



CITY OF WOODBURN, OREGON
Intermediate Request for Proposals

City of Woodburn
Transportation System
Development Charge Methodology
Update

DATE & TIME DUE: JULY 21, 2020 AT 4:00 PM

SUBMIT PROPOSAL TO CITY OF WOODBURN:

Eric Liljequist
Public Works Projects & Engineering Director
190 Garfield Street
Woodburn, OR 97071
503-982-5241

PROPOSAL ADVERTISEMENT

Intermediate Request for Proposals

Transportation System Development Charge Methodology Update

The City of Woodburn requests proposals, from qualified firms or individuals, for furnishing professional services to assist City staff in updating the City's transportation system development Charge (SDC) methodology & providing calculations for an updated transportation SDC fees for the City of Woodburn. The Transportation System Plan was just updated last year. Following is a summary of the tasks that will be included as part of this Transportation SDC Methodology & Calculation Study:

1. Review of the **2019 Transportation System Plan**
2. Project Kick-Off & Data Collection
3. System Development Charge (SDC) Analysis
4. SDC Fee Calculations/Financial Plan
5. Meetings & Presentations.

The City intends to award a contract that will not exceed \$75,000. The City is utilizing an Intermediate Request for Proposals process and will receive proposals until **4:00 PM on July 21, 2020**. These should be delivered to Eric Liljequist, Public Works Projects & Engineering Director, 190 Garfield Street, Woodburn, OR 97071. All proposers are required to comply with the provisions of Oregon Revised Statutes and the City of Woodburn Public Contracting Rules. The City of Woodburn reserves the right:

1. To reject any or all proposals not in compliance with public bidding procedures
2. To postpone award of the contract for a period not to exceed sixty (60) days from date of proposal opening
3. To waive informalities in the proposals
4. To select the proposal that is in the best interest of the City

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
Title Page	
Advertisement	2
Table of Contents.....	3
PART 1 General Information	4
PART 2 Scope of Work	7
PART 3 Proposal Requirements.....	11

Attachments:

Attachment "A"	Reference to the 2019 Woodburn Transportation System Plan Update
Attachment "B"	Sample Professional Services Agreement
Attachment "C"	Certificate of Non-Discrimination

PART 1

GENERAL INFORMATION

This project provides professional services to assist City staff in updating the City's transportation system development Charge (SDC) methodology & providing calculations for an updated transportation SDC fees for the City of Woodburn. The Transportation System Plan was just updated last year. Following is a summary of the tasks that will be included as part of this Transportation SDC Methodology & Calculation Study:

The Transportation SDC Methodology & Calculation Update will address the City's transportation system improvements needed through the year 2039. At a minimum, the City expects Transportation SDC Methodology & Calculation Update will to include:

1. Review of the **2019 Transportation System Plan**
2. Project Kick-Off & Data Collection
3. System Development Charge (SDC) Analysis
4. SDC Fee Calculations/Financial Plan
5. Meetings & Presentations.

1.1 Proposal Request

Proposals shall be submitted no later than the proposal due date of **4:00 p.m. local time on Tuesday July 21, 2020**, to Eric Liljequist, Public Works Projects & Engineering Director.

1.2 Proposer's Proposal

Proposers responding to this Request for Proposals (RFP) should follow the directions stated within this Intermediate RFP. Adherence to these rules will ensure a fair and objective analysis of the proposals. Proposals should be prepared simply and economically. Special bindings, colored displays, promotional materials, etc., are not necessary. Emphasis should be on completeness, brevity, and clarity of the content.

Provide a clear and concise description of your firm's capabilities to meet the RFP requirements. Proposers should demonstrate prior experience in this type of work within the last five (5) years. All responses should be made in the format outlined in Section 3.

1.3 Schedule (see the Preliminary Project Schedule)

Advertisement Posted to City Website	June 19, 2020
Proposal Due at 4:00pm	July 21, 2020
Evaluation of Proposals	July 22 – July 29, 2020
Execution of Consultant Contract	July 30, 2020

1.4 Issuing Office

All correspondence pertaining to this RFP should be directed to Eric Liljequist at 190 Garfield Street, Woodburn, OR 97071 or via email at eric.liljequist@ci.woodburn.or.us.

