



PHOTO ENFORCEMENT SYSTEMS & RELATED SERVICES

Proposals Due: Friday, April 29, 2022 - 4:00 pm local time

Proposers must submit one (1) hard copy and one (1) electronic copy on a portable USB drive (thumb drive)

Submit Proposals To: City of Woodburn – Woodburn Police Department
Attn: Jason Millican, Deputy Chief
1060 Mount Hood Avenue.
Woodburn, Oregon 97071

Direct Questions To: Jason Millican, Deputy Chief
Phone: (503) 982-2345
Email: jason.millican@ci.woodburn.or.us

PUBLIC NOTICE
REQUEST FOR PROPOSAL
PHOTO ENFORCEMENT SYSTEMS & RELATED SERVICES

The City of Woodburn is seeking sealed proposals from qualified firms to provide photo enforcement systems and related services for the City's Police Department. Proposals will be received until 4:00 pm local time, Friday, April 29, 2022, at Woodburn Police Department located at 1060 Mt. Hood Avenue, Woodburn, OR 97071.

No proposal will be considered unless fully completed in a manner provided in the RFP packet. Facsimile and electronic (email) proposals will not be accepted nor will any proposal be accepted after the stated due date and time. Any proposal received after the closing time will be returned to the submitting firm unopened after a contract has been awarded for the required services.

RFP packets may be downloaded from <https://www.woodburn-or.gov/police/page/photo-enforcement-systems-rfp-packet> or obtained in person at Woodburn Police Department located at 1060 Mount Hood Avenue, Woodburn, Oregon 97071.

Proposers are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279A.120. Pre-qualification of proposers is not required. All proposers are required to comply with the provisions of Oregon Revised Statutes and Local Contract Review Board (LCRB) Policy.

The City may reject any proposal not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all proposals upon a finding of the City if it is in the public interest to do so.

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DATE:	Tuesday, March 29, 2022	Wednesday, March 30, 2022

TABLE OF CONTENTS

	<u>TITLE</u>	<u>PAGE</u>
	Title Page_____	1
	Public Notice_____	2
	Table of Contents_____	3
 <u>SECTIONS</u>		
Section 1	Introduction_____	4
Section 2	Proposer's Special Instructions_____	4
Section 3	Background_____	6
Section 4	Scope and Schedule of Work_____	7
Section 5	Proposal Content and Format_____	14
Section 6	Proposal Evaluation Procedures_____	17
 <u>ATTACHMENTS</u>		
Attachment A	Proposal Certifications_____	19
Attachment B	Signature Page_____	20
Attachment C	Acknowledgement of Addendum_____	21
Attachment D	Statement of Proposal_____	22
Attachment E	City of Woodburn General Services Agreement_____	23

SECTION 1

INTRODUCTION

The City of Woodburn is seeking sealed proposals from qualified firms to provide photo enforcement systems and related services for the City's Police Department. Proposals will be received until 2:00 pm local time, Wednesday, April 29, 2022, at Woodburn Police Department located at 1060 Mount Hood Avenue, Woodburn, Oregon 97071.

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Proposers are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279A.120. Pre-qualification of proposers is not required. All proposers are required to comply with the provisions of Oregon Revised Statutes and Local Contract Review Board (LCRB) Policy.

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SECTION 2

PROPOSER'S SPECIAL INSTRUCTIONS

A. PROPOSED TIMELINES

March 29-30, 2022

Advertisement and Release of Proposals

Friday, April 29, 2022 – 4:00 pm

Deadline for Submission of Proposals

May 1 - 6, 2022

Initial Evaluation

Monday, June 6, 2022

Notice of Intent to Award Contract

Monday, June 13, 2022

Award of Contract by LCRB

Friday, July 1, 2022

Commencement of Services

NOTE: The City reserves the right to modify this schedule at the City's discretion.

B. GENERAL

By submitting a proposal, the Proposer certifies that the Proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

C. PROPOSAL SUBMITTAL

The Proposal and all amendments must be signed and submitted no later than 4:00 pm, Friday, April 29, 2022, to the address below. Proposers must submit one (1) hard copy and one (1) electronic copy on a portable USB drive (thumb drive). Each proposal must be submitted in a sealed envelope and designated with proposal title. To assure that your proposal receives priority treatment, please mark as follows.

RFP – Photo Enforcement Systems & Related Services

City of Woodburn – Woodburn Police Department

Attn: Jason Millican, Deputy Chief

1060 Mount Hood Ave.

Woodburn, Oregon 97071

Proposer shall put their name and address on the outside of the envelope. It is the Proposer's responsibility to ensure that proposals are received prior to the stated closing time. The City shall not be responsible for the proper identification and handling of any proposals submitted incorrectly. Late proposals, late modification or late withdrawals shall not be considered accepted after the stated bid opening date and time and shall be returned unopened. Facsimile and electronic (email) proposals will not be accepted.

D. PROTEST OF SOLICITATION PROCESS OR AWARD OF CONTRACT

Any affected person may protest the solicitation process or award of this contract. Protests must be submitted to the City in writing and delivered in the form and manner and within the time frame prescribed by the Oregon Attorney General's public contracting rules and the City of Woodburn's public contracting ordinance.

If a protest is received in accordance with the above, the proposal opening or contract award dates may be extended if necessary to allow consideration of the protest and issuance of any necessary corrections or remediation.

E. PROPOSAL SUBMISSION AND SIGNING

All requested forms and attachments (Signature Page, Acknowledgment Addendum, Statement of Proposal, etc.) must be submitted with the Proposal and in the required format. The submission and signing of a proposal shall indicate the intention of the firm to adhere to the provisions described in this RFP.

F. COST OF PREPARING A PROPOSAL

The RFP does not commit the City to paying any costs incurred by Proposer in the submission or presentation of a proposal, or in making the necessary studies for the preparation thereof.

