



# **REQUEST FOR PROPOSALS**

## **Professional Services**

### **Project Management for ERP Project**

**CIP #8126**

**ADVERTISEMENT DATE: May 1, 2019**

**PROPOSALS DUE:**  
**Friday, May 31, 2019, 4:00 PM local time**

**Address Proposals to:**

City of Wilsonville  
Attn: Andy Stone  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

Proposals must be sealed in an opaque envelope, plainly marked as follows: "Request for Proposals – Project Management for ERP Project," and sent to the attention of Andy Stone, IT Director. Include the name and address of the Proposer. Proposers must submit one (1) original and five (5) copies of the Proposal, along with a USB thumb drive of the Proposal.

Electronically mailed or faxed Proposals will not be accepted. The City of Wilsonville reserves the right to reject any or all Proposals.

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**PUBLIC NOTICE**

**REQUEST FOR PROPOSALS**  
**Project Management for ERP Project**  
**(CIP #8126)**  
**City of Wilsonville**  
**RFP's due 4:00 p.m., May 31, 2019**

**REQUEST FOR PROPOSALS**

The City of Wilsonville invites qualified individuals or firms to submit proposals to provide services related to the **Project Management for ERP Project** based upon the Scope of Work contained in the Request for Proposals (RFP). Sealed proposals, in writing, will be received by the City of Wilsonville, 29799 SW Town Center Loop East, Wilsonville, OR 97070, until **Friday, May 31, 2019, at 4:00 p.m. local time**. Facsimile or electronically transmitted Proposals will not be accepted.

RFP packets are available on the City's website <https://www.ci.wilsonville.or.us/rfps> (select the Project link). To obtain a paper copy of the RFP package, email [astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us) or call 503-570-1532.

The City of Wilsonville'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, handicap, or political affiliation.

As advertised in the Daily Journal of Commerce on May 1, 2019.

By Order of:  
Andy Stone  
IT Director  
City of Wilsonville  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

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# Request for Proposals

The City of Wilsonville, Oregon (“City”) is requesting Proposals in order to select a qualified consultant to provide project management services for the Enterprise Resource Planning Project (“ERP Project”). Interested consultants (“Proposers”) are invited to demonstrate their experience and qualifications in performing work directly related to the services required by responding to this **Request for Proposals (RFP)**. Proposals will be evaluated in accordance with the qualifications-based selection procedures of OAR 137-047-0260. This Project does  does not involve federal funds.

## I. Project Explanation

The City of Wilsonville desires to hire a consultant to assist in the migration from the current ERP solution (Tyler’s Eden) to the new ERP solution (Tyler’s Munis and EnerGov).

### **Community**

Wilsonville serves as a gateway between the Portland metropolitan area to the north and the agricultural lands of the Willamette Valley to the south. The City straddles I-5, has excellent freeway access, and is close to the I-205 interchange. Over 60% of Oregon’s population lives within 50 miles of the City. All these factors make Wilsonville an attractive employment hub, with over 800 local businesses, and one of Oregon’s most rapidly growing cities with over 24,000 residents. Throughout its growth, the City of Wilsonville has benefited from thoughtful planning, high development standards, and a beautiful natural environment.

### **Project Background**

The City of Wilsonville began implementing its first Enterprise Resource Planning (ERP) software, known as Eden, in 2001 and substantial completion occurred in 2004. The software is used throughout the City for financial, permitting, and administrative functions.

Eden was purchased in 2003 by Tyler Technologies, a company founded in 1966 that has evolved into a leading provider of municipal focused software. Tyler continues to support Eden but has acknowledged that other products in their portfolio will be the focus of future development.

A needs assessment was performed, and Tyler’s Munis and EnerGov products were selected as the products to replace Eden. Many communities near Wilsonville that have Eden experience have migrated to one or both of these products, or are in the process of doing so. Tyler’s products meet the majority of the requirements that were outlined in the needs assessment. It was also noted that one of the benefits of Tyler products is the strong community of users in the Wilsonville area and the support that Tyler has given.

### **Project Description**

The City of Wilsonville is looking to retain a Consultant that can perform Project Management duties for the City of Wilsonville’s ERP Project. The City will be migrating from Tyler’s Eden Financial and Permitting software to Tyler’s Munis Financials and EnerGov

Permitting products. All parties involved understand that the budget for this Project is limited (to the point of being a constraint on desired activities) and time must be restricted to an average of 20 hours/week for the length of the engagement. This has been identified as a concern, and specific restrictions are being placed on this Project to control the cost and quickly react to any projected increase in hours.

The ERP Project is expected to be divided into three main sections:

- Financials
- Permitting
- Utility Billing, Human Resources, and Payroll

### **Desired Project Management Duties**

1. Project Management Tasks – The selected Consultant will work with the City’s Project Director (PD) to perform project management tasks. The Consultant will delegate as much of the project management work as possible based on the City PD’s expertise and availability. The Consultant will provide oversight and guidance of all such work, as well as knowledge transfer to the City PD.
  - Create and Manage Project Plan - Coordinate with the vendor(s) and City staff to create a comprehensive project plan, including client tasks and timelines.
  - Manage Project Scope - Identify and coordinate processing of scope gaps and changes. Coordinate change order processing as required.
  - Manage Project Schedule – Create reasonable timelines, with input from vendor(s) and City staff. Keep vendors and city staff accountable to agreed-upon timelines.
  - Manage Project Risks – Perform proactive, ongoing efforts to identify potential risks to project success and assist City decision-makers to mitigate risks and resolve project issues.
  - Coordinate City Project Teams – Clarify roles and responsibilities and coordinate the City’s project team members across City departments.
  - Coordinate Project Communications – Develop a project communications plan and ensure consistent project communications at all levels City-wide throughout the Project. Provide regular updates to Project Steering Committee and City Executives, as requested, including discussion and resolution of project status, issues, and risks.
  - Serve as Liaison to Tyler – Obtain information from City personnel, as requested by Tyler, and keep Tyler accountable to timeline and to decisions made by the City. Evaluate deliverables from Tyler to identify gaps, and work with Tyler to resolve gaps.

### Deliverables

- Project Plan.
- Communications Plan.
- High-level executive roll-up schedule for project/vendor tracking.

- Change Orders, as needed.
- Status Reports on progress, including project issues and potential project risks.

