

REQUEST FOR QUALIFICATIONS

SOUTH US 97 URBAN RENEWAL DISTRICT FEASIBILITY STUDY



Advertisement: October 18, 2019
Requests for Clarification Due: November 8, 2019
Qualifications Due: November 21, 2019
Intent to Award: November 22, 2019
Contract Award by Urban Renewal Agency: December 10, 2019

City of Redmond
411 SW 9th Street
Redmond, Oregon 97756
(541) 923-7761

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SECTION 1. LEGAL ADVERTISEMENT

CITY OF REDMOND Request for Qualifications (RFQ)

South US 97 Urban Renewal District Feasibility Study Statement of Qualifications (SOQ) due 4:00 p.m., November 21, 2019

The City of Redmond invites consultant teams to submit a SOQ to conduct a feasibility study (Study) for the creation of an Urban Renewal District in the South US 97 area of Redmond, Oregon. The recently completed US 97 South Redmond Corridor Project identified the need for \$50M - \$80M in improvements intended to upgrade the safety, the freight mobility, and the economic vitality of this heavily used section of US 97 in Central Oregon. Tax increment financing is among the local financing tools the City is considering for funding improvements to the corridor.

SOQs must be received by Kelly Morse, City Recorder, at 411 SW 9th Street, Redmond, Oregon, 97756, on or before 4:00 p.m. (local time) on November 21, 2019. Envelopes should be clearly marked “**South US 97 Urban Renewal District Feasibility Study RFQ**”. Please provide one (1) digital copy (no email submittals), one (1) original hard copy, and five (5) hard copies of the Qualifications. The original should be marked “Original” and must bear an original ink signature by an individual authorized to represent the Proposer. Late submissions will not be accepted.

The City of Redmond reserves the right to reject SOQs not in compliance with the prescribed procedures and requirements set forth in the RFQ and may reject for good cause any or all response upon a finding of the City that it is in the public interest to do so.

All requests for clarification must be submitted in writing no later than November 8, 2019, to Chuck Arnold at:

Email: chuck.arnold@ci.redmond.or.us (*preferred method*)

Mail: City of Redmond
Attn: Chuck Arnold
411 SW 9th St
Redmond, Oregon 97756

PUBLISH:	Bend Bulletin	Saturday, October 19, 2019
	Daily Journal of Commerce	Monday, October 21, 2019
	www.ci.redmond.or.us	Monday, October 21, 2019

SECTION 2. BACKGROUND

A. General Information About the City

Redmond, Oregon, is a mid-sized community of 30,000 nestled in Oregon’s High Desert Plateau just east of the Cascade Mountain Range. The City operates under the Council/Manager form of government. The City Council consists of a mayor and six council members elected at large. The City Manager is appointed by the City Council to serve as the administrative head of the government. Municipal services are provided by City employees and headed by the City Manager.

The City of Redmond has approximately 192 employees and an annual budget of about \$95 million. Redmond is known statewide for progressive and engaged elected leadership. The professional staff is recognized for being innovative, collaborative, and customer oriented.

SECTION 3. GENERAL REQUEST FOR QUALIFICATIONS INFORMATION

A. Introduction

The City of Redmond is seeking a professional consultant team to conduct a feasibility study for the creation of an Urban Renewal District in the South US 97 area of Redmond, Oregon. The recently completed US 97 South Redmond Corridor Project identified the need for \$50M - \$80M in improvements intended to upgrade the safety, the freight mobility, and the economic vitality of this heavily used section of Highway 97 in Central Oregon. Tax increment financing is among the local financing tools the City is considering for funding improvements to the corridor.

B. General Background/Backdrop

- Untapped development potential due to a multitude of vacant or underdeveloped parcels along the corridor.
- Challenging corridor aesthetics, dominated by automobile-serving facilities (roadways, driveways, parking) and auto-oriented businesses with associated signage.
- Limited east-west connectivity between the corridor and the neighborhoods to the west.
- Lacking or substandard bicycle/pedestrian facilities and crossing opportunities.
- Redmond's annualized annual growth rate is approximately 2.4% per year; steady influx of approximately 2.4 persons per day moving to Redmond.
- Redmond's current population is approximately 30,000 residents; projected to be over 40,000 residents by the year 2040.
- Annexation of 944-acres for large lot industrial development almost complete.
- Redmond's airport serves as the region's only commercial airport and continues to grow its services and business activities.
- Redmond is home to one of the premier event centers in Central Oregon (Deschutes County Fair and Expo Center).