G. INTERPRETATIONS AND ADDENDA

All questions regarding this project proposal shall be directed to Jason Millican, Deputy Chief. If necessary, interpretations or clarifications in response to such questions will be made by issuance of an "Addendum" to all prospective Proposers within a reasonable time prior to proposal closing, but in no case less than 72 hours before the proposal closing. If an addendum is necessary after that time, the City, at its discretion, can extend the closing date.

Any Addendum issued, as a result of any change in the RFP, must be acknowledged by submitting the "Acknowledgment of Addendum" with proposal. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

H. BUSINESS REGISTRATION / FEDERAL TAX ID REQUIRED

The City of Woodburn Business Registration is required. Woodburn City Ordinance No. 2399 states any business doing business in the City of Woodburn shall pay a City of Woodburn Business Registration fee. A Successful Contractor awarded a contract pursuant to this RFP will be required to present a copy of their City of Woodburn Business Registration at the time of contract execution. Successful Contractor shall also complete a W-9 form for the City at the time of contract execution.

I. PROPOSAL VALIDITY PERIOD

Each proposal shall be irrevocable for a period of ninety (90) days from the Proposal Opening Date.

J. FORM OF CONTRACT

A copy of the City's standard general services agreement, which the City expects the successful firm or individual to execute, is included as "Attachment E". The contract will incorporate the terms and conditions from this RFP document and the successful proposer's response documents. Firms taking exception to any of the contract terms shall submit a request for change as part their proposal, which then shall be subject to negotiation with the City following a related notice of intent to award the contract.

K. TERMOFCONTRACT

The term of the resulting contract shall be a period of five (5) years with the mutual option to renew for up to five (5) additional one-year periods. The total term of the contract will not exceed ten (10) years.

L. TERMINATION

The resulting contract may be terminated by mutual consent of both parties or by the City at its discretion with a 30 days' written notice. If the agreement is so terminated, Contractor shall be paid in accordance with the terms of the agreement.

N. NON-COLLUSION

Proposer certifies that this proposal had been arrived at independently and has been submitted without collusion designed to limit independent bidding or competition.

O. PUBLIC RECORD

All proposal material submitted by bidder shall become the property of the City and is public record unless otherwise specified. A proposal that contains any information that is considered trade secret under ORS 192.501(2) should be segregated and clearly identified as such. This information will be kept confidential and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192. The above restrictions may not include cost or price information, which must be open to the public.

SECTION 3 BACKGROUND

Starting in 2010, the City of Woodburn implemented a photo red light enforcement program at one key, high volume intersection in the City in order to increase and promote traffic safety. After successful implementation of the program, the City of Woodburn activated a photo speed enforcement component for that same intersection in 2021. The dual photo enforcement program allows the City to issue citations to drivers that run red lights or violate speed laws in excess of 10 miles per hour over the posted speed limit. If a driver runs a red light while traveling in excess of 20 miles per hour over the posted speed limit, the dual photo enforcement System may issue a citation for both the red light violation and the speed violation

The City is seeking a qualified firm that will best provide the City with equipment for continued photo red light and photo speed enforcement along with comprehensive services related to enforcement that helps the City enforce such traffic laws in Woodburn. Firms must have the technical and programmatic capacity to add the necessary equipment and related services associate with a speed enforcement program.

SECTION 4

SCOPE AND SCHEDULE OF WORK

The City is seeking proposals from qualified firms with demonstrated experience in providing services for photo enforcement systems. The intersection and approaches the City has currently identified for photo and speed enforcement in the form of photo enforcement system equipment installation and maintenance is as follows:

- **N Pacific Highway at Mount Hood Avenue** (straight through traffic – both north and southbound) N Pacific Highway; (eastbound) turning right onto Molalla Road; (westbound) turning right onto Mount Hood Avenue.

The following scope of work describes the services being requested by the City:

A. OVERALL PHOTO ENFORCEMENT SYSTEMS REQUIREMENTS

1. Equipment Construction and Installation for Photo Enforcement Systems

The Contractor will be responsible for constructing, installing, and maintaining all necessary equipment for Photo Enforcement Systems at specified intersections and providing the City with all equipment for those Systems. Equipment includes, but is not limited to, radar detection equipment, approach cameras, speed cameras, sensors, components, products, software, and other ancillary equipment. City will not consider proposals that require use of loop detection equipment.

Before executing the resulting contract with City, Contractor shall obtain all needed permits, including but not limited to those from the Oregon Department of Transportation (“ODOT”) prior to installing the equipment for the Photo Enforcement Systems at ODOT intersections.

2. Continuous Operation of Photo Enforcement Systems

The Photo Enforcement Systems must be capable of operating 24 hours a day, 7 days a week.

3. Information to be Collected under the Photo Enforcement Program

The Systems must record all pertinent data for each violation at time of capture. Pertinent data includes, but is not limited to, a video of the violation; a photograph that includes the driver, the vehicle, and the license plate number of the vehicle; a unique violation identifier; the location of the violation; the date of the violation; the time of the violation; the elapsed time between images; the direction of travel; the traffic signal phase; time into the red phase; the vehicle’s speed; the duration of the prior amber phase; the vehicle lane of travel; the camera ID; and the frame sequence numbers.

4. Operating and Training Manuals

Contractor must provide the City with all operating and training manuals for the equipment used under the resulting contract. Contractor shall provide City with all relevant specifications, manuals, and materials relating to the capabilities and operation of all the equipment, including any rights, licenses, or permits required by the City to make and provide copies of manuals and materials in response to any discovery requests made for a court trial.

