



CITY OF WOODBURN, OREGON

Request for Proposals Buildable Land Inventory and Economic Opportunities Analysis (2023-2043)

SUBMIT PROPOSAL TO:
City of Woodburn
270 Montgomery Street | Woodburn, OR 97071
(503) 980-2415
Attn: Renata Wakeley, Special Projects Director

RESPONSE DUE DATE **DECEMBER 6, 2022 AT 4:00 PM**

Table of Contents

PART 1 – GENERAL INFORMATION	5
PART 2 - SCOPE OF WORK/DELIVERABLES	7
PART 3 - GENERAL CONDITIONS AND INSTRUCTIONS TO PROPOSERS	9
PART 4 - PROPOSAL SUBMITTALS	10
PART 5 - EVALUATION & SELECTION OF PROPOSALS	11
PART 6 - SAMPLE CONTRACT AGREEMENT	13
ATTACHMENT A – PROPOSAL CERTIFICATIONS	20

PROPOSAL ADVERTISEMENT

Request for Proposals Buildable Land Inventory (BLI) and Economic Opportunities Analysis (EOA)

RESPONSE DUE: Tuesday – December 6, 2022 @ 4:00 P.M.

The City of Woodburn, Oregon is requesting proposals from qualified consultants with experience in Oregon land use planning and statewide planning goals. Specifically, the City seeks proposals from consultants with established experience in assisting with buildable land inventories under OAR 660-024 and economic opportunities analysis (EOA's) under OAR 660-009 and Urban Reserves under OAR 660-021.

In order to reach community goals of creating a thriving economy that leverages geographical amenities and creates family wage jobs, the City needs a better understanding of what land is available. The BLI and EOA updates will help establish what type of employment land is currently available and what type of land the City will need in the future. The process will also identify what types of businesses would be attracted to Woodburn in order to allow the City to more efficiently and effectively retain, expand, and recruit new companies into Woodburn that both complement existing businesses and would be interested in the region. The City of Woodburn expects the project to be completed by July 2023.

Primary elements of the scope of work will include:

- Adoption of a 2023-2043 Population Forecast for the City of Woodburn (PSU Population Research Center);
- Woodburn Buildable Lands Inventory (2023) for employment lands within current UGB (a residential BLI and HNA was completed in 2019 and an update to the Parks Master Plan is currently underway);
- Woodburn Economic Opportunities Analysis (2023-2043);
- Coordination of the Technical Advisory Committee ("TAC") and Citizen Advisory Committee ("CAC"), with support for city staff;
- Presentation of final results to Woodburn City Council and Marion County Board of Commissioners; and
- Recommended UGB amendment framework/strategies, including review of development code and comprehensive plan policies for potential legislative amendment and findings for UGB expansion, if warranted.

Selection of the qualified Consultant will be in accordance with Oregon Intermediate Procurement Rules (ORS 279B.070), OR Oregon Administrative Rules (OAR) 137-048-0220, Woodburn Public Contract Rules Ordinance, and as set forth in the Solicitation Document and includes consideration of criteria such as, but not limited to: project understanding and approach, similar project experience, the experience of proposer's key staff, and demonstrated ability to

complete successfully similar projects on time and within budget. Prospective proposers responding to this RFP do so solely at their expense, and the City is not responsible for any expenses associated with the RFP.

The selected firm(s) must demonstrate the ability to provide a majority of the services required and clearly identify those services which will need to be provided by a sub-consultant. The City will select an organization on the qualification and price based criterion for the services identified.

Proposals will be received until Tuesday – **December 6, 2022, at 4:00 p.m.** at the Woodburn City Hall-Community Services Department located at 270 Montgomery Street, Woodburn OR 97071 and marked Attn: Renata Wakeley. Facsimile or electronic/email proposals will not be accepted. Proposals received after the time set for submission will not be considered responsive, and proposals may not be removed after the time of submission.