C. Project Scope and Objectives

- Review of Existing Plans and Studies: Review US 97 South Redmond Corridor Project, US 97 Tax Increment Financing (TIF) Analysis Memo, City Comprehensive Plan, Facilities Plans (water, wastewater, transportation), Downtown Urban Renewal Plan, and other relevant documents.
- Evaluate Conditions of "Blight" Required to Establish Urban Renewal Area: Within the Study area, generally assess conditions of "blight" which must exist to establish an urban renewal area. Blighted conditions include substandard buildings, inadequate streets or utilities and underutilized property, and land values that are not increasing as fast as the surrounding area.
- Affirm Urban Renewal Area Boundary in Conformance with Assessed Value and Area Limitations: Based on the general assessment of conditions and discussion with the City regarding identified project needs and review of proposed area boundary, make a recommendation of an urban renewal boundary that meets statutory limits on assessed value and area.
- Outreach and Concurrence: Participate in meetings with elected officials, business owners, property owners, representatives from the overlapping taxing districts and others in an effort to gain consensus around the need for an urban renewal area.
- Estimate Potential Revenue Capacity of Urban Renewal Area: Based upon the work done in the US 97 TIF Analysis Memo, prepare a refined analysis of the estimated urban renewal tax revenues from the defined area.

- Develop the Urban Renewal Plan (Plan) (supplement scope if decision is to proceed with a Plan): Draft the Plan to be used to implement specific projects and programs. Include the long-range forecast for TIF resources, debt schedules, and expenditures. Assist in drafting legal documents and other materials necessary for receiving official approval from elected bodies.
- Confirm Compliance with Oregon Statutes: Confirm Plan is in compliance with Oregon Statutes for land area and assessed valuation.

D. City Point of Contact and Requests for Clarification

Questions, inquiries, or comments regarding this RFQ, must be submitted in writing no later than end of day on November 8, 2019, and shall be directed to:

Email: chuck.arnold@ci.redmond.or.us (*preferred method*)

Mail: City of Redmond
Attn: Chuck Arnold
411 SW 9th Street
Redmond, OR 97756

Any questions or comments directed by a proposing team to persons outside of the individual listed above are inappropriate and such activity may result in that proposal being deemed non-responsive.

Note: Additional information is accessible on the City website at:

<https://www.ci.redmond.or.us/government/departments/community-development/urban-renewal/current-opportunities>

E. Responding to the RFQ

SOQs should be submitted in a sealed envelope, or other sealed container, which is clearly marked “**South US 97 Urban Renewal District Feasibility Study RFQ**”. Please provide one (1) digital copy, one (1) original hard copy and five (5) hard copies of the Proposal. The original should be marked “Original” and must bear an original ink signature by an individual authorized to represent the Proposer. Please indicate if you would like the device on which the digital copy is submitted returned to you.

Proposals should be addressed to:

City of Redmond
Attn: Kelly Morse, City Recorder
411 SW 9th Street
Redmond, OR 97756

Submission Date and Time: November 21, 2019, at 4:00 p.m. local time.

LATE SUBMISSIONS WILL NOT BE ACCEPTED

No faxed materials will be accepted. Postmarks are not considered proof of delivery. If the proposal is hand delivered, it must be delivered to and stamped by personnel at City Hall.

The proposal should address, at a minimum, the information requested in SOQ Requirements (Section 5).

Any addenda or amendments to this RFQ will be in writing and posted on the City’s website (www.ci.redmond.or.us), under the Business tab, then RFPs and RFQs. It will be the responsibility of potential proposers to check the website for addenda or amendments. No proposal will be considered that is not responsive to any issued amendments.

The City of Redmond reserves the right to reject proposals not in compliance with the prescribed procedures and requirements set forth in the RFQ and may reject for good cause any or all response upon a finding of the City that it is in the public interest to do so.

F. Tentative Schedule for Selection Process

Legal advertisement	October 19, 2019
RFQ posted on City website	October 18, 2019
Clarification inquiries	November 8, 2019
SOQs due	November 21, 2019
Interviews (optional)	November 25, 2019

Note: This is the City’s desired schedule. The City reserves the right to modify the schedule.