5. Evaluation of Additional Locations

Contractor must use approved traffic safety surveys to evaluate locations where additional Photo Enforcement Systems may be installed with the approval of the City. Contractor may suggest additional locations for additional Photo Enforcement Systems that, in its opinion, will limit the number of vehicular crashes at those locations.

6. Removal of Photo Enforcement Systems at Current Locations

Contractor may remove equipment for its Photo Enforcement Systems from intersections upon mutual agreement of Contractor and City. City may determine whether the removed equipment will be reinstalled at other locations.

B. TECHNICAL SPECIFICATIONS FOR THE PHOTO ENFORCEMENT SYSTEMS

Contractor will use the latest digital technology available for the Photo Enforcement Systems to produce legally sufficient color digital photos and video, if necessary, of violations. The equipment provided for the Photo Enforcement Systems must:

- Be capable of producing both still photos and videos
- Be tamper and vandal proof
- Be secured against cyber attacks
- Have minimal impact or reliance on existing traffic signal infrastructure
- Not interfere with the City's or other agency's ability to control the traffic signal infrastructure
- Incorporate and implement all technical and equipment upgrades as they become available, at no charge to the City.
- Contractor must work with the City to ensure that its database for storing data related to the Photo Enforcement Systems can interface with existing City databases and programs to send data to those databases and programs through automated procedures.

C. SERVICES RELATED TO PROCESSING VIOLATIONS

1. Retrieval and Review of Images

Contractor must retrieve evidence of violations on its storage devices and develop and convert all images into a digital format, determine and enter license plate information, review the image of the driver of the motor vehicle to ensure that the driver can be identified and that the driver in the image matches the gender of the registered owner (if the registered owner is an individual), and then place all information collected into a secure database.

2. Secure Database Access

Contractor must provide City with a secure database and provide access to allow City employees to review alleged violations so that the employees may decide whether to issue a citation.

3. Transmission and Packet Creation

If a City employee determines that a citation is warranted, then the Contractor must transmit the citation to the City for signature. The City will then return the citation to Contractor, and the Contractor must then mail the signed citation to the registered owner of the vehicle as required by Oregon law, together with an approved cover letter, alleged violation photograph, and an Affidavit of Non-Liability and Certificate of Innocence forms ("Packet").

4. Requirements for Packet

Contractor's Packet must meet the State of Oregon's citation mailing requirements for each approved process for the Systems, and must comply with Oregon's chain of custody requirements to facilitate prosecution of violations.

5. Certification Process and Authority to Reject Citations

Contractor will provide a method for the City to certify that all citations noted are in accordance

with Oregon law. Contractor must provide an electronic file of citations that will include digital images of the alleged violations for review by designated City staff that will permit the City to authorize Contractor to print the citation for rejection of the citation.

6. Access to DMV Records

Contractor will provide a method for accessing the Department of Motor Vehicles for all states, which complies with Oregon law and the regulations, policies, and procedures of the Oregon Department of Motor Vehicles (“DMV”). City understands there may be a 10 business day mail requirement in order to access another state’s DMV information.

7. Paper and Electronic Copies of Citations; Contents of Electronic Copies

Contractor must provide an appropriate paper or electronic copy of each issued citation to the Woodburn Municipal Court (“Court”) together with an electronic file that contains all requirements of ORS 153.051 as follows:

- The name of the court;
- The name of the person cited;
- The date on which the citation was issued;
- The name of the enforcement officer issuing the citation and the officer’s DPSST number;
- The time and place at which the person cited is to appear in court;
- A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have been committed;
- A notice to the person cited that a complaint will be filed with the court based on the violation;
- The amount of the presumptive fine, if any, fixed for the violation;
- A statement notifying the person that a monetary judgment may be entered against the person for up to the maximum amount of fines, restitution and other costs allowed by law for the violation if the person fails to make all required appearances at the proceedings;
- A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation, and the court accepts the plea, the amount of the fine imposed against the defendant may not exceed the amount of the presumptive fine indicated on the citation;
- A statement notifying the person that, if the person pleads no contest and delivers to the court the amount of the presumptive fine indicated on the citation:
 - The person may submit an explanation of the circumstances of the violation; and
 - The court may consider the explanation in establishing the amount of the fine, but in no event can the court impose a fine that is less than the minimum fine established under ORS 153.021;
- A statement notifying the person that, if the person pleads not guilty and requests a trial, the court cannot impose a fine that is less than the minimum fine established under ORS 153.021 unless the person is found not guilty, in which case no fine will be imposed.

8. Required Documentation for Officer

Contractor must prepare and provide documentation to the officer who will testify about the alleged violation. The documentation must include:

- Information about the operation of the camera;
- A checklist regarding camera operation and repair;
- At least two photographs;
- Maintenance logs (if necessary);
- A contact log showing any contacts with the alleged violator; and
- Any other information that may be required.

Contractor must provide required evidence packages for every hearing within five calendar days of notification from the City, through its Woodburn Police Department. The required evidence package must include, but is not limited to, the following:

- The date, time, and location of the alleged violation;
- The digital image of the license plate;
- The video clip of the violation; and
- The inspection and maintenance reports that indicate the equipment was functioning properly at the date and time of the alleged violation.

9. Updates regarding Status of Citations; Recordkeeping

Contractor must keep updated records and update the status of any citations that have been issued on its records. Contractor must periodically update its database to include information regarding the Certificate of Innocence and Affidavit of Non-Liability Forms received from the Court.

10. Storing Information Regarding Nonresponsive Registered Owners

Contractor must store all information about registered vehicle owners who do not respond to the original summons. To fulfill this requirement, Contractor must have a processing system or database that is capable of maintaining the initial violation data and all relevant camera information in addition to subsequent transactional data regarding the violation, including collection activity, payments, adjudications, correspondence and address changes.