Prospective proposers are encouraged to examine the solicitation document by viewing it in a PDF format, available over the Internet from the City's website at <https://www.woodburn-or.gov/publicworks/page/bids-and-rfps> . The Request for Proposals may also be viewed or obtained from the City of Woodburn, City Hall located at 270 Montgomery Street, Woodburn OR 97071; or by emailing renata.wakeley@ci.woodburn.or.us . All questions should be directed to Renata Wakeley, Special Projects Director, at phone number 503-980-2415 or by emailing renata.wakeley@ci.woodburn.or.us.

Deadline for questions on the RFP is: **November 23, 2022**. Responses to questions will be summarized in writing to all prospective Proposal respondents no later than **November 30, 2022**.

The cost of delivery of Proposals shall be the responsibility of the Proposer. The City will not accept Proposals that require payment by the City.

Proposers are required to certify non-discrimination in employment practices and identify resident status as defined in ORS 279A.120. All Proposers are required to comply with the provisions of Oregon Revised Statutes Chapters 279 A, B, and C for Public Contracts and Purchasing and the City of Woodburn Public Contracting Rules.

The City of Woodburn reserves the right to: (1) reject any or all proposals not in compliance with all prescribed public procurement procedures and requirements, (2) postpone award of the contract for a period not to exceed sixty (60) days from date of proposal opening, (3) waive informalities in the proposals, (4) select the proposal which appears to be in the best interest of the City, (5) break-up contract services and award multiple contracts or only award components or parts of a proposal, and (6) to reject for good cause any or all proposals upon a finding that it is the public interest to do so.

**CITY OF WOODBURN
REQUEST FOR PROPOSALS (RFP)
BUILDABLE LAND INVENTORY AND ECONOMIC OPPORTUNITIES
ANALYSIS (2023-2043)**

PART 1 – GENERAL INFORMATION

1.1 Introduction

The City of Woodburn, Oregon is requesting proposals from qualified consultants with experience in Oregon land use planning and statewide planning goals. Specifically, the City seeks proposals from consultants with established experience in assisting with buildable land inventories under OAR 660-024 and economic opportunities analysis (EOA's) under OAR 660-009 and OAR 660-021 for Urban Reserves.

In order to reach community goals of creating a thriving economy that leverages geographical amenities and creates family wage jobs, the City needs a better understanding of what land is available. The current Woodburn Economic Opportunities Analysis (EOA) was completed in 2001 and the current Housing Needs Analysis was completed in 2019. A Targeted Industries Analysis (TIA) was completed by the City in 2016.

The BLI and EOA updates will help establish what type of employment land is currently available and what type of land the City will need in the future. The process will also help identify what types of businesses would be attracted to Woodburn in order to allow the City to more efficiently and effectively retain, expand, and recruit new companies into Woodburn that both complement existing businesses and would be interested in the region.

Primary elements of service will include:

- Achieve compliance with Oregon Revised Statutes and Oregon Administrative Rules related to Goal 9 (Economy) and OAR 660-021 related to Urban Reserves.
- Provide the city with maps and data inventorying employment buildable land inventory within the current Urban Growth Boundary, assess future needs for employment, and identify a strategy to harness current economic opportunities, and prepare for future opportunities for economic development.
- Support staff outreach efforts to Technical and Citizen Advisory Committees.
- Develop a set of recommendations that address projected needs to 2043.
- Summarize materials into a set of reports, with supporting infographics and data, for presentation to the general public and elected officials, and advise staff on process for adopting resulting policy and map changes.

The City's Economic Development Department expects to evaluate all proposals received by the deadline and will seek City Council approval to execute a Personal Services Agreement with the successful firm. City Council approval of the recommended firm and proposed Personal Services

Agreement will be required. The selected consultant will assume responsibility for all contractual matters and services outlined in their proposal and the approved Personal Services Agreement.

Personal Inquiries and Submittal

Inquiries shall be directed to Renata Wakeley, Special Projects Director, by phone at (503) 980-2415 or email: renata.wakeley@ci.woodburn.or.us.