2. Project-Related Tasks – The selected Consultant will work with the City’s Project Director (PD), as above, to delegate as much of the work as possible to the City’s PD and team, while providing oversight, guidance, and assistance where needed. Based on Consultant’s experience with similar software implementation projects, clients often need assistance with tasks assigned to them by vendors. The specific tasks where Consultant/PD assistance may be needed in this Project will be determined in working with Tyler to develop the Project Plan. Some examples follow:

- Assist project team members with data compilation/extraction from Eden systems.
- Assist project team members with new system configuration decisions such as data structures and effective code schemes.
- Assist project team members with workflow redesign, especially processes impacting staff across multiple departments.
- Assist project team members in determining “best practices” to utilize in making new system configuration decisions.
- Assist project team members in developing thorough test plans for user acceptance testing of the new system.
- Assist project team members in “go live” transition planning and troubleshooting.
- Assist project team members in preparing effective training materials for using the new system, i.e., clear, concise, and client-specific.
- Facilitate meetings of a project team, or teams, as needed.

#### Potential Deliverables

- Workflow diagrams.
- Documented system configuration decisions and rationale.
- User Acceptance Test Plan.
- Training materials.
- Go Live Transition Plan.
- Meeting notes – action items and decisions made.

#### **Project Timeframe**

This Project is expected to take no longer than 36 months, with each module implementation expected to last between 12 and 18 months, with overlapping start dates. In order to control costs, the selected Consultant will focus its work on basic project management (PM) tasks. Even so, some PM tasks may be assigned to City or other subcontractor resources.

At this time, no exact budget or timeline has been established for the full implementation of this Project and will be subject to the contract that will be signed with Tyler.

## II. Project Director

The City's Project Director shall be the sole point of contact for all questions, concerns, and protests. The Project Director for this Project is:

Andy Stone  
IT Director  
IT Department

Contact at:  
(503) 570-1532  
[astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us)

## III. Minimum Qualifications

Individuals and firms replying to this solicitation must have prior and relevant work experience in leading successful large-scale software implementations for municipalities. Any firms replying to this solicitation must be licensed businesses registered within the State of Oregon.

1. Proposers shall demonstrate a minimum of seven (7) years' experience providing the types of services described within the Scope of Work of this Request for Proposals for public agencies.
2. Proposers shall not have a record of substandard workmanship, as verified by the City by communication with licensing authorities, former clients and references, and other means as the City deems appropriate.

## IV. Proposal Requirements and Procedures

Proposers shall prepare and submit Proposals in accordance with the requirements stated within this RFP. Adherence to these requirements will ensure a fair and objective analysis of submitted Proposals. Proposals should provide a clear, concise description of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be placed on completeness, brevity, and clarity of content. Failure to comply with or complete any part of the RFP may result in rejection of the Proposal. The ability to follow these instructions demonstrates attention to detail.

Proposals are made at the Proposer's sole risk and expense. The solicitation may be suspended or delayed if it is determined to be in the best interest of the City to do so. The City is not liable to any Proposer for any loss or expense caused by, or resulting from, any cancellation, suspension, delay, or rejection.

### **Proposal Format**

Proposals shall preferably be double-sided and stapled once or bound in the upper left-hand corner. The City requests that submittal materials contain post-consumer recycled content and are readily recyclable. The City discourages the use of materials that cannot be readily recycled, such as PVC binders, spiral bindings, and plastic or glossy covers or dividers.

Proposals shall be organized in accordance with the listed Proposal contents set forth in the Evaluation Criteria section. Supporting Information, as defined below, shall be provided in a separate section at the end of the Proposal, and not counted in the page limit requirements.

Proposals exceeding the specified number of pages or text font size may be considered non-responsive and the Proposal may be rejected. Pages exceeding the maximum page limit may not be reviewed.

### **Submittal Requirements**

- Proposals should be clear and concise and typewritten
- Number of original copies (marked as such): one (1)
- Number of copies: five (5)
- Electronic version: on USB thumb drive (MS Word, MS Excel compatible, and PDF format files)
- Minimum font size: 12 point with a standard body text font (e.g. Calibri, Times New Roman, Garamond)
- Maximum number of pages: **30 pages** (one page is considered to be one side of a single 8 ½" x 11" sheet)
  - **Included in the page count:** Evaluation Criteria responses, charts, graphs, pictures, and all other text or graphics.
  - **Not Included in the page count:** front cover sheet, one-page table of contents, letter of intent, section dividers, back cover, and supporting information, as identified on page 6.

### **Submittal Procedure**

- Proposals are to be submitted in a sealed envelope and labeled:  
**Project Management for ERP Project – CIP #8126**
- Proposals are due no later than:  
**4:00 p.m. local time, Friday, May 31, 2019**
- The delivery address for Proposals is:  
**City of Wilsonville  
Attn: Andy Stone, IT Director  
29799 SW Town Center Loop East  
Wilsonville, OR 97070**
- Proposals submitted by EMAIL or FAX will not be accepted.
- Proposals received after the listed date and time will not be accepted.
- The City of Wilsonville is not responsible for delays in delivery.

**Firms that intend to submit a Proposal should notify Mr. Stone at [astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us) via email to request to be added to the “Intent to Submit” list. Individuals on this list will be notified of any addenda to the RFP.**

## Supporting Information

Supporting materials may include full resumes, other references, sample documents, and photos. However, pertinent information should be covered in the body of the Proposal. Supporting information will not count toward the page limit, but brevity is encouraged. If there is no additional information to present in the Supporting Information, then state, *“There is no additional information we wish to present.”*

## V. Proposal Submission

### Proposal Submission Requirements

Proposers shall submit one (1) original and five (5) copies, along with a USB thumb drive, of their written Proposals, sealed in an opaque envelope, plainly marked “Request for Proposals – Project Management for ERP Project,” and include the name and address of the Proposer. Proposals shall be addressed and submitted to the following location by **4:00 p.m. local time on Friday, May 31, 2019.**

City of Wilsonville  
Attn: Andy Stone, IT Director  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

Proposals must arrive at the issuing office on or before the listed time and date due. Late Proposals will be returned unopened and without review. Electronically mailed or faxed Proposals will not be accepted.

### RFP Change Requests

A prospective Proposer may request a change to any provision, specification, or contract term contained in the RFP documents by submitting a written request to:

City of Wilsonville  
Attn: Andy Stone  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

OR

[astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us)

All change requests shall include “RFP Change Request – Project Management for ERP Project” in the subject line or written on the front of the envelope and be submitted, in writing, by **4:00 p.m. local time on May 24, 2019.** Each request for change must specify the provisions, specifications, or contract terms of the RFP in question and contain reasons for the requested change and any proposed changes.

The City will evaluate and resolve all change requests submitted before the listed time and date due within a reasonable time following receipt of the change request. Changes that are accepted by the City shall be issued in the form of an addendum to the RFP.

## VI. RFP Documents

Request for Proposal (RFP) documents may be obtained at Wilsonville City Hall, located at 29799 SW Town Center Loop East, Wilsonville, Oregon 97070. RFP documents can also be downloaded at <https://www.ci.wilsonville.or.us/rfps> (select the Project link). Contact Andy Stone at (503) 570-1532 to obtain RFP documents by mail. The City of Wilsonville shall not be held responsible for the delivery of the documents.

