days prior to ARCHITECT'S employment of the Consultants to perform portions of the work provided for in this Agreement. It shall be solely ARCHITECT's responsibility to ensure that any of ARCHITECT'S Consultants perform in compliance with the terms of this Agreement. Consultants may not be changed without ten (10) days prior written notice to CITY OF HILDALE.

2. **PROJECT SERVICES DESCRIPTION.**

- 2.1 CITY OF HILDALE makes no guarantee as to the total volume of work, if any, that will be needed under this Agreement. ARCHITECT will provide the services on an as needed basis as described in the attached Scope of Work (**Exhibit A**) which is made a part of this Agreement by this reference. As services are needed, CITY OF HILDALE shall provide ARCHITECT with a description of the work needed which shall be known as a "Work Order" and ARCHITECT will provide CITY OF HILDALE with a specific scope of work and cost for the Work Order, which if accepted by the CITY OF HILDALE shall become part of this Agreement binding both parties. CITY OF HILDALE may at any time, as the need arises, order changes within the scope of the services without invalidating the Agreement. If such changes increase or decrease the amount due under the Agreement, or in the time required for performance of the work, an equitable adjustment shall be authorized by change order.
- 2.2 ARCHITECT shall furnish all the material, supplies, tools, transportation, equipment, labor, subcontractor services and other services necessary for the completion of the work described in **Exhibit A** or in subsequent Work Orders.
- 2.3 ARCHITECT shall provide services in compliance with all applicable requirements of federal, state, and local laws, codes, rules, regulations, ordinances, and standards.

3. **TERM OF AGREEMENT.**

- 3.1 This Agreement shall be effective as of the date executed by all parties and shall continue for one year unless otherwise terminated as set forth in this Agreement. If a Work Order was started during this term but not completed, the terms of this Agreement shall continue through completion of the Work Order.
- 3.2 ARCHITECT agrees to perform services as expeditiously as is consistent with professional skill and care and the orderly progress of the PROJECT. ARCHITECT shall perform the services in a timely manner according to the schedule approved by CITY OF HILDALE.
- 3.3 ARCHITECT shall perform its services upon notice from CITY OF HILDALE to proceed and in accordance with the schedule approved by CITY OF HILDALE. In the event performance of its services is delayed by causes beyond the reasonable control of ARCHITECT, and without the fault or negligence of ARCHITECT, the

time for the performance of the services shall be equitably adjusted by written amendment to reflect the extent of such delay. ARCHITECT shall provide CITY OF HILDALE with written notice of delay, including a description of the delay and the steps contemplated or taken by ARCHITECT to mitigate the effect of such delay.

4. **COMPENSATION.** For the performance of the services and completion of PROJECT set forth herein, CITY OF HILDALE shall pay ARCHITECT as agreed in Exhibit “A” and each Work Order. The aggregate total of all Work Orders shall not exceed **one-hundred thousand dollars and no cents, (\$100,000).**

5. **INVOICING, PAYMENT, NOTICES.**

- 5.1 ARCHITECT shall submit invoices, no more frequently than monthly, for the services rendered during the preceding period; invoices shall describe the services performed, list all Consultants used and the amount owed or paid to them, list all suppliers used and the amount owed or paid to them, list the contract amount, list the current invoice amount based on percentage of task complete, list the previous invoice amount, list total invoices to date, and list the contract balance.
- 5.2 In executing the request for payment, ARCHITECT shall attest that payment has been made to all Consultants involved with prior requests, unless ARCHITECT provides a detailed explanation why such payments have not occurred. ARCHITECT shall also sign a “Conditional Waiver and Release Upon Progress Payment” and a Certificate of Legal Work Status and submit them with each request for payment. ARCHITECT shall require each subcontractor to sign a “Conditional Waiver and Release Upon Progress Payment” and a Certificate of Legal Work Status at the time subcontractor is paid and shall provide a copy of both documents to CITY OF HILDALE. ARCHITECT shall also sign a “Conditional Waiver and Release Upon Progress Payment” and a Certificate of Legal Work Status and submit them with each request for payment.
- 5.3 A “Waiver and Release Upon Final Payment” signed by ARCHITECT attesting that all Consultants, laborers, and material suppliers involved with prior requests for payment have been paid, and that all Consultants, laborers, and material suppliers upon which the final payment is based will be paid immediately unless ARCHITECT provides a detailed explanation why such payments have not occurred or will not occur. ARCHITECT shall also require each subcontractor to sign a “Waiver and Release Upon Final Payment” and a Certificate of Legal Work Status at the time subcontractor is paid its final payment and shall provide a copy of both documents to CITY OF HILDALE.
- 5.4 If such liens, claims, security interests or encumbrances remain unsatisfied after payments are made, ARCHITECT shall refund to CITY OF HILDALE all money