Five (5) sealed hard copies of the proposal must be received by the City of Woodburn, Economic Development Department, Attn: Renata Wakeley, 270 Montgomery Street, Woodburn OR, 97071 no later than **4:00 P.M. on December 6, 2022**. Proposals submitted after that date and time will not be accepted. Faxed or electronic submission will NOT be accepted.

All envelopes must be clearly marked: **WOODBURN BLI AND EOA CONSULTANT SERVICES PROPOSAL**.

1.2 Schedule

The solicitation, submittal receipt, evaluation and final decision will substantially conform to the following schedule:

Advertisement	November 9, 2022
Deadline for Questions	November 23, 2022
Submittal Deadline	December 6, 2022
Interviews (if needed)	December 14-16, 2022
Notice of Intent to Award	December 27, 2022
Contract Award	January 9, 2023
Project Completion	July 2023

1.3 Budget

The Contractor shall provide a guaranteed maximum price lump sum fee to provide services as outlined herein. Information shall be given to support the lump sum fee, including labor costs, meeting costs, material costs and deliverables, and cost breakout per task.

The City has secured funding in FY22/23 to help support the project. Additional funds may be allocated through the budget process for FY 23/24 if needed.

1.4 Subcontractors

The City of Woodburn requires that each proposer shall state in their proposal the subcontractor(s) they anticipate to employ to perform any work or labor, or any service, related to this project. This statement shall include the name of the subcontractor, address, telephone, estimated percentage of work, statement of qualifications and experience, and the nature of work to be performed. The Contractor shall be responsible for transmitting and enforcing all contract

requirements to subcontractor. The proposal shall also state the method for selecting the subcontractor.

PROJECT PURPOSE STATEMENT

The goal of this work aligns with Woodburn’s adopted Growth Management Goals and Policies in their adopted Comprehensive Plan to manage growth in a balanced, orderly, and efficient manner, consistent with the City’s coordinated population projection. The Project purpose is to produce an adoption ready updated buildable land inventory for employment land; an updated Economic Opportunities Analysis (EOA); and legislative recommendations and finding to support an amendment to the Urban Growth Boundary (UGB), if warranted, and development ordinance and comprehensive plan amendment recommendations by the selected consultant.

PART 2 – SCOPE OF WORK/DELIVERABLES

The recommended scope of work for this project is as follows. This is an example, to be used as a guide to understanding the framework and desired outcomes of the project. The actual scope of work may differ dependent upon proposal received and final negotiated agreement.

Task 1: BUILDABLE LANDS INVENTORY (BLI)

This task will establish a baseline for analysis of developed, under-developed, undeveloped (vacant), and re-developable employment land within Woodburn’s City limits and Urban Growth Boundary, including constrained lands and other limitations on development potential.

Please review the elements below and include them in your narrative to the extent that strengthens your proposal.

- A hearings- ready Buildable Lands Inventory, compliant with Statewide Planning Goals, and including all current applicable employment zones (commercial and industrial, mixed-use, and overlay districts). Hearings ready objective findings and recommendations, as reviewed and recommended by the TAC and CAC.
- Constructive and implementable recommendations to the City regarding Economic Development needs, considering land utilization strategies and potential need to amend the City’s Urban Growth Boundary.
- Comprehensive Plan amendments regarding Goal 9 and 14; Ordinance and Resolution documents; and adoption ready findings.
- With support from city staff, development of BLI Geographic Information Systems (GIS) maps supporting BLI findings and work.

Task 2: ECONOMIC OPPORTUNITIES ANALYSIS (EOA)

Published: Daily Journal of Commerce – Oregon and Woodburn Public Works Bid and RFP page
Publication Date: November 9, 2022

This task will help the City of Woodburn meet projected needs and opportunities for employers and residents to ensure the City can meet their 20-year employment forecasts, workforce preparation, and land needs.

Please review the elements below and include them in your narrative to the extent that strengthens your proposal.