## VII. Evaluation Process

A Selection Committee of at least three members comprised of City staff ("Selection Committee") will be appointed to evaluate the Proposals received. All written Proposals received by the deadline will be reviewed by the Selection Committee. Each Selection Committee member will independently evaluate each Proposal in accordance with the criteria stated in the Evaluation Criteria section of this RFP.

The City may also seek expert advice to help review Proposals. Advisors to the Selection Committee may attend evaluation meetings and consultant presentations, evaluate the Proposals, and lend any such expertise to the process as requested by the City. However, any such person that is contacted by the City for their expert advice shall not, from first being contacted until the RFP process is completed or otherwise brought to an end, have communications with any Proposers regarding their Proposals or the RFP process.

The City will determine the most qualified Proposer based on the Evaluation Criteria listed, using predetermined weights and the responsiveness of the Proposal. A subsequent round of interviews may be used to evaluate finalists.

If the City decides to conduct interviews, the interview sessions will be evaluated in a manner similar to the RFP response. Topics covered in the interview session shall include the topics listed hereinafter under the "Evaluation Criteria" section plus any additional, relevant topics which may arise during both the formal presentation and the question and answer portions of the interview. If interviews are conducted and your firm is selected for an interview, you will be contacted by the City for next steps.

At any point during the evaluation process, the City is permitted to seek clarification of any Proposal. The City retains the right to accept any Proposal that is deemed to best fit the needs of the City or no Proposal.

The Selection Committee will review, evaluate, and score written Proposals and interview candidates, as needed, to make the final selection. All information provided by the Proposer, including the written submittal, work product samples, and interview will be evaluated. The successful Proposer will demonstrate outstanding competence and experience relating to the criteria, convincing the Committee that the proposed team is the best one for this Project.

## VIII. Evaluation Criteria

These instructions were prepared to aid in response development. They also provide for a structured format so the Selection Committee can systematically evaluate several Proposals. Each copy of the submittal package must include all of the sections, in the order indicated.

Attachments should be clearly referenced and identified to facilitate the review process. Each Proposal shall include:

## **1. Letter of Intent (maximum 2 pages)**

The introductory letter should address the Proposer's willingness and commitment, if selected, to provide the services offered and a brief description of why the Proposer believes it should be selected.

The letter shall be addressed to the City's Project Director and include the name of the firm, as well as the printed name, title, telephone number, and email address of the officer authorized to represent the Proposer in any correspondence, negotiations, and signing of any contract that may result. Include the address of the office that will be providing the service and the project manager's name, title, telephone number, and e-mail address. The Proposer's federal and state tax ID numbers and the state of incorporation, if applicable, shall also be included. The letter must be signed by the Proposer, if an individual, or by a legal representative of the Proposer's entity, authorized to bind the entity in contractual matters.

The letter of interest shall specifically stipulate the following statements:

*"Proposer has received and examined, as part of the Proposal, Addenda No. \_\_\_ through \_\_\_. Proposer accepts all terms and conditions contained in the Request for Proposal and the Professional Services Agreement, except as otherwise specifically noted as an Exception in the Proposal."*

*"The submitted Proposal is valid for a period of ninety (90) days from the time and date Proposals are due."*

*"All materials and documents acquired or produced by the selected consultant in conjunction with the resulting contract shall be delivered to and become the property of the City of Wilsonville, without restriction or limitation of future use."*

Proposer shall identify whether the Proposer (or which members of Proposer's team) is a "resident Proposer" as defined in ORS 279A.120(1).

## **2. Proposed Team Qualifications**

Describe each member of the Proposer's team, including the proposed role for each firm or person on the Project, qualifications, expertise, and previous related experience, and experience of the firms collaborating together.

- Identify the day-to-day project manager, the principal-in-charge, and all other key project team members, including sub-consultants that will be utilized for the work. Identify the Project roles and responsibilities of all key personnel.
- Provide name, title, brief description of duties, years of pertinent experience, and availability of each staff member that will be assigned to this Project.

- Include a description of education, certificates or licenses, professional background, experience, skill, expertise, and training for the types of services required.
- Provide the name, title, and address of any sub-consultant that may perform work on this Project. Include what services they may provide, their pertinent experience, and years of related experience.
- Describe the extent of principal and project manager involvement.
- Full resumes may be added in an appendix and will not be counted as part of the page limit.
- Upon selection, key project staff cannot be changed without written approval of the City.

### **3. Project Understanding and Scope of Work**

This section of the Proposal should demonstrate Proposer's understanding of the intent and requirements of the Project. This section should include an explanation of the proposed Scope of Work and recommend any modifications of this RFP to best achieve the Project goals. Also provide suggestions of services that should be included for this Project that have not been requested, if any.

### **4. Project Approach and Schedule**

This section should layout how Proposer intends to ensure a successful Project, including Project milestones, meetings, and deliverables. After reviewing the Project Description included in this RFP, provide a detailed explanation of Proposer's approach to the work and the process Proposer plans to use. Each Proposer should demonstrate knowledge of the type of work requested, ability to solve the anticipated Project issues, and ability to offer innovative ideas. Proposer's ability to expeditiously complete the work should be made evident. The Proposal should include the following:

- Proposed Scope of Work based on Project Description included in this RFP and previous Municipal Software implementation experience.
- Describe your team's approach to managing a Municipal Software Implementation.
- Provide a detailed description of proposed services and the means and methods to be used to accomplish the tasks identified in the Project Description.
- Present a proposed project schedule. Identify and describe the deliverables that will result from each task and activity.
- Explain the end products/deliverables and what they will look like.
- Describe Proposer's approach and abilities to interact and engage stakeholders.
- Describe other resources your firm intends to commit to provide the required services for this Project, if any.

- Describe Proposer’s approach to unanticipated issues that may arise during the Project.
- Include a rate sheet for all team members.
- Propose options that would help reduce the overall cost of the Project Management of the implementation project.
- Also provide any additional information that might be beneficial to the Selection Committee.

## 5. Experience

Provide an overview of Proposer’s experience; major local clients (Oregon and SW Washington); areas of expertise; unique qualifications of Proposer; and other matters that Proposer feels would assist the City in the evaluation process.

- Identify at least three (3) successful comparable projects completed by proposer within the last five years.
- The following information is required for each such project: client name, description of project, services provided, and when the project was completed, along with a reference from each of those comparable projects. Also briefly explain the relevance, lessons learned, or key tasks that apply to your Proposal for this Project.
- Providing links to completed and adopted work samples is welcome.