11. Storing Photographs and Images of Alleged Violations

Contractor must keep all photographs and images for which citations are issued for three years from the date of the citation or 30 days after disposition of the case, whichever is later. Contractor must keep all photographs and images of violations for which citations were not issued for a minimum of 30 days. Contractor must maintain a list of all photographs and images that are destroyed.

12. Employee as Expert Witness

Contractor must provide an employee that is able to be qualified as an expert witness under court requirements to testify about the Systems and the information collected regarding the violation that may be accuracy, calibration, maintenance, repair documentation, technical operation, and equipment effectiveness of the technology of the Systems.

D. ASSISTANCE IN DISSEMINATING PUBLIC INFORMATION

Contractor must assist City in providing public information about its Systems, including the following:

1. Providing public education about the program to improve traffic safety on City streets and to advise motorists about the potential consequences of traffic violations within the city.
2. Providing City with a manual on its communications strategy. The manual will outline the public education program that will be designed as an ongoing dialogue with community organizations, neighborhood associations and the stakeholders.
3. Creating a link to the Contractor's website that can be placed on the City's existing web page containing information about its traffic photo enforcement program.
4. Participating with the City in ongoing or future media campaigns on traffic safety.
5. Attending public meetings to demonstrate its Systems and the City's Traffic Photo Enforcement Program, if necessary.

E. REQUIRED REPORTS; REQUIREMENTS FOR RECORDKEEPING AND DOCUMENT RETENTION

1. Required Legislative Report

Contractor must provide City a template, in accordance with state law requirements, for the legislative report that will be sent to ODOT that contains an overview of this photo enforcement program. The bi-annual report is sent every bi-annual legislative session. This report and any other similar report will include an analysis of the program, the impact of the program on driving behavior, and future improvement recommendations.

2. Required Database Function for Statistical Information

In addition to the bi-annual report, Contractor must have a database that allows for the aggregation of statistical information of alleged violations and related data over the period of the Contract. The database must be capable of generating a report from the aggregation of statistical information. The City will use the information generated to evaluate the performance of the overall photo enforcement program as well as to determine future modifications or changes to the program.

3. Content of Statistical Report

The statistical information to be collected includes, but is not limited to, the number of photos, the number of identifiable photos, the number of alleged violations sorted by location and residence of the vehicle's registered owner, the number of citations, the number of filed affidavits, the fine payment, the collection rate, the disposition of the alleged violations, and any other pertinent or related information required to properly and accurately measure program performance.

4. Information Reports

Contractor's database must be capable of producing program-monitoring information reports. The report shall include such information as is mutually agreed upon by the Contractor and the City, including but not limited to:

- The number of alleged violations recorded;
- The number of non-issued alleged violations;
- The reason for each non-issuance of a citation for alleged violations;
- The number of citations issued;
- The equipment hours of service and any hours lost;
- The location and description of camera malfunction, if any;
- The average number of days to repair and the days lost to malfunction and downtime, if any; and
- The number of violations by location.

5. Other Related Reports

Contractor must provide additional reports about its Photo Enforcement Systems upon request from the City. Any additional costs for these additional reports must be agreed to in writing by the City before Contractor is required to provide these additional reports.

6. Data as Public Records; Required Retention Schedules

Data generated by the Systems will belong to the City and considered public records. Contractor must create a written method for identifying the relevant retention periods under Oregon law for each category of the records generated by the Systems under this Section. Contractor must ensure that the data stored on its database is secure and backed up to prevent loss or damage. Contractor must work with the Woodburn Police Department and other City departments to provide a mechanism and procedure for storing the data generated by the Systems.

7. Maintenance Logs

Contractor must maintain and, when requested, provide detailed maintenance logs to the City and to the Court that support the issuance of citations. The logs will be maintained on a regular basis, meticulously recorded, archived, and made available to the City and for use in the Court. All digital files must be backed up to prevent loss or damage.

F. EQUIPMENT MAINTENANCE

1. Maintenance Requirement; Timeframe to Correct Malfunction

Contractor must maintain all installed equipment under the resulting Contract in a continuously operating condition. Any malfunctioning camera or related equipment must be returned to good working order within 48 hours of notification that the equipment is not in good working order, excluding weekends and City holidays.

2. Field Service Technician Requirement

Contractor must provide at least one Field Service Technician ("Technician") responsible for all maintenance and emergency repair of the Systems. Contractor must document all repair activity of the Systems in an electronic maintenance log.

3. Preventative Maintenance Program

Contractor shall provide a preventative maintenance program to achieve reasonable reliability and availability of the equipment provided, and as further described in item 4 below. Maintenance must include the running of diagnostics to ensure the early identification of any component failure.

4. Timing of Preventative Maintenance

Contractor must perform preventative maintenance during the time allotted for image retrieval to ensure maximum operation time for the Systems. In addition, Contractor must ensure proper calibration of the portable red light camera within its fixed installation site as a normal component of its servicing routine.

Contractor will complete any required calibration on site. If bench maintenance calibration is necessary at the Contractor's Regional Maintenance and Operations facility, the Technician must replace any faulty component in the Systems within 48 hours, excluding weekends and holidays, of notification and determination of the problem.

5. Electronic Log of Repair Activity

Contractor must maintain an electronic log of all problems reported for camera components and all repair activity for those camera components for each incident reported.

6. Requirements of Electronic Maintenance Log

The electronic maintenance log must be attached to each camera in order to track the status of each camera requiring service or repair. The log shall provide a complete record of all maintenance activity and document the calibration, repair, and routine maintenance of the equipment to assure at all times that the evidence is properly documented. All such records must be available to the City upon demand so that the City may resolve evidentiary and administrative procedures.

7. Timeframe to Respond to City's Request for Records of Maintenance and Repair Contractor must make all records of maintenance and repair of all equipment provided under the resulting contract available to the City for inspection within five business days of the City's request.

