



Invitation to Negotiate (ITN)

Consulting Services in Support of Developing an Open Access Fiber Network in Heber City

Release Date: 7/8/2021

Sealed proposals will be accepted from interested parties through August 23, 2021 and will be reviewed and evaluated as received.

I) Preface: Heber City Municipal Corporation, a political subdivision of the State of Utah, is seeking a qualified firm, individual, or consultant to oversee the creation of an Open Access Network (OAN). Heber City is seeking to build a carrier-class, highly-available redundant, open access fiber network that provides Heber anchor institutions, businesses and residential areas with high-speed, open Internet access, data and Smart City services, thereby improving the quality of life of our constituents, boosting economic development and enhancing the infrastructure of our city. Like electricity, water, and sewer services, high-speed, fiber-based internet access lines should be considered a utility that's connected to every home and business. Once constructed, this network should operate under an *open access* policy that allows any ISP to access the infrastructure at reasonable, nondiscriminatory prices to offer its services. This set of constraints will allow a competitive market for retail and high tech services to flourish.

II) Purpose of ITN: This ITN is intended to promote innovative proposals for achieving the City's objective of establishing an open OAN. Additionally, this ITN establishes the parameters for interested parties to submit proposals for consideration. City will not consider proposals that are deemed non responsive or responsible.

III) ITN Proposals: Proposals will be evaluated based on their viability and support of the City's goals. Proposals that can effectively demonstrate an appropriate management of risk to the City, are financially feasible, support City-wide network access, utilize state of the art technology to enhance commerce, and provide reliability and sustainability solutions will be considered more favorable than those that do not. Proposals that can demonstrate successful experience with similar projects and who are adequately capitalized will be considered more favorable than those

that cannot. City reserves the right to consider one or more vendors with which to commence negotiations for the procurement of services described in this ITN.

City will consider all proposals. The City will give more attention, however, to those proposals that leverage the greatest levels of innovation and creativity to optimize the following factors:

- 1) Deployment of a City-wide dynamic open access broadband network solution that can be leveraged for the benefits of all residents and businesses.
- 2) Optimize choice and freedom for customers.
- 3) Minimize financial costs and risk to the City and network customers.
- 4) Minimize legal risk to City.
- 5) Maximize security, privacy and quality of service to network customers.
- 6) Ownership of network—private or public alternatives considered.
- 7) Leverage City's ownership in Heber Light and Power or Heber City's water and sewer utility to realize cost savings and economies of scale in service delivery.
- 8) Realistic timeline to execute on proposal.
- 9) Strategy for leveraging Federal stimulus dollars for the development and construction of the physical network.

IV) Content of Submittals: Proposals must include those information items, both written and graphic, in so far as to accurately convey the intent of the project:

- 1) **Firm Contact(s):** Provide contact info for proposing firm and identify the project manager. Proposals shall be signed by an authorized representative(s) with authority to submit such proposal and execute a legally binding contract.
- 2) **Statement of Qualifications (SOQ):** Provide a brief overview of the company's qualifications related to the successful completion of the required services. Itemize experience in similar projects (show examples, provide references). Describe the company's overall organization structure as it will relate to this project. Identify personnel that will be assigned to the contract team along with a brief summary of experience for each key member of the proposed contract team. All proposed subcontractors should be identified. Include a detailed description of the company. SOQ section shall be a maximum of two (2) pages.
- 3) **Financial Stability:** The City wants to ensure that the successful Contractor has the necessary facilities, ability, experience, and financial resources to provide the services specified herein in a satisfactory and timely manner. Please list and explain any pending bankruptcies, liens, stop notices, judgments, lawsuits and foreclosures, or any such actions filed or resolved in the past seven (7) years. Also, furnish a statement of financial resources demonstrating that the company has the ability to maintain a staff of regular employees or contractors adequate to ensure continuous performance of work, and demonstrating that the equipment for the work contemplated is sufficient, adequate and suitable. Financial Stability section shall be a maximum of two (2) pages.
- 4) **Business Plan:** Include business plan and approach that details, as much as possible, how

the project might address the nine (9) factors in section III above. For items 6 and 7, in Section III above, please provide a recommendation and justification. Business Plan section shall be a maximum of four (4) pages.