## 6. Acknowledgement of Personal Services Agreement

Attachment A to this RFP is the Professional Services Agreement (“PSA” or “contract”) the City intends to use for this Project. The PSA identifies the standard contract terms, minimum types and amounts of insurance that the successful Proposer is required to carry, and other City contracting requirements. You must identify any objections or questions concerning the form and content of the PSA in your Proposal. Any objection or proposed modification to contract language must be taken as a part of the submitted Proposal or the change will not be considered during negotiations. Making such an objection will put the term on the table for discussion purposes, but the City reserves the right to reject any Proposal based on a requirement to change any contract terms.

## IX. Evaluation Scoring

Each Proposal received in response to this RFP will be evaluated based on:

CRITERIA	MAXIMUM SCORE
1. <b>Requirements:</b> Proposal adheres to submittal parameters - cover letter, acknowledgement of Personal Services Agreement, and within page limit.	Pass/Fail
2. <b>Qualifications of Personnel:</b> Capabilities of Proposer to meet the proposed Scope of Work. Prior project related experiences, educational, and professional record, work products, and training of the proposed team members.	10

3. <b>Project Understanding:</b> Overall clarity and thoroughness of Proposal reflecting a clear understanding of Project goals, requirements, and Project Description.	25
4. <b>Approach:</b> Quality, detail, and creativity of Proposal in addressing tasks identified in the Project Description for completing a successful ERP migration project.	30
5. <b>Experience:</b> Description of similar projects and their approach. Lessons learned and references of these projects. Proposer has a proven record of accomplishment of clear communication, teamwork, and effective project management.	20
6. <b>Cost:</b> Proposer demonstrates an understanding of cost constraints associated with the Project and provides options to reduce the overall cost.	15
<b>TOTAL</b>	100

In addition to the above weighted scoring criteria, feedback from provided references will also be considered and may be determinative in the selection process.

### Written Evaluation

Based on their evaluation, each member of the Selection Committee will score each Proposal according to the above scoring criteria. Each member will rank, in descending order, each Proposal by total score.

### Interview Evaluation

If determined to be necessary or desirable by the City, finalists from the written evaluation may be invited to participate in an additional interview evaluation process. The number of finalists will be determined by the Selection Committee. The interview evaluation process will provide an opportunity for Proposers to make a presentation to clarify their Proposal and for the Selection Committee to ask additional questions related to the Proposal and Scope of Work. The City will notify finalists of the interview evaluation time and location and allow for a reasonable period of time for finalists to prepare presentations.

After the interviews, each member of the Selection Committee will re-evaluate and re-score each finalist interviewed according to the Evaluation Criteria. Each member will rank, in descending order, each interview by total score.

### Successful Proposer Determination

The Proposer with the highest overall ranking, as determined by the Selection Committee, shall be identified as the Successful Proposer. Depending on the number of Proposers and the point spread among Proposals, the Selection Committee may determine that an interview evaluation is needed to determine the Successful Proposer. Those Proposers selected for interviews will be based on the Proposals with the highest overall ranking.

If interviews are conducted, the Successful Proposer will be determined based on the adjusted post-interview score and ranking in accordance with the Evaluation Criteria. The Proposer with the highest overall adjusted ranking, as determined by the Selection Committee, shall be identified as the Successful Proposer.

The City reserves the right to perform additional investigations of any Proposer, including communication with licensing authorities, former clients and references, and other means

as the City deems appropriate, and may reject any Proposal upon finding a record of Proposer's substandard workmanship.

The Selection Committee shall determine the final ranking of Proposers, and the Committee's decision is final. Upon determination of the Successful Proposer and performance of additional investigations, the City will issue a Notice of Intent to Award letter notifying all Proposers of the City's selection of a Successful Proposer and protest procedures.

The City reserves the right to negotiate a final contract that is in the best interest of the City. The City will only negotiate those provisions of the contract that were noted as Exceptions in the Proposal. The City will attempt to reach a final agreement with the Successful Proposer. The City may, in its sole discretion, terminate negotiations and reject the Proposal in the event agreement cannot be reached. The City may then attempt to reach final agreement with the next highest ranked Proposer, and so on with the remaining Proposers, until an agreement is reached. In the alternative, the City may at any time elect to reject all Proposals and begin the RFP process over.

After the City has reached final agreement with the Proposer, the Selection Review Committee will make a recommendation to the Wilsonville City Council. The Wilsonville City Council will then make the final contract award decision.

### **Award Protest**

A Proposer believing to have been adversely affected or aggrieved by the selection of the Successful Proposer may submit a protest to the City in accordance with OAR 137-047-0740. The protest must be in writing and submitted to:

City of Wilsonville  
Attn: Andy Stone  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

**OR**

[astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us)

Award protests shall include "Award Protest —Project Management for ERP Project" in the subject line or written on the front of the envelope. The written protest must be received by the City no later than **4:00 p.m. local time, June 28, 2019**. The protest should demonstrate that all higher ranked Proposers failed to meet the requirements of the RFP or are not qualified to perform the services described in the RFP. Protests received after the deadline will not be considered.

No contract associated with the RFP will be awarded until any protests have been resolved. The City will evaluate and resolve all award protests submitted before the deadline within a reasonable time following receipt of the protest. The City will promptly issue a written decision on the protest to the Proposer who submitted the protest. If the City's written decision on the protest results in a change to the RFP, the City shall cancel the Notice of Intent to Award, revise the RFP documents accordingly, and solicit for new Proposals. The City's decision regarding the protest is final and concludes the administrative appeals process.

## X. Schedule

The following is the anticipated timeline for receiving and evaluating Proposals and awarding a contract to the most qualified firm or individual. *These dates are estimates and are subject to change.*

Advertise Request for Proposals	May 1, 2019
RFP Change Request Deadline	May 24, 2019, 4:00 p.m.
RFP Question Submission Deadline	May 24, 2019, 4:00 p.m.
Answers Posted	May 28, 2019
Addenda Issuance Deadline	May 28, 2019
Proposals Due	May 31, 2019, 4:00 p.m.
Interviews <i>(if needed)</i>	TBD
Evaluation of Proposals Complete	June 14, 2019 <i>(or no later than one week after interviews are completed, if necessary)</i>
Notice of Intent to Award	June 21, 2019
Award Protest Deadline	June 28, 2019, 4:00 p.m.
City Council Award Hearing	July 15, 2019, 7:00 p.m.
Notice of Award/Finalize Contract	July 17, 2019

## XI. Pre-Proposal Meeting

There will be no pre-submittal meeting or site visit scheduled for this RFP.

## XII. RFP Questions

During this process, Proposers are encouraged to ask as many questions as needed to prepare a viable Proposal.

Proposers shall direct all questions regarding RFP documents in writing or by email to:

City of Wilsonville  
Attn: Andy Stone  
29799 SW Town Center Loop East  
Wilsonville, OR 97070

OR

[astone@ci.wilsonville.or.us](mailto:astone@ci.wilsonville.or.us)

For the sake of fairness, Proposers are not to contact any City staff or official other than the Project Director concerning this RFP. Contact with any other City staff or official concerning this RFP will be grounds for disqualification.