1.5 Submitting Proposals

Proposals shall be submitted to Eric Liljequist at 190 Garfield Street, Woodburn, OR 971071. Proposals delivered via email or facsimile will not be accepted. Proposals must be received by the date and time stated in this RFP. The City of Woodburn is not responsible for any delays or difficulties experienced in the submittal of a Proposal. Please do not wait until the last minute to submit your proposal.

Please submit at least Three (3) hard copies of the proposal in a sealed envelope by mail or hand delivered, clearly marked as follows:

City of Woodburn
Attention: Eric Liljequist, Public Works Projects & Engineering Director
Subject: Woodburn Transportation SDC Methodology Update
190 Garfield Street
Woodburn, OR 97071

1.6 Proposal Withdrawal

Any proposal may be withdrawn at any time before the "Proposal Due" date and time specified in **Section 1.3, Schedule**, by providing a written request for the withdrawal of the proposal to the City. A duly authorized representative of the firm shall execute the request. Withdrawal of a proposal will not prejudice the right of the proposer to file a new proposal on this or future projects.

1.7 Rejection or Acceptance of Proposals

The City expressly reserves the following rights to:

- a. Disregard any or all irregularities in the proposals.
- b. Reject any or all of the proposals or portions thereof.
- c. Base award with due regard to quality of services, experience, compliance with the RFP, and other factors as may be necessary under such circumstances.
- d. Reject all proposals and re-advertise at the City's sole discretion.

1.8 Selection of Consultant

The City's Selection Committee will recommend to the Assistant City Administrator that the contract award be made to the proposer that is in the Committee's opinion, the best overall value to the City.

1.9 Requirement of Insurance

The successful proposer will be required to meet the City's insurance coverage as described in the sample Professional Services Agreement (see **Appendix A**). Moreover, Insurance coverage includes the following categories of insurance:

- a. Comprehensive general liability - \$2,000,000.00
- b. Professional liability - \$500,000.00
- c. Workers' compensation – As required by ORS 656.017
- d. Professional errors and omissions - \$500,000.00

The successful proposer shall provide certification of all coverages and shall name the City of Woodburn as “an additional insured” on all except workers' compensation insurance policies prior to signing the contract. The City is defined as the entity named on the declarations page of the coverage agreement and its officers, employees, and agents including volunteers, authorized to act on behalf of the City.

1.10 Public Records

Any material submitted by the proposer shall become the property of the City unless otherwise specified. During the evaluation of proposals and the selection of the Consultant, the proposals shall be confidential. After the selection process has been completed, the proposals shall be open to public inspection. Proposals should not contain any information which the proposers do not wish to become public. If it is necessary to submit confidential information in order to comply with the terms and conditions of this RFP, each page containing confidential information should be clearly marked "NOT FOR PUBLIC DISCLOSURE CONFIDENTIAL TRADE SECRETS". The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted, and claims arising out of any public record request for such information shall be at the proposer's expense.

1.11 Tax ID Number

Proposals must state the proposer's Federal/State of Oregon Taxpayer Identification Number.

1.12 Recycled Products Statement

Proposers shall use recyclable products to the maximum extent economically feasible in the preparation of the proposals, and the selected proposer shall continue the same practice in the performance of the contract work in accordance with ORS 279B.270.

1.13 Federal/State/Local Requirements

The selected proposer shall comply with all Federal, State and local laws, regulations, executive orders and ordinances applicable to the work under this contract, including, without limitation, the provisions of ORS 279B.220, 279B.230, 279B.235, and 279B.270. In addition, proposers agree to comply with:

- a. Title VI of the Civil Rights Act of 1964;
- b. Section V of the Rehabilitation Act of 1973;
- c. The American with Disabilities Act of 1990 and ORS 659.425;
- d. All regulations and administrative rules established pursuant to the foregoing laws; and
- e. All other applicable requirements of Federal and State civil rights and

rehabilitation statutes, rules and regulations.

Proposer is subject to the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires the provision of Worker's Compensation coverage for all employees working under this contract. The City's programs, services, employment opportunities and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, disability or political affiliation.