G. TRAINING REQUIREMENTS

1. Training Services

Contractor must provide training services as necessary to ensure that City staff properly operates the equipment and performs the functions for which City staff will be responsible. Training services must include both initial and ongoing training, and must include appropriate levels of "hands on" training, including providing instruction guides, tutorial materials, application reference guides and problem-solving material.

2. Training to be Conducted in City provided Facilities

Contractor will provide for the training required in item 1 in City provided facilities.

3. License for Training Materials; Quantity of Training Materials

Contractor must provide the City with the license to duplicate the training materials provided under item 1, if necessary. Contractor must provide all training materials in sufficient quantity.

The Scope of Services may be further negotiated and refined between the City and the selected Proposer.

SECTION 5
PROPOSAL CONTENT AND FORMAT

A. FORMAT

To provide a degree of consistency in review of the written proposals, firms are requested to prepare their proposals in the standard format specified below.

1. Title Page
Proposer should identify the RFP Title, name and title of contact person, address, telephone number, fax number, email address and date of submission.
2. Transmittal Letter
The transmittal letter should be not more than two (2) pages long and should include as a minimum the following:
 - a. A brief statement of the Proposer's understanding of the project and services to be performed;
 - b. A positive commitment to perform the services within the time period specified, starting and completing the project within the deadlines stated in this RFP; and 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.)
3. Table of Contents
The table of contents should include a clear and complete identification by section and page number of the materials submitted.
4. Knowledge, Experience, Qualifications, and Financial Stability
Provide a comprehensive history of Proposer's firm and its experience in providing equipment and services for photo enforcement of traffic laws. Under this heading, include the following information:
 - a. General information about the firm, including the total number of years the firm has been in business, the general scope of services the firm provides, the current number of employees, and its principal areas of expertise.
 - b. A narrative description of your firm's organization, including its legal structure, principal officers, organizational structure, and its relationship to any larger business entity. If Proposer is a newly formed entity comprised of multiple individuals or entities that is compiling projects from prior experience, Proposer should state this clearly. Provide a copy of any organization chart, profile, sales brochure, or other documentary information pertaining to the organization.
 - c. Identify, by name and title, the key staff members who will be assigned to work with designated City employees tasked with administering the City's photo enforcement program. Specifically, the City would at least like to see a name, title, and biography for the assigned employee capable of being designated as an Expert Witness, the person or persons who would be providing the training for the Photo Enforcement Systems, and

the person or persons who would be considered the Technician. The biography provided must include, but need not be limited to, a description of the education, qualifications, experience, and training for the identified staff member. Additionally, for each person identified, please include the following:

- 1) A resume showing all relevant education and experience in providing services similar to the scope of work being requested;
 - 2) A description of the proposed roles and responsibilities for the person under the resulting contract; and
 - 3) The availability of the key staff members to respond to City requests for data, information, training, maintenance, or repair, as appropriate, for each staff member.
 - d. A complete and detailed history of Proposer's related experience over the last five years, including experience in Oregon specifically. Include contact information.
 - e. Provide a list of municipalities served by Proposer and describe the type of equipment used for those jurisdictions. Include contact information.
5. Project Understanding and Approach
With the Scope of Work in mind, submit information about how your firm would approach the services being requested, and how your firm would perform the services with its current understanding of the scope of work.
- a. Describe the firm's approach to providing the equipment and services for the resulting contract.
 - b. Describe the firm's experience in installing, maintaining, and upgrading the infrastructure for the Photo Enforcement System and include the maximum number of days the system will be offline while performing any necessary changing of equipment prior to the start date of services.
 - c. Describe the project schedule and tasks needed before your firm can begin helping the City enforce certain traffic laws around the City. Provide an estimated timeframe for each task listed.
 - d. Describe how the firm's key staff members will work with the City to determine whether the image captured of the driver of the motor vehicle allegedly speeding or running a red light is the registered owner of the vehicle.
 - e. Describe the procedures that your firm will institute to resolve issues that arise when the registered owner fails to receive the initial summons to appear in Court.
6. Technical Specifications for Photo Enforcement Systems and Its Databases
- a. Describe the equipment that your firm is expecting to use for the City's Photo Enforcement Systems. Describe how this equipment will best meet the City's needs in enforcing certain traffic laws in Woodburn.
 - b. Describe your firm's experience in installing, maintaining, and upgrading the infrastructure and equipment for Photo Enforcement Systems.
 - c. Describe how your firm will use its database to create the reports required by the resulting contract, and as further described in Appendix A.
 - d. Describe how your firm expects to work with the City in terms of interfacing and transferring electronic data from your firm's database to the City's database and programs in the Municipal Court.

7. Compensation Structures and Method of Payment

Submit a cost proposal for the equipment and services described in the Scope of Work of this RFP. The City anticipates receiving three (3) pricing schedules for the equipment and services from each firm:

- a. For “Flat Fee” pricing for the City, please describe what equipment and services the flat fee includes and what the flat fee does not include on a per fiscal year basis.
- b. For “Per Issued Citation” pricing, please describe what equipment and services this pricing includes and what it does not include.
- c. For “Per Paid Violation” pricing, please describe what equipment and services this pricing includes and what it does not include.
- d. Please identify any other anticipated expense, direct or indirect, that affects the cost pricing provided pursuant to the above subsections.
- e. Provide sufficient information about any other anticipated expenses identified so that the City may estimate the annual cost of those expenses.
- f. There is no required template or worksheet for the Proposed Cost and Vendors may submit their proposed cost in their own format.