All questions shall include “RFP Questions – Project Management for ERP Project” in the subject line or written on the front of the envelope and be submitted in writing by **4:00 p.m. local time on Friday, May 24, 2019**. Questions submitted after 4:00 p.m. local time on Friday, May 24, 2019 will not be addressed.

Questions and answers will be provided by email to all firms on the RFP holders list. Additionally, responses will be posted on the City’s website by **May 28, 2019** to share clarifying information with all potential Proposers.

Proposers are hereby notified that verbal communication may not be relied upon as official communication concerning this RFP. Only answers to those questions responded to by the Project Director via email or by written addendum may be relied upon.

### XIII. General RFP Information

#### **Contract Award**

The City reserves the right to cancel the procurement or reject any or all Proposals when the cancellation or rejection is in the best interest of the City.

The City may elect to award the contract to the highest ranked Proposer based on successful negotiation of scope, price, and terms. However, the City may, in its sole discretion, terminate negotiations and reject the Proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the next highest scoring Proposer and may continue on, in the same manner, with remaining Proposers until an agreement is reached.

The City will only negotiate those provisions of the contract that were noted as Exceptions in the Proposal.

#### **Changes to the RFP Solicitation by Addenda**

At any time before the Proposal Due Date, the City may issue addenda to the RFP, which will be published on the City website. The Addenda will be issued by **May 28, 2019**, or the deadline will be extended to allow the three-day period to elapse. All who notify the City of their intent to propose will be notified of official written addenda. The Project Director shall issue all official communication as written addenda to the RFP.

All addenda shall have the same binding effect as though contained in the main body of the RFP and Scope of Work.

No addenda will be issued later than May 28, 2019, except by an addendum, if necessary, postponing the date for receipt of Proposals or withdrawing the RFP altogether.

Each Proposer is responsible for obtaining all addenda prior to submitting a Proposal, and shall acknowledge in the Proposal receipt of each addendum as part of the Proposal. Failure to acknowledge receipt of all addenda as part of the Proposal may result in rejection of the Proposal.

## **Confidentiality**

All information submitted by Proposers shall become and remain the property of the City and, as such, is considered public information and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which the Proposer requests exception from disclosure as being proprietary information exempt from disclosure, consistent with Oregon law. If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

*"This data constitutes a trade secret and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."*

Identifying the Proposal in whole as a trade secret is not acceptable. Failure to identify a portion of the Proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret. Nondisclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law.

The City will make available to any person requesting information through the City processes for disclosure of public records, any and all information submitted as a result of this RFP not exempted from disclosure without obtaining permission from any Proposer to do so after the Notice of Intent to Award has been released.

The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted. If a public record request is made for material marked as proprietary, the City will attempt to notify the impacted Proposer prior to the deadline for release of the material but will not defend against any legal challenge for release. Therefore, claims arising out of any public record request for such information shall be at the Proposer's sole expense, if the Proposer wishes to deny or withhold the information.

## **Cancellation**

The City reserves the right to cancel this RFP or the contract award at any time before execution of the contract by both parties, if cancellation is deemed to be in the best interest of the City. In no event shall the City have any liability for the cancellation of a contract award.

## **Late Proposals**

All Proposals that are not received by the Proposal Due Date and Time will not be considered and will be returned unopened to the Proposer. Electronically mailed or faxed Proposals will not be accepted. Delays due to mail and/or delivery handling, including but not limited to delays within the City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the Proposal Due Date.

## **Disputes**

In case of any doubt or differences of opinion as to the items or services to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the City shall be final and binding upon all parties.

## Proposer Certifications

By the act of submitting a Proposal in response to this RFP, the Proposer certifies that:

1. Proposer has carefully examined all RFP documents, including the draft Professional Services Agreement (attached as **Attachment A**), all addenda, and all other attachments, fully understands the RFP intent, is able to perform all tasks as described in the Scope of Work of this RFP, and the Proposal is made in accordance therewith. Except as otherwise noted as part of the Proposal, Proposer certifies that Proposer is ready, willing, and able to comply with all terms of the attached contract.
2. Proposer is familiar with the local conditions under which the work will be performed.
3. The Proposal is based upon the requirements described in the RFP, without exception, unless clearly stated in the response.
4. Proposer accepts all of the terms of the City's Professional Services Agreement and warrants that Proposer will fully meet all of the insurance requirements contained therein. **If Proposer wishes to amend or modify any terms of the contract, such amendment or modification must be stated in particularity in the Proposal. Proposed changes to the draft contract not stated at the time of Proposal submission will not be considered.** Changes stated will be considered but may not be agreed upon by the City for contract award. If the City does not agree with such noted changes, Proposer may withdraw the proposed change or the entire Proposal and the City may elect to award the contract to the next highest ranked Proposer.
5. Proposer certifies, and in the case of sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of Proposer's knowledge and belief, no elected official, employee, or person whose salary is payable in whole or part by the City has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof, other than as fully described in the Proposer's response to this solicitation.
6. Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and if its Proposal is accepted, the Proposer shall accept the contract documents thereto, unless substantive changes are made in same without the approval of the Proposer.
7. Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.
8. Proposer has quality experience providing the types of services and duties as described within the Scope of Work of this RFP.
9. Proposer shall also certify Proposer's state of residence.

## **Nondiscrimination**

By the act of submitting a Proposal in response to this RFP, the Proposer certifies, under penalty of perjury, that *the Proposer has not discriminated and will not discriminate against minorities, women, emerging small business enterprises, or a business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining any required subcontracts.*

## **Competition**

Prospective Proposers are encouraged to comment, either with their Proposals or at any other time, in writing, on any specification or requirement within this RFP which the Proposer believes will inordinately limit competition.

## **Proposal Liability**

Proposers responding to this RFP do so solely at their expense, and the City is not responsible for any Proposer expenses associated with the RFP. By proposing, Proposers agree that doing so is at their own risk and the City shall have no liability related thereto. Finalists invited to participate in interview evaluations are responsible for scheduling and paying for their own travel arrangements. The City is not liable for any cost incurred by a Proposer in protesting any portion of the RFP documents or the City's selection decision.

## **City Requests for Clarification, Additional Research, and Revisions**

The City reserves the right to obtain clarification of any portion of a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to timely respond to such a request for additional information or clarification may result in a finding that the Proposer is non-responsive and consequent rejection of the Proposal.

The City may obtain information from any legal source for clarification of any Proposal. The City need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole option, investigations of any Proposer. Information may include, but shall not necessarily be limited to, current litigation and contracting references. All such documents, if requested by the City, become part of the public record and may be disclosed accordingly.