1.14 Payment

The City will pay the Consultant under contract for services performed based on the approved rates and the scope of work completed. The City will make monthly progress payments within thirty (30) calendar days following receipt of properly itemized invoices.

Payments for extra work not described in the Professional Services Agreement scope of services will only be made when authorized in advance and in writing by the City's Project Manager prior to such work being performed by the Consultant.

If the Consultant anticipates that the fee will surpass the not-to-exceed figure because a task has changed and is outside the scope, the Consultant shall notify the City in writing of the circumstances with an estimated amount that the fee is to be exceeded. The Consultant shall obtain written permission from the City before exceeding the not-to-exceed fee amount. If the Consultant does work that exceeds the maximum fee amount prior to obtaining the written permission, the Consultant waives any right to collect that exceeding amount.

PART 2 - SCOPE OF WORK

2.1 General

The City of Woodburn is located approximately 28 miles southwest of Portland, on the northern side of Marion County, Oregon. Four State routes, namely Highway 99E, 219 and 214, and 211, weave through a network of City and County roads. The City of Woodburn maintains approximately 62 miles of paved streets, and approximately 1.5 miles of gravel roadways.

The citizens of Woodburn rely on the transportation network on a daily basis and expect a safe and dependable system. One way to provide this network is through the implementation of system development charges (SDCs). The City just adopted updated Transportation System Plan (TSP) in 2019. The City now needs to review, amend and update the City's Transportation SDC methodology.

The City's Municipal Code sets out general provisions of SDCs. This section also needs to be reviewed, amended and updated to reflect current state statutes and master plans.

In addition, the City desires to provide a guidelines manual, forms, etc. for use by city staff, developers and citizens. This manual should be clear and easy to understand.

As such, the City is seeking the services of a qualified consulting firm to generate an appropriate methodology to update the City's Transportation SDC, provide code/ordinance language that incorporates this SDC and other SDCs and produce a clear, easily readable manual for SDCs within the City of Woodburn.

2.2 Invitation

The City of Woodburn, Public Works Department, is requesting proposals from firms (hereinafter referred to as the "Consultant") qualified and interested in providing professional engineering, public outreach, communication skills and financial services to the City for the **System Development Charges** (hereinafter referred to as the "Project").

This RFP contains the necessary information to understand the basic scope of work and responsibility, the consultant selection process and the required documentation in submitting a proposal.

The objective of this project is to create and have adopted a Transportation SDC methodology and ordinance language for the Transportation SDC program. Additionally, a guideline/manual with forms, etc. will be produced.

2.3 Scope of Professional Services & Responsibility

The Consultant shall provide a wide range of responsible and responsive professional services including, but not limited to, project management, financial modeling services, ordinance language, public outreach and communication services. The Consultant is expected to provide a highly qualified and experienced project team and be able to deliver satisfactory products and services.

The Consultant is encouraged to propose changes or additions to the scope of work if the Consultant believes that these changes will provide added benefit to the Project. Such proposed modifications shall be noted as separate additive or deductive tasks.

All recommendations and information produced in this Project shall comply with applicable Federal, State and City regulations and requirements.

Essential tasks are listed in the following pages and shall include:

Task A - Project Management & Community Outreach

The consultant shall manage and coordinate all components of the Project and take a proactive role in keeping all consultants and tasks on schedule and ensure timely completion of the Project. The consultant shall ensure full coordination with City staff and be responsive to any email and telephone discussions, in addition to the minimum meetings as listed under various tasks in the scope of work. The Consultant shall be in contact with the City frequently enough to ensure a timely City review of deliverables. The Consultant is expected to:

- work with all stakeholders in a responsible manner;
- provide high performance in project leadership, schedule management, tracking project budget and expenditures, & quality control and assurance;

- deliver the entire project within the prescribed budget. Any possible modifications of the scope shall be identified in early stages such that action plans can be developed to avoid or minimize them.

The consultant will attend and present study findings and recommendations at up to three (3) Council meetings and one Open House. The consultant will complete the notices, agendas, minutes and any handouts/presentations/etc. for the community involvement activities and meetings. The City will be sending out the required public notices for Council adoption of Resolutions and Ordinances, and provide notice to the City Council.