- Woodburn 2043 Employment Needs: Amount of land, scale of parcels, characteristic of current workforce/employment, workforce needs/skills required for regionally-successful sectors;
- Cluster Analysis: Woodburn’s competitive advantage described using infographics and other accessible formats;
- Technical memoranda describing implementation policies for ways Woodburn can meet cluster needs (short and long-term) through policy;
- Workforce Development Strategies to orient community resources toward expanding sectors of the economy and providing skill sets required for emerging jobs and sectors;
- Hearings-ready Economic Opportunities Analysis and Implementation Policy recommendations, as reviewed and recommended by the TAC and CAC.
- Technical memoranda describing development ordinance and comprehensive plan policies for potential future legislative amendment based upon EOA finding and draft findings for future UGB expansion legislative amendment, if warranted.

Task 3: PRESENTATIONS/PUBLIC MEETINGS

Final DRAFT BLI and EOA, as recommended by the TAC and CAC, shall be presented to the Woodburn City Council and the Marion County Board of Commissioners, either prior to City staff drafted legislative amendments, if applicable, or concurrently with any applicable legislative amendments and City staff reports.

Each of these tasks generally outline the work but it shall be the responsibility of each consultant responding to the RFP to specifically identify the tasks, sub-tasks, outreach activities, hearings, and presentation- including a timetable to perform the completed work. Consultants should feel free to suggest amendments to the scope which they feel would be of benefit to the City. Any costs for additional services that may be suggested as an amendment to the scope of work should be presented in the proposal under a separate line item or as an add-on cost to the overall lump-sum fee proposed.

PART 3 - GENERAL CONDITIONS AND INSTRUCTIONS TO PROPOSERS

The General Conditions and Instructions set out below shall apply to all formal proposal solicitations and resulting contract awards issued by the City of Woodburn unless otherwise specified. Proposers are responsible for informing themselves of these requirements prior to submission of proposals. Failure to do so will be at the proposer's own risk, and pleas of error or ignorance shall not be honored.

In the event there is a conflict between these General Terms and Conditions and any other terms and conditions that may be included elsewhere in this solicitation, the other terms and conditions shall prevail.

1. Selection & Award. Awards made in response to this RFP will be made to the most qualified proposer whose proposal is determined, in writing, to be the most advantageous to the City of Woodburn, taking into consideration the evaluation factors set forth in the RFP.
2. Proposer's Responsibility. The selected proposer(s) will be required to assume responsibility for all services offered in their proposal whether or not produced by them. If a successful contract cannot be completed after award, the City may conclude contract negotiations, rescind its award to that proposer, and return to the most recent RFP evaluation stage to negotiate with other proposer(s) for award.
3. Form of Submission. It is the Proposer's sole responsibility to submit information in fulfillment of the requirements of the RFP. If submittals are not substantially compliant in all material respects with the criteria outlined in the RFP, it will cause the Proposal to be deemed non-responsive.
4. No Late Submissions. If received after the time specified for Proposal Opening, formal proposals, amendments thereto, or requests for withdrawal of proposals will not be considered. Late proposals will be returned to the proposer UNOPENED or UNREAD if the proposer's return address is shown.
5. Communications during the RFP Process. Proposers shall address all inquiries, if any, in writing to Renata Wakeley, Special Projects Director, who alone is empowered to clarify such inquiries; not later than November 23, 2022.
6. Addendum and Supplement to Request. If it becomes necessary to revise any part of this RFP or if additional data is necessary to enable an exact interpretation of provisions of this RFP, revisions will be posted electronically on the City website. It is the responsibility of the Proposer to frequent the City website to obtain and download addendums and any other applicable information prior to proposal submission.
7. Withdrawal of Proposal. Proposals may be withdrawn on written request from the Proposer at the address shown in the solicitation prior to the time of Deadline for

Submission of Proposals. Negligence on the part of the Proposer in preparing the proposal confers no right of withdrawal after the time fixed for the acceptance of the proposal.