The City reserves the right to request revisions of any Proposal after the date and time due and before award for the purpose of obtaining best and final offers.

## **Rejection of Proposals**

The City reserves the right to reject any or all irregularities or omissions in Proposals submitted in response to this RFP to the extent it is determined to be in the best interest of the City to do so. Furthermore, the City reserves the right to reject any or all Proposals or portions thereof submitted in response to this RFP. Proposals may be rejected for one or more of the following reasons, including but not limited to:

1. Failure of the Proposer to adhere to one or more of the provisions established in the RFP.
2. Failure of the Proposer to submit a Proposal in the format specified herein.
3. Failure of the Proposer to submit a Proposal within the time requirements established herein.
4. Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.

The City may reject any Proposal not in compliance with all prescribed public procurement procedures and requirements, and may reject for good cause any or all Proposals upon a finding by the City that it is in the public interest to do so.

### **Modification or Withdrawal of Proposal by Proposer**

A Proposal may not be modified, withdrawn, or canceled by the Proposer following the time and date the Proposals are due. Proposals submitted early may be modified or withdrawn only by notice to the City, at the Proposal submittal location, prior to the time and date the Proposals are due. Such notice shall be submitted to the Project Director, in writing, executed and signed by a duly authorized representative of the firm/individual submitting the Proposal. All such communication shall be so worded as not to reveal the contents of the original Proposal.

Withdrawn Proposals may be resubmitted prior to the time and date the Proposals are due, provided that they are then fully in conformance with the RFP.

### **Duration of Proposal**

Proposal prices, terms, and conditions shall be firm for a period of at least ninety (90) days from the time and date Proposals are due. Proposals shall not be subject to future price escalation or changes of terms during the ninety (90) day period.

### **Local and Federal Requirements**

The City of Wilsonville intends to select a consultant in accordance with Oregon law and the City's municipal code. Selection of a consultant under this process is not a guarantee of a contract award, nor is the award of a contract for any portion of the work a guarantee of award of a contract for any subsequent work. All work is subject to budgetary and funding constraints of the City of Wilsonville.

The selected consultant 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: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

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

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# Attachment A

## Sample Professional Services Agreement

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**CITY OF WILSONVILLE  
PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) for the Project Management for ERP Project (“Project”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_ 2019 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and \_\_\_\_\_ a(n) \_\_\_\_\_ [state] \_\_\_\_\_ [corporation/limited liability company, etc.] (hereinafter referred to as “Consultant”).

**RECITALS**

WHEREAS, the City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that Consultant is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Consultant is prepared to provide such services as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

**AGREEMENT**

**Section 1. Term**

The term of this Agreement shall be from the Effective Date until all services required to be performed hereunder (“Services”) are completed and accepted, or no later than \_\_\_\_\_, 20\_\_\_\_, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City.

**Section 2. Consultant’s Services**

2.1. Consultant shall diligently perform the project management Services according to the requirements identified in the Scope of Services, attached hereto as **Exhibit A** and incorporated by reference herein, for the Project.

2.2. All written documents, drawings, and plans submitted by Consultant in conjunction with the Services shall bear the signature, stamp, or initials of Consultant’s authorized Project Manager. Any documents submitted by Consultant that do not bear the signature, stamp, or initials of Consultant’s authorized Project Manager, will not be relied upon by the City. Interpretation of plans and answers to questions regarding the Services or Scope of Services given by Consultant’s Project Manager may be verbal or in writing, and may be relied

upon by the City, whether given verbally or in writing. If requested by the City to be in writing, Consultant's Project Manager will provide such written documentation.

2.3. Consultant will not be deemed to be in default by reason of delays in performance due to reasons beyond Consultant's reasonable control, including but not limited to strikes, lockouts, severe acts of nature, or other unavoidable delays or acts of third parties not under Consultant's direction and control ("Force Majeure"). In the case of the happening of any Force Majeure event, the time for completion of the Services will be extended accordingly and proportionately by the City, in writing. Lack of labor, supplies, materials, or the cost of any of the foregoing shall not be deemed a Force Majeure event.

2.4. The existence of this Agreement between the City and Consultant shall not be construed as the City's promise or assurance that Consultant will be retained for future services beyond the Scope of Services described herein.

2.5. Consultant shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Consultant may have access by reason of this Agreement. Consultant warrants that Consultant's employees assigned to work on the Services provided in this Agreement shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

### **Section 3. Compensation**

3.1. Except as otherwise set forth in this **Section 3**, the City agrees to pay Consultant on a time and materials basis, guaranteed not to exceed \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) for performance of the Services ("Compensation Amount"). Consultant's rates are set forth on **Exhibit B**, attached hereto and incorporated by reference herein. Any compensation in excess of the Compensation Amount will require an express written Addendum to be executed between the City and Consultant.

3.2. During the course of Consultant's performance, if the City, through its Project Manager, specifically requests Consultant to provide additional services that are beyond the Scope of Services described on **Exhibit A**, Consultant shall provide such additional services and bill the City at the hourly rates outlined on Consultant's Rate Schedule, as set forth in **Exhibit B**. Any Additional work beyond the Scope of Services or any compensation above the amount shown in **Subsection 3.1** requires a written Addendum executed in compliance with the provisions of **Section 16**.

3.3. Except for amounts withheld by the City pursuant to this Agreement, Consultant will be paid for Services for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Consultant as promptly as is reasonably possible.

3.4. The City will be responsible for the direct payment of required fees payable to governmental agencies, including but not limited to plan checking, land use, zoning, and all other similar fees resulting from this Project, that are not specifically covered by **Exhibit A**.

3.5. Consultant's Compensation Amount and Rate Schedule are all inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits and similar contributions and benefits, technology and/or software charges, office expenses, travel expenses, mileage, and all other indirect and overhead charges.

#### **Section 4. Prevailing Wages**

This is a contract for a Public Works Project subject to ORS 279C.800 to 279C.870. Therefore, not less than the current applicable state prevailing wage must be paid on this Project. Wage rates for this Project are those published by the Bureau of Labor and Industries (BOLI), effective January 1, 2019, and all subsequent amendments. The BOLI prevailing wage rate for public works contracts can be found at the following website: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx). Because this is a public works contract subject to payment of prevailing wages, each worker in each trade or occupation employed in the performance of the Services, either by Consultant, a subcontractor, or other person doing or contracting to do, or contracting for the whole or any part of the Services, must be paid not less than the applicable state prevailing wage for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838 and 279C.840, if applicable. Consultant must comply with all public contracting wages required by law. Consultant and any subcontractor, or their sureties, shall file a certificate of rate of wage as required by ORS 279C.845. If the City determines at any time that the prevailing rate of wages has not been or is not being paid as required herein, it may retain from the moneys due to Consultant an amount sufficient to make up the difference between the wages actually paid and the prevailing rate of wages, and may also cancel the contract for breach. Consultant shall be liable to the workers affected for failure to pay the required rate of wage, including all fringe benefits under ORS 279C.840(5). Consultant shall include a contract provision in compliance with this paragraph in every subcontract and shall require each subcontractor to include it in subcontract(s).