that CITY OF HILDALE may be compelled to pay in discharging such liens, including all costs and reasonable attorneys' fees.

- 5.5 All invoices for reimbursable costs shall be taken from the books of account kept by ARCHITECT, and ARCHITECT shall maintain copies of payroll distribution, receipted bills, and other documents. The CITY OF HILDALE shall have the right to review all invoices and receipts of reimbursable expenses kept by ARCHITECT and any Consultants concerning the operation and services performed under this Agreement. The CITY OF HILDALE shall withhold payment for any expenditure not substantiated by ARCHITECT's or subcontractor's books and records.
- 5.6 In the event CITY OF HILDALE has made payment for expenditures that are not allowed, as determined by CITY OF HILDALE'S audit, ARCHITECT shall reimburse CITY OF HILDALE the amount of the un-allowed expenditures. If additional money is owed to ARCHITECT, the reimbursement may be deducted from the additional money owed.
- 5.7 CITY OF HILDALE shall make no payment for any services not specified in this Agreement unless such additional services and the price thereof are agreed to in writing, prior to the time that such additional services are rendered.
- 5.8 Invoices shall be paid to ARCHITECT within thirty (30) days of presentation to CITY OF HILDALE.
- 5.9 CITY OF HILDALE may withhold 5% of billed amount as retention. Retention held shall be included in the final invoice after the contract is complete.

6. **CHARGES AND EXTRA SERVICE.**

- 6.6 CITY OF HILDALE may make changes within the general scope of this Agreement. If ARCHITECT is of the opinion a proposed change causes an increase or decrease in the cost and/or the time required for performance of this Agreement, ARCHITECT shall notify CITY OF HILDALE of that fact. An agreed-upon change will be reduced to writing signed by the parties hereto and will modify this Agreement accordingly. ARCHITECT may initiate such notification upon identifying conditions which may change the services agreed to on the effective date of this Agreement, as set forth in **Exhibit A**. However, ARCHITECT represents that to the best of its knowledge that it is not aware of any such conditions on the date hereof. Any such notification must be provided within thirty (30) days from the date of receipt by that party of the other party's written notification of a proposed change.
- 6.7 CITY OF HILDALE may request ARCHITECT to perform extra services not covered by **Exhibit A**, and ARCHITECT shall perform such extra services and will be compensated for such extra services when they are reduced to a writing mutually

agreed to and signed by the parties hereto amending this Agreement accordingly.