8. Public Records. All Proposals shall become the property of the City and are public records unless otherwise specified. A bid that contains any information that is considered a trade secret under ORS 192.501(2) shall be segregated and clearly identified as such at the time of submittal. This information shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192.
9. Form of Agreement. A copy of the standard Personal Service Agreement, which the City expects the successful firm or individual to execute, is included under Part 6. The agreement will incorporate the terms and conditions from this RFP document and the submitted proposal.
10. Proposal Validity Period. Unless otherwise specified by the City of Woodburn, all formal proposals submitted shall be binding for City of Woodburn acceptance for ninety (90) days from the date of the proposal opening.
11. No Conflicts of Interest. No employee of the City of Woodburn shall be admitted to any share or part of this contract or to any benefit that may arise there from.
12. Cost of Proposal. All Proposals shall be prepared and submitted by and at the cost of the Proposer, hence all costs associated with preparation and submission of the Proposal shall be borne by the Proposer.

PART 4 - PROPOSAL SUBMITTALS

Submission Format

Proposers shall respond to the RFP with a written proposal in the format outlined below. The Proposal shall include as a minimum the following sections arranged in the following specified order:

1. Executive Summary Letter
2. Management Skills and Technical Expertise
3. Credentials of the Project Team
4. Task Understanding
5. Capability for a Timely Response
6. Any supplemental information about your firm.
7. Attachment A – Proposal Certifications

Proposal Content

1. Executive Summary Letter.

The Executive Summary Letter should not be more than two pages long and should include as a minimum the following:

- a. A brief statement of the proposer’s experience and ability to meet the service objectives;
 - b. A positive commitment to perform the services within the time period specified; and
 - c. The names of persons authorized to represent the proposer, their title, address and telephone number (if different from the individual who signs the transmittal letter).
2. Qualifications of the Firm.
Include as a minimum:
- a. A list of at least three relevant community engagements completed within the past five (5) years that best illustrate capabilities related to those required for this project, including description, scope, and costs.
 - b. Awards and letters of commendation received.
3. Firm Qualifications and Demonstrated Accomplishments.
Include as a minimum:
- a. Identification of Team Manager, and the office location of the Team Manager
 - b. Staffing Plan, and the office locations of each person assigned
 - c. Team Manager’s resume
 - d. Resumes of key project staff members, including City of Woodburn or Marion County experience, as related to the Scope of Work under Section 2.
 - e. References
4. Demonstrated Project Understanding.
Provide a narrative describing how you intend to accomplish task requirements. Address your understanding of the Scope of Work outlined under Section 2.
5. Organization and Staffing of Proposing Firm.
- a. Proximity of Proposer’s office to Woodburn City Hall (driving time) and availability of sufficient staffing to complete Scope of Work.
 - b. Acknowledgement and understanding that there will be a required timeframe for responding to requests for services and completing planned outreach services.
6. Budget and Fee Schedule
- a. Cost proposal, by task.
 - b. Hourly services rate for each assigned project team member.

PART 5 - EVALUATION & SELECTION OF PROPOSALS

The City will independently read, review and evaluate each proposal, and selection will be made on the basis of the criteria listed below.

Each proposal will be read and evaluated on the basis of the criteria listed. If further evaluation is deemed necessary, the City may conduct interviews and have discussions with the top ranked firms (usually the top three depending upon the number of proposals received). The City reserves the right, at its sole discretion, to make an award without interviews.

Once evaluations and interviews (if implemented) are completed, the City will finalize the rankings of the submitted proposals. Negotiations for a binding fee/rate schedule will then begin with the top ranked firm. If a contract acceptable to the City of Woodburn cannot be negotiated at rates considered fair and reasonable, negotiations shall be terminated with the top ranked firm and negotiations conducted with the next ranked firm, and so on. The City of Woodburn reserves the right to reject all Proposers and/or to withdraw this RFP at any time.