- 5) **Development Pro forma:** Estimated project costs, schedule, take rates, etc. Development Pro forma section shall be a maximum of one (1) page.
- 6) **Project Funding:** Detail Project Funding strategy, paying particular attention to obligations to City and financial risks to the City. Sufficient details should be provided in order to discern details of funding strategy, including bonding details. Project Funding section shall be a maximum of one (1) page.
- 7) **Project Obstacles:** Identify potential concerns or project obstacles, including a summary of state and federal laws that must be adhered to. Project obstacles shall be a maximum of one (1) page.
- 8) **Innovation:** Provide innovative ideas, concepts, and arrangements that Heber City may not have considered. Innovation shall be a maximum of one (1) page.
- 9) **Responding to Critics of Government Ran Networks:** The Utah Tax Payer's Association recently released the following statement: "For almost 20 years, the Utah Taxpayers Association has sounded the warning bell on the disastrous consequences of government run broadband networks here in Utah. Even the best run state in the nation has its share of blunders." Please offer a one page executive summary as to why a Heber City owned and ran broadband network is preferable to other forms of ownership and operation; otherwise, if your proposal advocates for a privately owned and ran broadband network, why this approach is preferable to other forms of ownership and operation.

V) Evaluation Process:

Step 1: City reviews proposals submitted in response to ITN and eliminates unresponsive proposals.

Step 2: City ranks responsive proposals on an overall scale of 1 to 100.

Step 3: City invites top firm(s) that are deemed to be most responsive and responsible (based on ranking) to negotiate terms of a possible agreement. Negotiations will dive into details of the project and proposal methodology.

Step 4: Term sheets are presented to Heber City Council for consideration. City Council selects top proposal to negotiate a possible agreement.

Step 5: Agreement negotiated with staff and approved by City Council. Should successful negotiation result, a binding legal agreement will be required. This invitation to negotiate does not provide a complete understanding of the project, nor does it contain all matters upon which an agreement must be reached. The City reserves the right to negotiate necessary and reasonable legal terms and conditions. Should negotiations prove unsuccessful with top firm, City will commence negotiations with runner-up proposal.

VI) Proposal Deadline: Proposals must be received in the Heber City Recorder's Office no later than Monday, August 23, by 5 p.m. Requested information shall be delivered electronically by email to Heber City Recorder at TCooke@Heberut.gov. Please include in Subject Line of email the following: **Heber Consulting Services in Support of Developing an Open Access Fiber Network** and proposing firm name. Proposals may also be delivered via other electronic means, such as thumb drive, etc. The package containing the other electronic means must clearly note the name of this ITN and name of firm on the front of the package and be addressed to Heber City Recorder.

VII) Proprietary Information: If a Contractor believes that any portion of its proposal is subject to a legal exception to public disclosure, the Contractor shall: (1) clearly mark the relevant portions of its proposal as "Confidential" and (2) upon request from the City, identify the legal basis for exception from disclosure under the Public Records Act. The City Attorney's Office will determine if the information is confidential, based on state and federal law. Note that under Utah law, a price proposal to a public agency is not a trade secret. The Contractor shall defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the "Confidential" portion of the proposal.

A. City shall consider each proposal subject to the public disclosure requirements of the Utah Records Act, unless there is a legal exception to public disclosure.

VIII) Administrative Guidance: The information provided herein is intended and designed to provide those interested in responding sufficient basic information regarding minimum requirements. It is not intended to limit a proposal's content or exclude any relevant or essential data therefrom. Proposers are at liberty and are encouraged to expand upon the specification to evidence service capability under any agreement. The City will not be liable for any costs proposers may incur in the preparation or presentation of this proposal. The City reserves the right to reject any and all proposals or to waive any irregularities or informalities in any proposal or in the ITN procedures.

Questions: Please forward questions to Heber City Manager Matt Brower: mbrower@Heberut.gov.