- 6.8 CITY OF HILDALE shall not be liable for payment of any extra services, nor shall ARCHITECT be obligated to perform any extra services except upon such written amendment.
7. **TO BE FURNISHED BY CITY.** Resources to be furnished by CITY OF HILDALE to ARCHITECT, at no cost to ARCHITECT, consist of CITY OF HILDALE staff assistance for oversight and meetings to help perform the services. ARCHITECT shall verify accuracy of the information provided, unless otherwise stated in the contract documents.
8. **INSPECTIONS.** All work shall be subject to inspection and approval of CITY OF HILDALE or its authorized representative.
9. **ACCURACY AND COMPLETENESS.**
 - 9.1 ARCHITECT has total responsibility for the accuracy and completeness of its investigations, calculations, reports, plans and related designs, specifications and estimates prepared for the PROJECT and shall check all such material accordingly.
 - 9.2 The plans will be reviewed by CITY OF HILDALE for conformity with PROJECT objectives and compliance with CITY OF HILDALE Standards.
 - 9.3 Reviews by CITY OF HILDALE do NOT include the detailed review or checking of major design components and related details or the accuracy with which such designs are depicted on the plans.
 - 9.4 The responsibility for accuracy and completeness remains solely with ARCHITECT and shall be performed consistent with the standard of care.
10. **INDEPENDENT CONTRACTOR.**
 - 10.1 CITY OF HILDALE retains and engages ARCHITECT, as an independent contractor, to act for and represent it in all matters involved in the performance of services on the PROJECT, subject to the terms, conditions and stipulations as hereinafter stated.
 - 10.2 It is understood and agreed that ARCHITECT will provide the services without supervision from CITY OF HILDALE. ARCHITECT is an independent contractor and is not an employee, officer, or agent of CITY OF HILDALE for any purposes related to the performance of this Agreement and is not an employee of CITY OF HILDALE and is not entitled to any benefits from CITY OF HILDALE.
 - 10.3 Nothing in this agreement shall create nor be construed to constitute a partnership or joint venture between ARCHITECT and CITY OF HILDALE.

- 10.4 ARCHITECT is advised to obtain and maintain in effect during the term of this Agreement medical insurance and disability insurance for all related work performed under this Agreement.
- 10.5 ARCHITECT acknowledges that CITY OF HILDALE will not withhold any federal, state, or local taxes, including FICA, nor will CITY OF HILDALE provide any unemployment compensation or worker's compensation coverage. As an independent contractor, ARCHITECT shall be responsible for all taxes, worker's compensation coverage and insurance coverage, and shall hold CITY OF HILDALE harmless and indemnify CITY OF HILDALE from and against any and all claims related to taxes, unemployment compensation, and worker's compensation.
- 10.6 ARCHITECT shall secure, at its own expense all personnel required in performing the services under this Agreement. The employees of ARCHITECT shall not be considered employees of CITY OF HILDALE nor have any contractual relationship with CITY OF HILDALE. ARCHITECT and its employees shall not hold themselves out as, nor claim to be officers or employees of CITY OF HILDALE by reason of this Agreement. The employees of CITY OF HILDALE shall not be considered employees of ARCHITECT.
- 10.7 Neither party has the right to bind or obligate the other in any way. ARCHITECT shall not use the name, trademarks, copyrighted materials, or any information related to this Agreement in any advertising or publicity without CITY OF HILDALE'S prior written authorization.

11. **INSURANCE.**

- 11.1 GENERAL: ARCHITECT shall secure and maintain insurance as required by laws and regulations and the terms of this agreement to protect against any liability, loss or expense which occurs or arises as a result of the performance of the services provided pursuant to this agreement or as changed as provided herein. ARCHITECT'S insurer must be authorized to do business in Utah and must have an A.M. Best rating of A VIII or better at the time this contract is executed.
- 11.2 COMMENCEMENT OF WORK: Neither ARCHITECT, its Suppliers nor any Consultants shall enter the site of the work or commence work under this contract before CITY OF HILDALE has received and accepted Certificate(s) of Insurance and Insurance Endorsements and has issued the Notice to Proceed.
- 11.3 INSURANCE CERTIFICATES AND COVERAGE: Insurance certificates shall be issued on all policies required under this contract and shall be signed by an authorized representative of the insurance company. The insurance certificate or the coverage required shall include the following:

- A. The name and address of the insured.
 - B. CITY OF HILDALE shall be named as a Certificate Holder.
 - C. CITY OF HILDALE shall be named as an additional primary insured on the General Liability Certificate with CITY OF HILDALE listed as non-contributory on the General Liability certificate.
 - D. The location of the operations to which the insurance applies.
 - E. The number of the policy and the type or types of insurance in force thereunder on the date borne by the certificate.
 - F. The expiration date of the policy and the limit or limits of liability thereunder on the date borne by the certificate.
 - G. A statement that all coverage is on an occurrence basis rather than a claims basis except for the Professional Errors and Omissions Malpractice Insurance coverage.
 - H. A provision that the policy or policies will not be cancelled, denied renewal, or reduced in coverage until at least 30 days after written notice has been received by CITY OF HILDALE.
 - I. Name, address, and telephone number of the insurance company's agent of process in Utah.
 - J. Other information to demonstrate compliance with additional requirements stipulated for the various types of insurance coverage.
- 11.4 COMPENSATION INSURANCE: ARCHITECT shall take out and maintain Workers' Compensation Insurance as required by the Labor Code for all its employees at the site of the work during the life of this contract. Coverage must be provided by a company authorized by the State of Utah to provide Workers' Compensation Insurance. The insurance shall include:
- 11.5 Insurance certificates shall provide a waiver of subrogation by the carrier to Certificate Holder.
- 11.6 ARCHITECT shall require each subcontractor to provide Workers' Compensation Insurance for its employees unless such employees are covered by ARCHITECT.
- 11.7 In the event any class of employees engaged in hazardous work under this contract is not protected by the Workers' Compensation Statute, ARCHITECT shall provide, and shall cause its Consultants to provide, special insurance for the protection of such employees not otherwise protected.

11.8 COMMERCIAL GENERAL LIABILITY INSURANCE: ARCHITECT shall procure and maintain commercial general liability insurance for the duration of the contract against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the ARCHITECT, its agents, representatives, employees, or Consultants. The insurance shall remain in effect during the term of this agreement and such that claims reported beyond the date of substantial completion of this agreement are covered and during the warranty period, to the extent that it relates to the activities covered by this Agreement, in such manner and amounts as set forth herein. The Insurance Endorsement shall evidence such provisions.

A. The minimum commercial general liability insurance shall be as follows:

- i. Comprehensive general liability insurance for injuries, including accidental death, to any one person in any one occurrence in an amount not less than \$1,000,000.00 Dollars.
- ii. Comprehensive general liability insurance for injuries, including accidental death, to two or more persons in any one occurrence in an amount not less than \$3,000,000.00 Dollars (umbrella coverage may be considered).
- iii. Broad form property damage insurance in an amount not less than \$300,000.00 Dollars.

B. Such policy shall include each of the following coverages:

- i. Comprehensive form.
- ii. Premises - operations.
- iii. Explosion and collapse hazard.
- iv. Underground hazard.
- v. Product/completed operations hazard.
- vi. Contractual insurance.
- vii. Broad form property damage, including completed operations.
- viii. Independent contractors for vicarious liability.
- ix. Personal injury.
- x. Cross liability or severability of interest's clause shall be included unless a separate policy covering CITY OF HILDALE is provided.

11.8 PROFESSIONAL LIABILITY ERRORS AND OMISSIONS INSURANCE:

A. ARCHITECT shall carry and maintain Professional Liability Errors and Omissions Insurance in an amount not less than \$3,000,000.00 Dollars for all work performed under this Agreement.

B. ARCHITECT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the ARCHITECT, its agents, representatives, employees, or Consultants. With respect to General Liability, Professional liability coverage should be maintained for a minimum of five (5) years after contract completion.

C. If Professional Liability coverages are written on a claims-made form:

- i. The retroactive date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the ARCHITECT must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.
- iv. A copy of the policy must be submitted to CITY OF HILDALE for review.

11.9 BUSINESS AUTOMOBILE COVERAGE: ARCHITECT shall carry and maintain business automobile insurance coverage on each vehicle used in the performance of the work in an amount not less than \$1,000,000.00 Dollars for one person and \$3,000,000.00 Dollars for more than one person and for property damage resulting from any one occurrence which may arise from the operations of ARCHITECT in performing the work.

Such business automobile insurance shall include each of the following types:

- A. Comprehensive form, including loading and unloading.
- B. Owned.
- C. Hired.
- D. Non-owned.