Evaluation Criteria

	MAXIMUM POINTS
A. Qualifications of the Firm and Demonstrated Accomplishments: The Evaluation Committee will score the proposing firm’s qualifications relating specifically to their ability to complete satisfactorily the scope of services outline in the Scope of Work.	40
B. Demonstrated Project Understanding: The Evaluation Committee will score the proposing firm’s demonstrated understanding of the scope of services sought, and proposed task list.	25
C. Organization and Staffing of Proposing Firm: The proposing firm must demonstrate the availability of adequate staff to perform the tasks within the allotted time schedule. The firm must provide a clear description of supervision and quality control measures implemented in the execution of a contract. Experience of management and staff will be the distinguishing criteria assessed.	15
D. Budget/Fee Schedule: The Evaluation Committee will score the proposing firm’s fee schedule including an estimate of the total billable hours. Additionally, Proposer shall provide and scoring shall take into consideration an estimated total cost as it contributes to the “best value” to the City.	15
E. Timing: Additional points may be awarded if an expedited timeline within the proposed scope of work can be shown.	5
 TOTAL	 100

Reservation in Evaluation

The City reserves the right to negotiate with a Proposer over:

- The Statement of Work; and
- Any other terms and conditions as deemed necessary by the City.

Investigation of References

The City reserves the right to investigate and to consider the references and past performance of any proposer with respect to such things as its performance or provision of similar services, compliance with specifications and contractual obligations, and its lawful payment to suppliers, subcontractors and workers.

Preferences

Notwithstanding provisions of law requiring the City to award a contract to the lowest responsible bidder or best proposer or provider, when procuring good and services for any public use, the City shall apply the applicable preferences described in ORS 279A.120 (Preference for Oregon goods and services).

Proposal Rejections

The City reserves the right to:

- Reject any or all proposals not in compliance with all public procedures and requirements;
- Reject any proposal(s) not meeting the specifications set forth herein;
- Waive any and all irregularities in proposals submitted;
- Consider the competency of proposers in making any award;
- Reject all proposals; and
- Award any and all parts of any proposals.

Protests and Appeals

An affected person may protest the solicitation process or award of this contract. Protests must be submitted in writing and delivered in the form and manner prescribed by the Oregon Attorney General's Public Contracting Rules and the City of Woodburn Public Contracting Rules Ordinance.

PART 6 SAMPLE CONTRACT AGREEMENT

THIS AGREEMENT is made and entered into as of the date first indicated on the signature page, by and between the City of Woodburn, an Oregon municipal corporation (hereinafter referred to as “CITY”), and _____, a _____ (hereinafter referred to as “CONSULTANT”).

WHEREAS, CITY needs certain professional consultant services; and

WHEREAS, CITY wants to engage CONSULTANT to provide these services by reason of its qualifications and experience; and

WHEREAS, CONSULTANT has offered to provide the required services on the terms and in the manner set forth herein,

NOW, THEREFORE, IT IS AGREED as follows:

SECTION 1 – SCOPE OF SERVICES

The Scope of Work to be performed by CONSULTANT under this Agreement is described in Exhibit A, which is attached to this Agreement. Additionally, CONSULTANT’s proposal in response to _____ is incorporated by reference and are a part of this Agreement as if fully set forth.

SECTION 2 – DUTIES OF CONSULTANT

A. CONSULTANT shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its work.

B. CONSULTANT represents that it is qualified to furnish the services described in this Agreement.

C. CONSULTANT shall be responsible for employing or engaging all persons necessary to perform its services.

D. It is understood that _____ will be designated by CONSULTANT as the person providing services to CITY under this Agreement and that this designated person shall not be replaced without CITY’s approval.

SECTION 3 – DUTIES OF CITY

A. CITY shall provide CONSULTANT the pertinent information regarding CITY’s requirements for the Project.

B. CITY shall examine documents submitted by CONSULTANT and shall render decisions promptly, to avoid unreasonable delay in the progress of

CONSULTANT’S work.

C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.

D. The contact person on the Project for CITY is designated as Public Works Director or assigned delegate. CITY shall provide written notice to CONSULTANT if CITY changes its contact person.