Task B – Transportation SDC Development

The consultant shall:

1. Collect and review data
 - a. Meet with City staff and review data needs, availability and expected results.
 - b. Collect relevant information from the City's TSP, fixed asset records, the most recent comprehensive plans, facility plans, the 6-year Capital Improvement Plan, and Ordinances.
 - c. Review the information provided and extract the needed data for the study from the materials provided.
2. Develop SDC Policy Framework
 - a. Identify key policy questions to be addressed by the SDC study.
 - b. Draft issue papers analyzing each policy question and suggesting a preliminary course of action.
 - c. Meet with City staff to finalize policy recommendations.
3. Develop SDC Cost & Capacity Basis
 - a. Determine the allocable cost of existing facilities using the City's asset inventory, facility plans, financial statements, and/or other documentation to determine the cost basis for the reimbursement fee.
 - b. Determine the allocable cost of future facilities using the City's recently updated TSP project design/construction cost estimates of eligible projects to determine the cost basis for the improvement fee.
 - c. Using the planning development and other growth-related information, determine the capacity basis to be used to calculate the reimbursement and improvement fees.
4. Calculate SDCs
 - a. Develop a spreadsheet model- develop or adapt an existing computer spreadsheet model for use in this SDC analysis.
 - b. Develop/generate transportation SDC alternatives – identify and apply relevant capacity basis to eligible costs and estimated potential SDC alternatives for consideration by the City. The alternatives will

illustrate policy choices regarding the identification of eligible costs, as well as “who benefits” and “who pays” for existing and planned system improvements.

c. Meet with City staff to review proposed alternative transportation SDCs and policy issues.

d. Generate a transportation SDC schedule recommendation which is accurate and defensible and will meet City policy objectives.

Task C – System Development Charge Ordinance

The consultant will assist in the generation of a Transportation SDC ordinance, based on City ordinance standards and protocols, which assures compliance with City policy objectives and statutory requirements.

Task D – Guidelines Manual

The consultant shall develop a manual for use by the City to help explain and implement the SDCs charges, exemptions and credits. It should include forms and applications to assist in the development process.

2.4 City’s Responsibility

The City will perform the following tasks:

1. Provide a Project Manager responsible for the overall project management and coordination between the Consultant and the City, and with any of the City’s other service providers.
2. Provide legal review of all contract documents, Resolutions, and Ordinances. Provide previous documents. If any of these documents are utilized, the Consultant shall verify to ensure the accuracy.
3. Make available City policies, regulations, guidelines and records such as as-built information and geographically referenced GIS maps, as available.
4. Coordinate communication among City staff and provide a unified guidance/direction to the Consultant.
5. Coordinate staff review. Staff review time for the deliverables can be up to three weeks, depending on workloads.
6. Ensure that City staff members provide timely responses to questions and be available for any meetings requested by the Consultant. Meetings between City staff and the Consultant will take place either via teleconferencing or at the Public Works Annex Building, 190 Garfield Street, Woodburn, OR 97071.

7. Review and process Consultant's monthly payment requests.
8. Negotiate any contract amendments, as needed.
9. Perform other tasks as negotiated.

PART 3 - PROPOSAL REQUIREMENTS

3.1 Proposal Submittal

Please submit proposals in accordance with the following instructions:

Proposals should be prepared simply and economically, providing a straightforward, concise description of proposer's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of the content.

The City is searching for an innovative team that will provide a Transportation SDC and SDC ordinance that can be approved and implemented by the City Council.

The City, at its sole discretion, has the right to negotiate with any or all proposers regarding their proposals. Additionally, the City may reject or accept any or all proposals or parts thereof, submitted in response to this RFP.

The City recognizes that in the submittal of proposals, certain information is proprietary to the proposer and that the safeguarding of this information is necessary. Accordingly, the City will make every effort to prevent any disclosure of data supplied by any proposer where the proposer identifies those portions of its proposal that are proprietary. See **Section 1.13, Public Records**.