12. **INDEMNITY AND LIMITATION.**

The ARCHITECT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, CITY OF HILDALE) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the ARCHITECT's

negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the ARCHITECT is legally liable. The CITY OF HILDALE agrees, to the fullest extent permitted by law, to indemnify and hold harmless the ARCHITECT, its officers, directors, employees and subconsultants (collectively, ARCHITECT) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER's negligent acts in connection with the Project and the acts of its contractors, Consultants or ARCHITECTS or anyone for whom the CITY OF HILDALE is legally liable. Neither the CITY OF HILDALE nor the ARCHITECT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

13. **DOCUMENTS.**

13.1 Ownership and Reuse of Documents

All documents prepared or furnished by ARCHITECT pursuant to this Agreement are instruments of service, and ARCHITECT shall retain an ownership and property interest therein. Reuse of any such documents by CITY OF HILDALE shall be at CITY OF HILDALE's sole risk; and CITY OF HILDALE agrees to indemnify, and hold ARCHITECT harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by CITY OF HILDALE or by acting through CITY OF HILDALE.

13.2 Use of Electronic Media

a. Copies of Documents that may be relied upon by CITY OF HILDALE are limited to the printed copies (also known as hard copies) that are signed or sealed by the ARCHITECT. Files in electronic media format of text, data, graphics, or of other types that are furnished by ARCHITECT to CITY OF HILDALE are only for convenience of CITY OF HILDALE. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

b. When transferring documents in electronic media format, Engineer makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ARCHITECT at the beginning of this Assignment.

c. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

d. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ARCHITECT shall not

be responsible to maintain documents stored in electronic media format after acceptance by CITY OF HILDALE.

14. **RECORDS.**

14.1 ARCHITECT shall maintain records, books, documents, and other evidence directly pertinent to the performance of services under this Agreement in accordance with generally accepted accounting principles and practices.

14.2 ARCHITECT agrees to keep proper books of records and accounts in which complete and correct entries will be made of payroll costs, travel, subsistence, and field expenses.

14.3 Invoices and receipts of reimbursable expenses shall , at all times, be available for at least three (3) years after final payment for reasonable examination by CITY OF HILDALE.

15. **TERMINATION.**

15.1 CITY OF HILDALE and/or ARCHITECT, may terminate this Agreement by providing fourteen (14) days written notice prior to the effective termination date to other party. .

15.2 In the event of such termination, CITY OF HILDALE shall pay ARCHITECT for all services actually rendered up to and including the date of termination.

15.3 ARCHITECT shall deliver to CITY OF HILDALE copies of all drawings, reports, analyses, documents, and investigations, whether completed or not, that were prepared or were being prepared under the provisions of this Agreement.

16. **CONFLICT BETWEEN DOCUMENTS.** In the event of a conflict between this Agreement and any other documents with ARCHITECT, this Agreement shall govern.

17. **CONFLICT OF INTEREST.** ARCHITECT certifies that it has disclosed to CITY OF HILDALE any actual, apparent or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement.

17.1 ARCHITECT agrees to advise CITY OF HILDALE of any actual, apparent or potential conflicts of interest that may develop after the date of execution of this Agreement.

17.2 ARCHITECT further agrees to complete any statements of economic interest required by either CITY OF HILDALE ordinance or State law.

18. **NON-WAIVER.** No failure or waiver or successive failures or waivers on the part of either party hereto, their successors or permittee assigns, in the enforcement of any condition,

covenant, or Article of this Agreement shall operate as a discharge of any such condition, covenant, or Article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

19. **NOTIFICATION.** All notices required or permitted to be made by either party in connection with this Agreement shall be in writing, and shall be deemed to have been duly given: (a) five (5) business days after the date of mailing if sent by U.S. mail, postage prepaid, (b) when transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine and a copy of such facsimile is promptly sent by another means specified in this Section; or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party at its address as set forth below unless written notice is given by either party of a change of address:

CITY:	City of Hildale	ARCHITECT:	Campbell Architecture, LLC/ Jones & DeMille Engineering, Inc.
	320 East Newel Avenue		1535 South 100 West
	P.O. Box 840490		Richfield, Utah 84701
	Hildale, Utah 84784		
Attention:	Eric Duthie	Attention:	Farah Stout farah.s@campbelldesign.us

20. **GOVERNING LAW AND VENUE.** This Agreement shall be construed according to the laws of the State of Utah. The parties agree that venue for all legal actions, unless they involve a cause of action with mandatory federal jurisdiction, shall be the Fifth District Court for the State of Utah. The parties further agree that the Federal District Court for the District of Utah shall be the venue for any cause of action with mandatory federal jurisdiction. The parties shall have all rights and remedies provided under applicable Federal or State law for a breach or threatened breach of this Agreement. These rights and remedies shall not be mutually exclusive, and the exercise of one or more of these rights and remedies shall not preclude the exercise of any other rights and remedies. Each party agree that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof and the respective rights and obligations of the parties hereunder shall be enforceable by specific performance, injunction, or other equitable remedy. Nothing in this Agreement shall be construed to waive the sovereign immunity of the government parties.