8. Attachment Documents

<u>Attachment A</u>	<u>Proposal Certifications</u>
<u>Attachment B</u>	<u>Signature Page</u>
<u>Attachment C</u>	<u>Acknowledgment of Addendum</u>
<u>Attachment D</u>	<u>Statement of Proposal</u>

B. ADDITIONAL SERVICES

Provide a brief description of any other services that your firm could provide the City and an approximation of the hourly charge or related fee schedule for each service of this type. Such services would be contracted for on an “as needed” basis, to be provided and billed for separately.

C. ADDITIONAL INFORMATION

Please provide any other information you feel would help the Selection Committee evaluate your firm for this project.

D. REFERENCES

Contractor must demonstrate successful past performance of the firm’s ability to provide services as set forth in this specification. Contractors must detail three (3) references to document experience. References must be detailed in Attachment D “Statement of Proposal”.

E. DISPUTES

Should any doubt or difference of opinion arise between the City and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this RFP, the decision of the City shall be final and binding upon all parties.

F. CITY PERSONNEL

No Officer, agent, consultant or employee of the City shall be permitted any interest in the contract.

SECTION 6
PROPOSAL EVALUATION PROCEDURES

A. SELECTION AND EVALUATION PROCESS

A Selection Committee assembled by the City will review the written proposals. Proposals will be evaluated to determine which ones best meet the needs of the City. After meeting the mandatory requirements, the proposals will be evaluated on both their technical and fee aspects. The Selection Committee will select the Proposer which best meets the City's needs based upon its evaluation of a firms proposal. Proposals will be evaluated in accordance with the following:

1.	<u>Completed Proposal submitted on time</u>	<u>Pass / Fail</u>
2.	<u>An original hard copy proposal + one (1) electronic copy on thumb drive</u>	<u>Pass / Fail</u>
3.	<u>Transmittal letter & All Required Attachments (A-D)</u>	<u>Pass / Fail</u>
4.	<u>Knowledge, Experience, Qualifications, and Financial Stability</u>	<u>20 points</u>
5.	<u>Project understanding and approach</u>	<u>30 points</u>
6.	<u>Technical Specifications</u>	<u>30 points</u>
7.	<u>Compensation Structures</u>	<u>20 points</u>
<u>TOTAL EVALUATION POINTS</u>		<u>100POINTS</u>

B. PRESENTATION / INTERVIEW

At the option of the City, the top scoring proposers (based on the criteria points) may be asked to make a presentation of their proposal. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way provide an opportunity to change any fee amount originally proposed. The City's Project Manager will schedule the time and location of these presentations and notify the selected firms. If the City elects to conduct a presentation/interview process, 100 criteria points will be assigned to the process and will be added to the participating Proposers' total points.

C. INVESTIGATION OF REFERENCES

The City reserves the right to investigate references and the past performance of any Proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

D. CLARIFICATION OF PROPOSALS

The City reserves the right to obtain clarification of any point in regards to a proposal or to obtain additional information necessary to properly evaluate or particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in rejection of their proposal.

E. RESERVATION IN EVALUATION

The Selection Committee reserves the right to either: (a) request "Best and Final Offers" from the two finalist firms and award to the lowest priced or (b) to reassess the proposals and award to the vendor determined to best meet the overall needs of the City.

F. INTENT OF AWARD

Upon review of the proposals submitted, the City may negotiate a scope of work and a general services agreement with one firm, or may select one or more firms for further consideration.

G. PROTEST OF AWARD

Any affected person may protest the solicitation process or award of this contract. Protests must be submitted to the City in writing and delivered in the form and manner and within the time limits prescribed by the Oregon Attorney General's public contracting rules and the City of Woodburn's public contracting ordinance.

If a protest is received in accordance with the above, the proposal opening or contract award dates may be extended if necessary to allow consideration of the protest and issuance of any necessary corrections or remediation.

H. PROPOSAL REJECTION

The City reserves the right to:

1. Reject any or all proposals not in compliance with all public procedures and requirements;
2. Reject any proposal not meeting the specifications set forth herein;
3. Waive any or all irregularities in proposals submitted;
4. Reject all proposals;
5. Award any or all parts of any proposal; and
6. Request references and other data to determine responsiveness.

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: _____)

Officer's signature: _____

Type or print officer's name: _____

**ATTACHMENT B
SIGNATURE PAGE**

The undersigned proposes to perform all work as listed in the Scope and Schedule of Work section of the RFP, for the price(s) stated in their submitted proposal.

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications, and by City policies and regulations.

The undersigned, by submitting a proposal, represents that:

- A) The Proposer has read and understands all specifications and the Scope of Work in the RFP.
- B) Failure to comply with the specifications or any terms of the Request for Proposal may disqualify the Proposer as being non-responsive.

The undersigned certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this proposal:

Addenda: No. _____ through No. _____ inclusive.

We therefore offer and make this proposal to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the City.

Name of firm: _____

Address: _____

Telephone Number: _____ Fax Number: _____

By: _____ Date: _____
(Signature of Authorized Official. If partnership, signature of one partner.)

Typed Name/Title: _____

If corporation, attest: _____
(Corporate Officer)

☐ Corporation

☐ Partnership

☐ Individual

Federal Tax Identification Number (TIN): _____

ATTACHMENT C
CITY OF WOODBURN, OREGON
ACKNOWLEDGMENT OF ADDENDA

Project Title: Photo Enforcement Systems & Related Services

Close: Friday, April 29, 2022 – 4:pm

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA (If none received, write “None Received”):

1. _____ 3. _____

2. _____ 4. _____

Date

Signature of Proposer

Title

**ATTACHMENT D
CITY OF WOODBURN, OREGON
STATEMENT OF PROPOSAL**

Firm Name : _____

Mailing Address: _____

Contact Person: _____

Telephone: _____ Fax: _____ Email: _____

accepts all the terms and conditions contained in the City of Woodburn's Request for Proposal for Photo Enforcement Systems & Related Services and the attached general services agreement (Attachment E):

Signature of authorized representative

Date

Type or print name of authorized representative

Telephone Number

Type or print name of person(s) authorized to negotiate contracts

Telephone Number

REFERENCES

Reference #1

Telephone Number

Project Title

Contact Individual

Reference #2

Telephone Number

Project Title

Contact Individual

Reference #3

Telephone Number

Project Title

Contact Individual

ATTACHMENT E

CITY OF WOODBURN, OREGON AGREEMENT FOR SERVICES RELATED TO (ENTER CONTRACT TITLE)

THIS AGREEMENT made and entered into this (Day) of (Month), (Year) by and between the City of Woodburn, a municipal corporation of the State of Oregon, hereinafter called “City”, and (Contractor's Name), hereinafter called “Contractor”, collectively known as the “Parties.”