The proposal is due by the date and time identified in Section 1.1. Proposals submitted after this time will not be accepted. See Section 1.5 for more information on the proposal submission.

3.2 Incurred Costs

The City is not liable for any costs incurred by proposers in the preparation and/or presentation of their proposals.

3.3 Introductory Letter

The introductory letter should include, but need not be limited to, the following information:

- The name of the firm, as well as, the signature, printed name and title, telephone and fax number of the officer authorized to represent the Consultant in any correspondence, negotiations and sign any contracts that may result.
- The address of the office that will be providing the service, a project manager's name, telephone number, fax number, and e-mail address.
- The Federal and State tax identification numbers, and the State of

incorporation, if applicable, must also be included.

- Indicate whether the proposer is a “Resident Bidder” as defined in ORS 279A.120 and provide a statement that the proposal is valid for sixty (60) days after the submission deadline.

The proposer may use this section to introduce the proposal or to summarize the key provisions of the proposal.

3.4 Key Personnel Qualifications

Provide a statement that portrays how the qualifications and experience of the Consultant’s and sub-consultant’s key personnel relate to the described work. The City expects commitment and prefers no shuffling of personnel during the Project. The response should address the following:

- A brief resume outlining the experience and qualifications of the person who would be directly responsible for this Project. Identify any applicable registrations. Indicate the number of other projects that will be managed by this person during the time he or she would be managing this Project.
- A listing of other individuals who would support and contribute to the Project until its completion, with a summary of each team member's area of responsibility, expertise, experience and qualifications for this work.
- Key personnel experience with this type of project, and familiarity with the City of Woodburn.

3.5 Project Scope and Understanding

The Consultant should include a statement of understanding of the Project. Describe your approach and methodology to meet the City’s Project deliverables/objectives in the timeline needed. Describe what you believe are the most critical elements of this Project that the design team must address for a successful outcome. Indicate how the Consultant ensures project progress and quality control.

Also mention how and to what extent the need for utilizing City personnel to assist the Consultant within the duration of the Project and indicate the approximate time requirement.

Provide project examples comparable to the requested services performed by your team. For the example projects -

- Describe their relevance to the Project and Services included in this solicitation, including descriptions of how any outstanding issues and project constraints were addressed and resolved.
- Include a brief description of project type, location, size, duration and objectives; a list of key project staff and their roles; tasks performed by the Proposer to fulfill the project objectives; the project budget, and whether the schedule and budget were met.

3.6 Detailed Consultant Scope & Fee Negotiations

Proposers shall indicate an estimated cost or fees for this project and include a breakdown of hours estimated for tasks by key personnel.

3.7 Additional Supplemental Information

Supplemental materials should include only resumes, references and public client list. The reference list shall have no more than three (3) clients with projects similar to this one. Please include the name, address, phone number, fax number and e- mail of the contact person for each reference.

ATTACHMENT “A”

**2019 Woodburn Transportation System Plan Update (By
Reference)**

ATTACHMENT "B"

CITY OF WOODBURN SAMPLE PROFESSIONAL SERVICES 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 corporation (hereinafter referred to as "CONSULTANT").

WHEREAS, CITY needs certain 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.

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

The services to be performed under this Agreement shall commence upon execution of the Agreement by both parties and be completed on or before _____.

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 services provided based on the rates specified in **Exhibit A**.

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 \$2,000,000 for each occurrence.

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, copartnership 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.

SECITON 17 – NON-DISCRIMINATION CLAUSE

CONSULATANT 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 – ATTORNEY FEES

In the event a suit or action is instituted to enforce any right guaranteed pursuant to this Agreement, the prevailing party shall be entitled to, in addition to the statutory costs and disbursements, reasonable attorney fees to be fixed by the trial and appellate courts respectively.

SECTION 19 – NOTICES

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

TO CITY:

TO CONSULTANT:

SECTION 20 – 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.

SECTION 21 – GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oregon.

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

CITY OF WOODBURN:

By:

Scott Derickson

Title: City Administrator

Date: _____

CONSULTANT:

By:

Title:

Date: _____

ATTACHMENT "C"

CERTIFICATE OF NON-DISCRIMINATION

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to the City of Woodburn that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____