21. **LEGAL FEES.**

Dispute Resolution

- a. OWNER and ENGINEER agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“disputes”) to mediation.
- b. If a party alleges a dispute or controversy with the other party arising out of or relating to the performance of services under this Agreement, then either party shall have the right to request mediation within 20 days after the claiming party has-provided the other party

with written notice describing the dispute and the claiming party's position with reference to the resolution of the dispute.

c. Except as otherwise agreed, mediation will proceed pursuant to the Construction Industry Mediation Rules of the American Arbitration Association in effect on the Effective Date of the Agreement. A mediator will be appointed within 30 days of receipt of a written request. The mediator will endeavor to complete the mediation within 30 days thereafter.

d. No performance obligation under or related to this Agreement shall be interrupted or delayed during any mediation proceeding except upon written agreement of both parties.

22. **MODIFICATION OF AGREEMENT.** CITY OF HILDALE specifically reserves the right to modify or amend this Agreement and the total sum due hereunder either by enlarging or restricting the scope of the Work. All modifications shall be in writing and executed by both parties. Each Work Order adopted under this Agreement shall incorporate the terms and conditions of this Agreement and shall constitute a modification to this contract. A Work Order may amend the terms and conditions of this Agreement only as they apply to that particular Work Order and shall not have any general effect on this Agreement.
23. **RESERVED LEGISLATIVE POWERS.** Nothing in this Agreement shall limit the future exercise of the police power by CITY OF HILDALE in enacting zoning, subdivision, development, transportation, environment, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement, but which shall not be retroactively applied to or modify this Agreement.
24. **SUCCESSORS AND ASSIGNS.** ARCHITECT shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without assigning the rights and the responsibilities under this Agreement and without the prior written approval of CITY OF HILDALE. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.
25. **NO JOINT VENTURE, PARTNERSHIP OR THIRD-PARTY RIGHTS.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture, or other arrangement between the parties. No term or provision of this Agreement is intended to or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
26. **INTEGRATION.** This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understanding of whatever kind or nature between CITY OF HILDALE and ARCHITECT and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this PROJECT.


- 27. **SEVERABILITY.** If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- 28. **CONSTRUCTION.** N/A
- 29. **SURVIVAL.** It is expressly agreed that the terms, covenants, and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.
- 30. **HEADINGS.** The section and other headings in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
- 31. **COUNTERPARTS.** This Agreement may be executed in counterparts each of which shall be an original and shall constitute one and the same agreement.
- 32. **AUTHORITY OF PARTIES.** The parties executing this Agreement hereby warrant and represent that they are duly authorized to do so in the capacity stated and that this Agreement constitutes a valid and binding Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the CITY OF HILDALE and ARCHITECT effective from the day and year first written above.

CITY: CITY OF HILDALE

ARCHITECT: CAMPBELL ARCHITECTURE, LLC/
JONES & DEMILLE ENGINEERING,
INC.

Eric Duthie, City Manager



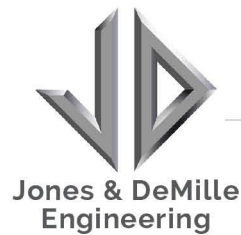
Brian Barton, CEO

Approved as to form:
Hildale City Attorney

Athena Cawley, City Recorder

By: _____

Exhibit A



June 21, 2024

Lawrence Barlow
Economic Development
Hildale City
320 E. Newel Ave.
Hildale, UT 84784

RE: Hildale City - Maxwell Park Improvements
Conceptual Planning and Engineering Phase

Dear Lawrence:

We appreciate the opportunity to provide a proposal for the above-referenced project. It is our understanding Hildale City intends to enhance and improve Maxwell Park. This scope of work is intended to initiate the professional services and will be added upon in the future with additional agreements as needed.