RECITALS

WHEREAS, Contractor has submitted a bid or proposal to City to provide specific services; and

WHEREAS, Contractor is in the business of providing specific services and is aware of the purposes for which City requires the services; and

WHEREAS, City and Contractor wish to enter into a contract under which City shall purchase the services described in Contractor’s bid or proposal;

THEREFORE, The Parties agree as follows:

1. DEFINITIONS

(per contract negotiations or as needed)

2. SERVICES TO BE PROVIDED

Contractor agrees to provide services related to (enter project title or brief description) as detailed in Exhibit A – Scope of Services and by this reference made a part hereof.

3. EFFECTIVE DATE AND TERM

Contractor shall initiate services upon receipt of City’s notice to proceed, together with an executed copy of this Agreement. This Agreement shall become effective upon the date of execution and shall expire, unless otherwise terminated or extended, on (Enter end date). The parties shall have the option to mutually agree to extend the Initial Term for up to (number an period of agreed renewal periods). All services shall be completed prior to the expiration of this Agreement or any Renewal Term. Such expiration shall not extinguish or prejudice the City’s right to enforce this Agreement with respect to: (i) any breach of a Contractor warranty; or (ii) any default or defect in Contractor performance that has not been cured.

4. COMPENSATION

City agrees to pay Contractor an amount not exceeding (Amount in words) and (00-99)/100 dollars (\$Amount in numbers) for performance of those services described herein, which payment shall be based upon the following applicable terms:

A. Payment will be made in installments based on (the fee schedule attached as Exhibit ... or detailed below) and following receipt of Contractor’s invoice, subject to the approval by the City, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.

B. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be

considered acceptance or approval of any work or waiver of any defects therein.

- C. Contractor shall make payments promptly, as due, to all persons supplying labor or materials for the prosecution of this work.
- D. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on any account of any labor or material furnished.
- E. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- F. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- G. Contractor shall pay employees at least time and a half pay for all overtime worked in excess of 40 hours in any one work week except for individuals under the contract who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 209 from receiving overtime.
- H. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical, hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor 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 City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract during the current fiscal year. Appropriations for future fiscal years shall be subject to budget approval by the City Council.

5. **BILLING AND PAYMENTS**

All notices and bills shall be made in writing and may be given by personal delivery, mail or fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

CITY OF WOODBURN	(CONTRACTOR)
Attn: (City's contact person's name)	Attn: (Contractor's contact person's name)
Address: 1060 Mount Hood Ave. Woodburn, OR 97071	Address: (Contractor's mailing address)

Phone: (503) (Project Mgr's phone #)	Phone: (Project Mgr's phone #)
Fax: (Project Mgr's fax #)	Fax: (Project Mgr's fax #)
Email: (Contact email)@Woodburn-or.gov	Email: (Contact email)

6. **LICENSE(S) & RESERVATION OF RIGHTS**

(per specifics of contract and negotiation)

7. **TERMINATION**

A. **TERMINATION DUE TO CHANGE IN LAW, COURT RULINGS, AND MATERIAL BREACH:** Either Party shall have the right to terminate this Agreement by written notice to the other if (i) state statutes are amended to prohibit or substantially change the operation of the Program; (ii) the Supreme Court for the State of Oregon rules that the Citations from the Program are inadmissible in evidence; or (iii) the other Party commits a material breach of this Agreement. In the event of a breach, the breaching Party shall have the right to remedy or cure the material breach within thirty (30) calendar days (or within such other time period as the Parties shall mutually agree, which agreement shall not be unreasonably withheld or delayed) after receipt of written notice from the terminating Party setting forth in reasonable detail the facts giving rise to the material breach. Termination of this Agreement based upon an alleged material breach shall not be enforceable or effective unless the terminating Party mails written notice to the breaching Party not less than thirty (30) calendar days before the termination date and provides to the breaching Party the opportunity to remedy or cure the breach within the time period provided. The right to terminate this Agreement shall be without prejudice to any other right or remedy of any Party with respect to the breach concerned (if any) or any other breach of this Agreement except as otherwise provided in this Agreement.

B. **TERMINATION WITHOUT CAUSE:** The City may terminate all or a portion of the work covered by this Agreement without cause at any time by giving thirty (30) days prior written notice of termination. Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender. If the City terminates the Agreement as set forth in this Section, the City agrees to reimburse Contractor for all direct costs associated with (to be filled in based on contract).

C. **TERMINATION DUE TO LACK OF FUNDING:** The City may terminate all or a portion of the work covered by this Agreement immediately upon written notice if the City fails to receive funding or expenditure authority at levels sufficient to pay for the work and services under this Agreement.