#### **Section 5. City's Rights and Responsibilities**

5.1. The City will designate a Project Manager to facilitate day-to-day communication between Consultant and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

5.2. Award of this contract is subject to budget appropriation. Funds are approved for Fiscal Year 2018-19. If not completed within this fiscal year, funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this contract early, as described in **Section 14**.

## **Section 6. City's Project Manager**

The City's Project Manager is Andy Stone. The City shall give Consultant prompt written notice of any re-designation of its Project Manager.

## **Section 7. Consultant's Project Manager**

Consultant's Project Manager is \_\_\_\_\_. In the event that Consultant's designated Project Manager is changed, Consultant shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Consultant's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Consultant that is not from Consultant's designated Project Manager, the City may request verification by Consultant's Project Manager, which verification must be promptly furnished.

## **Section 8. Project Information**

Except for confidential information designated by the City as information not to be shared, Consultant agrees to share Project information with, and to fully cooperate with, those corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news, or press releases related to the Project, whether made to representatives of newspapers, magazines, or television and radio stations, shall be made without the written authorization of the City's Project Manager.

## **Section 9. Subcontractors and Assignments**

9.1. Unless expressly authorized in **Exhibit A** or **Section 10** of this Agreement, Consultant shall not subcontract with others for any of the Services prescribed herein. Consultant shall not assign any of Consultant's rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City's sole discretion. Some Services may be performed by persons other than Consultant, provided Consultant advises the City of the names of such subcontractors and the work which they intend to perform, and the City specifically agrees in writing to such subcontracting. Consultant acknowledges such work will be provided to the City pursuant to a subcontract(s) between Consultant and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Agreement, the City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this Agreement without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for work performed by others on behalf of Consultant shall not be subject to additional reimbursement by the City.

9.2. The City shall have the right to enter into other agreements for the Project, to be coordinated with this Agreement. Consultant shall cooperate with the City and other firms, engineers or subcontractors on the Project so that all portions of the Project may be completed in the least possible time and within normal working hours. Consultant shall furnish other

engineers, subcontractors and affected public utilities, whose designs are fitted into Consultant's design, detail drawings giving full information so that conflicts can be avoided.

9.3. Consultant shall include this Agreement by reference in any subcontract and require subcontractors to perform in strict compliance with this Agreement.

## **Section 10. Consultant Is Independent Contractor**

10.1. Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the Compensation Amount provided for under **Section 3** of this Agreement. Consultant will be solely responsible for determining the manner and means of accomplishing the end result of Consultant's Services. The City does not have the right to control or interfere with the manner or method of accomplishing said Services. The City, however, will have the right to specify and control the results of Consultant's Services so such Services meet the requirements of the Project.

10.2. Consultant may request that some consulting services be performed on the Project by persons or firms other than Consultant, through a subcontract with Consultant. Consultant acknowledges that if such Services are provided to the City pursuant to a subcontract(s) between Consultant and those who provide such services, Consultant may not utilize any subcontractor(s), or in any way assign its responsibility under this Agreement, without first obtaining the express written consent of the City, which consent may be given or denied in the City's sole discretion. For all Services performed under subcontract to Consultant, as approved by the City, Consultant shall only charge the compensation rates shown on the approved Rate Schedule (**Exhibit B**). Rate schedules for named or unnamed subcontractors, and Consultant markups of subcontractor billings, will only be recognized by the City as set forth in Consultant's Rate Schedule, unless documented and approved, in writing, by the City pursuant to a modification to Consultant's Rate Schedule, per **Section 16** of this Agreement. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Consultant.

10.3. Consultant shall be responsible for, and defend, indemnify, and hold the City harmless against, any liability, cost, or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, errors, or omissions. Unless otherwise agreed to, in writing, by the City, Consultant shall require that all of Consultant's subcontractors also comply with, and be subject to, the provisions of this **Section 10** and meet the same insurance requirements of Consultant under this Agreement.

## **Section 11. Consultant Responsibilities**

11.1. Consultant must make prompt payment for any claims for labor, materials, or services furnished to Consultant by any person in connection with this Agreement as such claims become due. Consultant shall not permit any liens or claims to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of Consultant. If Consultant fails, neglects, or refuses to make prompt payment of any such claim, the City may, but shall not be obligated to, pay such claim to the subcontractor furnishing the labor, materials,

or services and offset the amount of the payment against funds due or to become due to Consultant under this Agreement. The City may also recover any such amounts directly from Consultant.

11.2. Consultant must comply with all applicable Oregon and federal wage and hour laws, including BOLI wage requirements, if applicable. Consultant shall make all required workers compensation and medical care payments on time. Consultant shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses.

11.3. No person shall be discriminated against by Consultant or any subcontractor in the performance of this Agreement on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Agreement, in whole or in part, by the City.

11.4. References to "subcontractor" mean a subcontractor at any tier.

## **Section 12. Indemnity**

12.1. **Indemnification.** Consultant acknowledges responsibility for liability arising out of the performance of this Agreement, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Agreement, or from Consultant's failure to perform its responsibilities as set forth in this Agreement. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Consultant shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Consultant of its responsibility to perform in full conformity with the City's requirements, as set forth in this Agreement, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Consultant's negligent performance of this Agreement, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 12.2.** Consultant shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Consultant. As used herein, the term "Consultant" applies to Consultant and its own agents, employees, and suppliers, and to all of Consultant's subcontractors, including their agents, employees, and suppliers.

12.2. Standard of Care. In the performance of the Services, Consultant agrees to use that degree of care and skill exercised under similar circumstances by reputable members of Consultant's profession practicing in the Portland metropolitan area. Consultant will re-perform any Services not meeting this standard without additional compensation. Consultant's re-performance of any Services, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Consultant's failure to perform in accordance with the applicable standard of care of this Agreement and within the prescribed timeframe.

## **Section 13. Insurance**

13.1. Insurance Requirements. Consultant shall maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Agreement. Such insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder. Any and all agents, contractors, or subcontractors with which Consultant contracts to work on the Services must have insurance that conforms to the insurance requirements in this Agreement. Additionally, if a subcontractor is an engineer, architect, or other professional, Consultant must require the subcontractor to carry Professional Errors and Omissions insurance and must provide to the City proof of such coverage. The amount of insurance carried is in no way a limitation on Consultant's liability hereunder. The policy or policies maintained by Consultant shall provide at least the following minimum limits and coverages at all times during performance under this Agreement:

13.1.1. Commercial General Liability Insurance. Consultant and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Agreement, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Agreement and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Agreement.