Campbell Architecture (CA) and Jones & DeMille Engineering (JDE) have the necessary resources and expertise to complete this important project. The proposed scope of work and associated schedule and fees are as follows:

SCOPE OF WORK

Planning and Conceptual Design Services

The proposed scope of work for planning and conceptual design services is as follows:

1. Updated master plan of the park
 - a. Maxwell Park Master Plan Development (E.A. Lyman, Landscape Architect)
 - i. Site visit
 - ii. Review design options
 - iii. Three design iterations of selected option
 - iv. One final colored master plan for funding package
 - b. Review implementation phasing breakdown
 - c. Review concept architectural building examples and options
 - d. Review options for pedestrian bridges
 - e. Review options for vehicular bridges
2. Mapping and Survey
 - a. Use public domain (County) digital elevation models (LiDAR) for concepting
 - b. Provide drone-based mapping for 3D design needs
 - c. Identify boundary of existing BLM lease

- d. Identify private parcel locations
- e. Map known public utilities
 - i. Culinary Water
 - ii. Power
 - iii. Wastewater
 - iv. Broadband
3. BLM Coordination
 - a. Understand expectations of BLM staff regarding modifications to the park and potential permitting work
4. Conceptual Engineering
 - a. Provide floodplain delineation of Maxwell Canyon
 - b. Prepare preliminary hydrology and hydraulics analysis of primary drainage channels
 - c. Prepare offsite water and sewer preliminary design
 - d. Provide bank armoring preliminary design
 - e. Evaluate existing tank and develop preliminary refurbishment strategy
5. Funding Procurement Plan
 - a. Explore the following funding options to leverage the State funds:
 - i. US Economic Development Agency – No deadlines
 - ii. Utah Office of Outdoor Recreation (UORG) - Open January 2025
 - iii. Utah Land and Water Conservation Fund (LWCF) - Open Dember 2024
 - iv. Utah Division of Drinking Water-State Revolving Fund
 - v. Utah Division of Water Quality -State Revolving Fund
 - vi. 5Permanent Community Impact Fund Board (CIB)
 - vii. USDA Rural Development-Water and Waste Program (WEP) - No deadline
 - b. Legislative Appropriations
 - i. Support city leadership in efforts to obtain additional funding
 - ii. Video demonstrating the importance of the park and requesting additional funding
6. Strategic Communication Planning
 - a. Conduct public outreach planning
 - b. Provide social media planning
7. Scheduling
 - a. Review phasing approach
 - b. Identify critical path elements that should be prioritized
8. Updated Opinion of Probable Costs
 - a. Prepare phase-by-phase probable costs
 - b. Coordinate expenditures with funding procurement
9. Prepare executive Summary of the Project Delivery Plan including
 - a. Phasing
 - b. Risk Management
 - c. Schedule Control

Assumptions and Limitations:

1. This scope of work is to be considered conceptual to allow the City to better understand how the project can be delivered most efficiently. Final engineering and architectural design services will be provided in a future scope of work.

2. Preliminary designs and plans to be completed with the foregoing scope of work will be advanced to approximately 10%-15% of completion for each item.

SCHEDULE

JDE will work to complete the above scope of work in a reasonable, timely manner according to the project and funding needs. An earnest effort will be made to complete the services within owner's time constraints.

FEES

The foregoing scope of work for planning and conceptual design services can be completed for a lump sum fee of **\$100,000**. Progress payments will be invoiced monthly throughout the project. Any adjustments to the scope of work can be completed for a negotiated lump sum fee or according to CA & JDE's standard hourly rates.

CLOSURE

We appreciate and look forward to the opportunity to work on this important project. Our team has the proven capabilities to complete this work in a timely and efficient manner. We look forward to helping you shape the quality of life of those you serve. Please review this proposal and let us know if there are any questions or concerns.

Sincerely,

CAMPBELL ARCHITECTURE
JONES & DEMILLE ENGINEERING, INC.



Farah Stout
Project Manager