D. **PROCEDURES UPON TERMINATION:** (details per proposal and scope of work)

8. **ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

9. **FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, natural disaster, war, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually

severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

10. **NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

11. **REPRESENTATIONS AND WARRANTIES**

Contractor represents and warrants to the City that:

- A. Contractor has the power and authority to enter into and perform this Agreement.
- B. This Agreement, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.
- C. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm's inception if less than that) preceding the effective date of this Agreement, faithfully has complied with:
 - 1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - 2) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
 - 3) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
 - 4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- D. Contractor represents and warrants that any and all services that it provides pursuant to this Agreement shall be performed in a professional and workmanlike manner and in compliance with applicable law and by agreed upon specifications.
- E. Any intellectual property rights or such delivered to the City under this Agreement, and Contractor's services rendered in the performance of Contractor's obligations under this Agreement, shall be provided to the City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

12. **INDEMNITY**

Contractor agrees to and shall defend, indemnify and hold harmless City, City's officers, employees, agents and representatives from and against all liability, claims, costs, demands, judgments, penalties, and causes of action of any kind or character, or other costs or expenses incidental to the investigation and defense thereof, of whatever nature, resulting from or arising out of the activities of the Contractor or its subcontractors, agents, or employees in performance of this contract, except, however, that the

foregoing shall not apply to liability that arises out of the City's, its officers, employees, agents and representatives sole negligence. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the remainder of this indemnification.

13. **INSURANCE**

Contractor shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover risks arising directly or indirectly out of Contractor's activities or work hereunder.

The policy or policies of insurance maintained by the Contractor shall provide at least the following limits and coverages:

A. **Commercial General Liability Insurance**

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (CG 2010 1185 or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	2,000,000
Products-Completed Operations Aggregate	2,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (any one fire)	50,000

B. **Commercial Automobile Insurance**

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles on an "occurrence" form. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

C. **Workers' Compensation Insurance**

The contractor, its Subcontractors, if any, and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers.

D. **Additional Insured Provision**

All policies aforementioned, other than Workers' Compensation and Professional Liability, shall include the City its officers, employees, agents and representatives as additional insureds with respect to this contract.

E. **Insurance Carrier Rating**

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. All policies of insurance must be written by companies having an A.M. Best rating of "A-VII" or better, or equivalent. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

F. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effective until the required Certificates of Insurance have been received and approved by the City. The certificate will specify and document all provisions within this contract and include a copy of Additional Insured Endorsement. A renewal certificate will be sent to the below address prior to coverage expiration.

A certificate in form satisfactory to the City certifying to the issuance of such insurance will be forwarded to:

City of Woodburn
Attn: Heather Pierson, City Recorder
270 Montgomery Street
Woodburn, Oregon 97071

At the discretion of the City, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company may be required to be forwarded to the above address.

Such policies or certificates must be delivered prior to commencement of the work. The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

14. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A, 279B, and 279C, the provisions of which are hereby made a part of this agreement.

15. CITY OF WOODBURN BUSINESS REGISTRATION

Contractor shall obtain, prior to the execution of any performance under this Agreement, a City of Woodburn Business Registration.

16. CONFLICT BETWEEN TERMS

It is agreed by and between the parties hereto that should there be any conflict between the terms of this Agreement or the proposal submitted for the contract, this Agreement shall control and nothing herein shall be considered as an acceptance of the terms of proposal conflicting herewith.

17. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

18. **COMPLIANCE WITH TAX LAWS**

- A. Contractor must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of the State of Oregon. For the purposes of this Section, “tax laws” includes all the provisions described in subsection 11.C. of this Agreement.
- B. Any violation of subsection A of this section shall constitute a material breach of this Agreement. Further, any violation of Contractor’s warranty under subsection 11.C of this Agreement, shall constitute a material breach of this Agreement. Any violation shall entitle the City to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:
- 1) Termination of this Agreement, in whole or in part;
 - 2) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s setoff right, without penalty; and
 - 3) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The City shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing a replacement Contractor.

These remedies are cumulative to the extent the remedies are not inconsistent, and the City may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

19. **NOTICE**

Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder will be given in writing by personal delivery, email, or mailing the same, postage prepaid, to Contractor or the City at the address or number set forth on the signature page of this Agreement. Any communication or notice so addressed and mailed will be deemed to be given three (3) days after mailing.

20. **CONFIDENTIALITY**

Contractor, may, in the course of its duties have in its possession sensitive information relating to internal policy and procedure of the City. All such information is confidential and unless permitted by the City in writing, Contractor shall not disclose such information, directly or indirectly, to any party, its counsel or any representatives, or use it in any way, except as required to perform their duties as requested by the City.

21. **ASSIGNMENT**

City has selected Contractor based on its reputation and specialized expertise. Contractor shall not enter into any subcontracts for any of the Services required by this Agreement, or assign or transfer any of its interest in this Agreement without City’s prior written consent. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

22. **RELATIONSHIP BETWEEN THE PARTIES (INDEPENDENT CONTRACTOR STATUS)**

Contractor shall perform all required Scope of Services as an independent contractor. Although the City reserves the right (i) to determine (and modify) the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, the City cannot and will not

control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Services. Contractor shall also provide, at its sole expense, all equipment and materials necessary to perform the Services described in this Agreement.

23. **NO THIRD-PARTY BENEFICIARIES**

The City and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

24. **GOVERNING LAW; VENUE & CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. 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.

25. **COMPLETE AGREEMENT**

This Agreement, including the attached exhibits, is intended both as a final expression of the Agreement between the Parties and as a complete and exclusive statement of the terms. In the event of an inconsistency between a provision in the main body of the Agreement and a provision in the Exhibits, the provision in the main body of the Agreement shall control. In the event of an inconsistency between Exhibit A (and Exhibit B-), Exhibit A shall control.

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 specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that they have read this Agreement, understand it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written. Awarded by Woodburn's Local Contract Review Board at their _____ meeting.

CITY OF WOODBURN

(CONTRACTOR)

By: Authorized City Representative

By: Authorized Contractor Representative

Date

Date