13.1.2. Professional Errors and Omissions Coverage. Consultant agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the Services hereunder with a limit of no less than **\$2,000,000** per claim. Consultant shall maintain this insurance for damages alleged to be as a result of errors, omissions, or negligent acts of Consultant. Such policy shall have a retroactive date effective before the commencement of any work by Consultant on the Services covered by this Agreement, and coverage will remain in force for a period of at least three (3) years thereafter.

13.1.3. Business Automobile Liability Insurance. If Consultant or any subcontractors will be using a motor vehicle in the performance of the Services herein, Consultant shall provide the City a certificate indicating that Consultant and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

13.1.4. Workers Compensation Insurance. Consultant, its subcontractors, and all employers providing work, labor, or materials under this Agreement 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 under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Consultants who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

13.1.5. Insurance Carrier Rating. Coverages provided by Consultant and its subcontractors must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

13.1.6. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages. Additional Insured coverage under Consultant's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder. Consultant must be an additional insured on the insurance policies obtained by its subcontractors performing work on the Services contemplated under this Agreement.

13.1.7. Certificates of Insurance. As evidence of the insurance coverage required by this Agreement, Consultant shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Consultant agrees that it will not terminate or change its coverage during the term of this Agreement without giving the City at least thirty (30) days' prior advance notice

and Consultant will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

13.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are “Claims Made” policies, Consultant will be required to maintain such policies in full force and effect throughout any warranty period.

#### **Section 14. Early Termination; Default**

14.1. This Agreement may be terminated prior to the expiration of the agreed upon terms:

14.1.1. By mutual written consent of the parties;

14.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; or

14.1.3. By Consultant, effective upon seven (7) days’ prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of Consultant, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

14.2. If the City terminates this Agreement, in whole or in part, due to default or failure of Consultant to perform Services in accordance with the Agreement, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Consultant shall be liable for all costs and damages incurred by the City as a result of the default by Consultant, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Agreement. This Agreement shall be in full force to the extent not terminated by written notice from the City to Consultant. In the event of a default, the City will provide Consultant with written notice of the default and a period of ten (10) days to cure the default. If Consultant notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Agreement and seek remedies for the default, as provided above.

14.3. If the City terminates this Agreement for its own convenience not due to any default by Consultant, payment of Consultant shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Consultant against the City under this Agreement.

14.4. Termination under any provision of this section shall not affect any right, obligation, or liability of Consultant or the City that accrued prior to such termination. Consultant shall surrender to the City items of work or portions thereof, referred to in **Section 18**, for which Consultant has received payment or the City has made payment.

### **Section 15. Suspension of Services**

The City may suspend, delay, or interrupt all or any part of the Services for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within Consultant's control. The City shall not be responsible for Services performed by any subcontractors after notice of suspension is given by the City to Consultant. Should the City suspend, delay, or interrupt the Services and the suspension is not within Consultant's control, then the City shall extend the time of completion by the length of the delay.

### **Section 16. Modification/Addendum**

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both the City and Consultant. A modification is a written document, contemporaneously executed by the City and Consultant, which increases or decreases the cost to the City over the agreed Compensation Amount in **Section 3** of this Agreement, or changes or modifies the Scope of Services or the time for performance. No modification shall be binding or effective until executed, in writing, by both Consultant and the City. In the event Consultant receives any communication of whatsoever nature from the City, which communication Consultant contends gives rise to any modification of this Agreement, Consultant shall, within five (5) days after receipt, make a written request for modification to the City's Project Manager in the form of an Addendum. Consultant's failure to submit such written request for modification in the form of an Addendum shall be the basis for refusal by the City to treat said communication as a basis for modification or to allow such modification. In connection with any modification to this Agreement affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment, and other costs. If Consultant incurs additional costs or devotes additional time on Project tasks, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Addendum. To be enforceable, the Addendum must describe with particularity the nature of the change, any delay in time the Addendum will cause, or any increase or decrease in the Compensation Amount. The Addendum must be signed and dated by both Consultant and the City before the Addendum may be implemented.

### **Section 17. Access to Records**

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Consultant as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts during the term of this Agreement and for a period of four (4) years after termination of the Agreement, unless the City specifically requests an

extension. This clause shall survive the expiration, completion, or termination of this Agreement.

**Section 18. Property of the City**

18.1. All documents, reports, and research gathered or prepared by Consultant under this Agreement, including but not limited to spreadsheets, charts, graphs, data generation, papers, diaries, shall be the exclusive property of the City and shall be delivered to the City prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to the City upon request without additional compensation.

18.2. Consultant shall not be held liable for any damage, loss, increased expenses, or otherwise, caused by or attributed to the reuse by the City or its designees of all work performed by Consultant pursuant to this Agreement without the express written permission of Consultant.

**Section 19. Notices**

Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City:                      City of Wilsonville  
   Attn: Andy Stone, IT Director  
   29799 SW Town Center Loop East  
   Wilsonville, OR 97070

To Consultant:             \_\_\_\_\_  
   Attn: \_\_\_\_\_  
   \_\_\_\_\_  
   \_\_\_\_\_

**Section 20. Miscellaneous Provisions**

20.1. Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

20.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be enforced by an action at law or in equity.

20.3. No Assignment. Consultant may not assign this Agreement, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

20.4. Adherence to Law. In the performance of this Agreement, Consultant shall adhere to all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Consultant is required by law to obtain or maintain in order to perform the Services described on **Exhibit A**, shall be obtained and maintained throughout the term of this Agreement.

20.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

20.6. Jurisdiction. Venue for any dispute will be in Clackamas County Circuit Court.

20.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Agreement, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

20.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Agreement shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

20.9. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

20.10. Modification. This Agreement may not be modified except by written instrument executed by Consultant and the City.

20.11. Time of the Essence. Time is expressly made of the essence in the performance of this Agreement.

20.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

20.13. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

20.14. Number, Gender and Captions. In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

20.15. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Agreement gives the City “sole discretion” or the City is allowed to make a decision in its “sole judgment.”

20.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

20.17. Interpretation. As a further condition of this Agreement, the City and Consultant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Agreement, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

20.18. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the parties.

20.19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

20.20. Authority. Each party signing on behalf of Consultant and the City hereby warrants actual authority to bind their respective party.

The Consultant and the City hereby agree to all provisions of this Agreement.

**CONSULTANT:**

**CITY:**

\_\_\_\_\_

CITY OF WILSONVILLE

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

As Its: \_\_\_\_\_

Employer I.D. No. \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Guile-Hinman, Asst. City Attorney  
City of Wilsonville, Oregon

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