SECTION 4 – TERM

This Contract is effective on the date of last signature below and terminates three (3) years from that date, with an option to mutually renew the contract for up to two (2) additional one (1) year terms.

SECTION 5 – PAYMENT

Payment shall be made by CITY to CONSULTANT only for services rendered and upon submission of a payment request and CITY approval of the work performed. In consideration for the full performance of the services set forth in Exhibit A, CITY agrees to pay CONSULTANT a fee not to exceed \$_____. Compensation shall be only for actual hours worked on the Project, at the rates specified in Exhibit B, and related direct expenses. CONSULTANT shall furnish with each bill for services an itemized statement showing the amount of services devoted to the Project by CONSULTANT as well as any agents or employees of CONSULTANT and any direct expenses.

SECTION 6 – TERMINATION

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall have the right to terminate this Agreement or suspend work on the Project for any reason upon ninety (90) days' written notice to CONSULTANT. CONSULTANT agrees to cease all work under this Agreement upon receipt of said written notice.

Either party may terminate this Contract upon not less than thirty (30) calendar days written notice should the other party fail to substantially perform in accordance with the terms and/or conditions of this contract or any supplements thereof and if the performance is not cured within that 10-day period after written notice is given.

SECTION 7 – OWNERSHIP OF DOCUMENTS

All documents prepared by CONSULTANT in the performance of this Agreement, although instruments of professional service, are and shall be the property of CITY, whether the Project for which they are made is executed or not.

SECTION 8 – CONFIDENTIALITY

All reports and documents prepared by CONSULTANT in connection with the performance of this Agreement shall be considered as confidential by CONSULTANT until they are released by CITY to the public. CONSULTANT shall not make any such documents or information available to any individual or organization not employed by CONSULTANT or CITY without the written consent of CITY before any such release.

SECTION 9 – INTEREST OF CONSULTANT

CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this Agreement.

SECTION 10 – CONSULTANT'S STATUS

It is expressly agreed that in the performance of the professional services required under this Agreement, CONSULTANT shall at all times be considered an independent contractor, under control of CITY as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make CONSULTANT an agent or employee of CITY while providing services under this Agreement.

SECTION 11 – Indemnity

CONSULTANT agrees to hold harmless and indemnify CITY, its officers and employees from and against any and all claims, loss, liability, damage, and expense arising from the negligent, or claimed negligent, performance of this Agreement by CONSULTANT, its officers or employees. CONSULTANT agrees to defend CITY, its officers or employees against any such claims. This provision does not apply to claims, loss, liability or damage or expense arising from the sole negligence, or willful misconduct, of CITY.

SECTION 12 – Insurance

CONSULTANT shall provide and maintain:

A. Commercial General Liability Insurance, occurrence form, with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 in the aggregate.

B. Automobile Liability Insurance, occurrence form, with a limit of not less than \$1,000,000.00 for each occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.

C. Workers Compensation in at least the minimum statutory limits.

D. All insurance shall:

1. Include CITY as an additional insured with respect to this Agreement and the performance of services in this Agreement.
2. Be primary with respect to any other insurance or self-insurance programs of CITY.
3. Be evidenced, prior to commencement of services, by properly executed policy endorsements in addition to a certificate of insurance provided to CITY.
4. No changes in insurance may be made without the written approval of CITY.

SECTION 13 – NONASSIGNABILITY

Both parties recognize that this Agreement is for the personal services of CONSULTANT and cannot be transferred, assigned, or subcontracted by CONSULTANT without the prior written consent of CITY.

SECTION 14 – RELIANCE UPON PROFESSIONAL SKILL OF CONSULTANT

It is mutually understood and agreed by and between the parties hereto that CONSULTANT is skilled in the professional calling necessary to perform the work agreed to be done under this Agreement and that CITY relies upon the skill of CONSULTANT to do and perform the work in the most skillful manner, and CONSULTANT agrees to perform the work. The acceptance of CONSULTANT'S work by CITY does not operate as a release of CONSULTANT from said obligation.

SECTION 15 –WAIVERS

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of same or of any other term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money, which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement of any applicable law or ordinance.

SECTION 16 – STATE PUBLIC CONTRACT PROVISIONS

All requirements of ORS Chapters 279, 279A, 279B, and 279C including but not limited to the following, as applicable, are incorporated herein by reference.

A. If CONSULTANT fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Contract as such claim becomes due, CITY may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONSULTANT by reason of the Contract. The payment of a claim in the manner authorized above shall not relieve the CONSULTANT or its surety from its obligation with respect to any unpaid claims.

B. CONSULTANT and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. CONSULTANT shall ensure that each of its subcontractors, if any, complies with these requirements.

C. CONSULTANT shall, upon demand, furnish to the CITY, written proof of workers' compensation insurance coverage. CONSULTANT is required to submit written notice to the CITY thirty (30) days prior to cancellation of said coverage.

D. CONSULTANT shall use recyclable products to the maximum extent economically feasible in the performance of the contract.

E. CONSULTANT is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to any payments made under this Contract.

F. CONSULTANT agrees and certifies that it is a corporation in good standing and licensed to do business in the State of Oregon. CONSULTANT agrees and certifies that it has complied and will continue to comply with all Oregon laws relating to the performance of CONSULTANT's obligations under this Contract.

G. CONSULTANT shall:

G.1 Make payment promptly, as due, to all persons supplying to the CONSULTANT labor and material for the prosecution of the work provided for in the contract documents;

G.2 Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Contract;

G.3 Not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished; and

G.4 Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

H. The CONSULTANT shall promptly as due, make payment to any person, co-partnership or association or corporation furnishing medical, surgical and hospital care or other needed care and

attention, incident to sickness or injury, to the employee of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or Agreement for the purpose of providing or paying for such service.

I. The CONSULTANT shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29USC201 et. seq.).

J. An employer must give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

K. CONSULTANT will comply with 279.835 et seq. in the procurement of products and services from a nonprofit agency for disabled individuals.

L. CONSULTANT will use recycled products, as defined in ORS 279A.010(1)(ii), to the maximum extent economically feasible in the performance of the Contract.

SECTION 17 – NON-DISCRIMINATION CLAUSE

CONSULTANT agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990 (Pub I. No. 101-336) including Title II of that Act, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. CONSULTANT further agrees that:

1. During the performance of a contract, the CONSULTANT will not discriminate against any employee or applicant for employment because of race, religion, color, sex or natural origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The CONSULTANT, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such CONSULTANT is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with Federal law, rule or regulation shall be deemed sufficient to meet this requirement.
4. The CONSULTANT will include the provisions of the foregoing paragraphs in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

SECTION 18 – NOTICES

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

TO CITY:

TO CONSULTANT:

SECTION 19 – AGREEMENT CONTAINS ALL UNDERSTANDINGS; AMENDMENT

This document represents the entire and integrated Agreement between CITY and CONSULTANT and supersedes all prior negotiations, representations, and agreements, either written or oral. This document may be amended only by written instrument, signed by both CITY and CONSULTANT.

No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the City to enforce any provision of this Agreement shall not constitute a waiver by the City of that or any other provision

SECTION 20 – GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oregon. Any claim, action, suit or proceeding (collectively, "Claim") between the City and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Contractor hereby agrees to the in personam jurisdiction of such court and waives any claims of an inconvenient forum.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement the day and year written.

CITY OF WOODBURN:

CONSULTANT:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**ATTACHMENT A
PROPOSAL CERTIFICATIONS**

Non-Discrimination Certification

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this clause shall be barred from receiving awards of any purchase order from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Firm Name: _____

Officer's signature: _____

Type or print officer's name: _____

Resident Certification

Please Check One:

Resident Vendor: Vendor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

Or

Non-Resident Vendor: Vendor does not qualify under requirement stated above. (Please specify your state of residence: _____)

Firm Name: _____

Officer's signature: _____

Type or print officer's name: _____