The City reserves the right to reject any or all proposals, to waive any irregularities in the request for proposal, to accept or reject any item or combination of items in a proposal, to request additional information or clarifications from respondents, and to negotiate or hold interviews with any one or more of the respondents. By requesting proposals, the City is in no way obligated to award a contract or to pay expenses of the proposing firms in connections with the preparation or submission of a proposal. Furthermore, the City reserves the right to reject any and all proposals prior to execution of a contract, with no penalty to the City of Redmond.

G. Qualification Evaluation

The City intends to select the most qualified consultant that exhibits the strongest ability to provide the highest quality service. SOQs will be ranked according to the following:

<u>Points</u>	<u>Criteria</u>
20	Experience and qualifications of firm and individuals to be assigned to the project.
20	Understanding of the project and approach
10	Expertise/experience including references from similar engagements.

The Evaluation Committee reserves the right to select a short list of the highest scoring proposers for interviews. Additionally, the Evaluation Committee may require submission of supplemental materials. Interviews will be ranked based upon the following:

Understanding and Approach	25 points
<u>Agent/Firm Capabilities</u>	<u>25 points</u>
Total	50 points

The City reserves the right to modify or incorporate additional steps in the evaluation process in the interest of having a thorough and comprehensive body of information in order to make a recommendation.

Upon completion of the evaluation process by the Evaluation Committee, the City will advise the proposers of the selection and negotiate the appropriate agreement(s) with the highest ranked proposer to finalize a contract. If a contract cannot be successfully negotiated with the highest ranked proposer, then negotiations will be terminated with that proposer and the City will enter negotiations with the next highest ranked proposer until an agreement is reached or an impasse is declared.

The agreement(s) will define the extent of services to be rendered, method and amount of compensation. The successful proposer agrees to enter into a contract with the City. The City reserves the right to negotiate a final contract that is in the best interest of the City. The proposal will become a part of the agreement. The Consultant will serve at the pleasure of the City Manager.

Once a tentative agreement is prepared, it will be presented to the Redmond Urban Renewal Agency to award the professional services contract. Final award will be subject to the execution of the contract.

FAILURE TO INCLUDE ALL INFORMATION REQUESTED AND/OR FAILURE TO PROVIDE EVIDENCE THAT THE APPLICANT MEETS THE MINIMUM QUALIFICATIONS LISTED HEREIN SHALL CAUSE SUCH PROPOSAL TO BE REJECTED AND NOT BE EVALUATED OR CONSIDERED IN THE SELECTION PROCESS.

H. Contract Fees

Redmond City Council must approve the contract prior to commencement of work. Up to 90% of the total fee may be billed through interim or progress billings prior to issuance of the final product. Should circumstances arise during the project that require significant additional work to be performed in excess of the amounts set forth in the contract, additional costs shall be negotiated prior to commencement of the work.

I. Acceptance or Rejection of Negotiation of Proposals

The City reserves the right to reject any or all proposals, to waive any irregularities in the request for proposal, to accept or reject any item or combination of items in a proposal, to request additional information or clarifications from respondents, and to negotiate or hold interviews with any one or more of the respondents. By requesting proposals, the City is in no way obligated to award a contract or to pay expenses of the proposing firms in connections with the preparation or submission of a proposal. Furthermore, the City reserves the right to reject any and all proposals prior to execution of a contract, with no penalty to the City of Redmond.

J. Notice of Award and Appeal Process

A single Consultant will be identified by the Evaluation Committee and a notification letter will be sent to all proposers. Any proposer wishing to appeal the recommendation must do so in writing and within seven (7) business days of the notice being sent.

SECTION 4. SCOPE OF CONSULTANT SERVICES

A. General

The City of Redmond is requesting SOQs from qualified urban renewal/economic development professionals.

B. Minimum Qualifications

The minimum qualifications for the Consultant contract are as shown below. Applicants not meeting these minimum requirements will not be evaluated nor considered for this contract.

1. Have relevant experience with at least three public sector projects of similar scope or objectives; and
2. Have a minimum of five-years of experience with relevant projects of similar scope of services or objectives.

C. Basic Reports to be Issued

The City's preference is to complete the project by May 2020. The Consultant shall be responsible for submitting monthly progress reports and research information relative to the project. Consultant shall provide research suitable to enable completion of the project.

Final Work Product: A recommendation regarding the feasibility of pursuing tax increment financing as a financing tool for funding improvements to the corridor.

D. Assistance to be Provided by the City

1. Staff will be the primary contact to assist the Consultant.

2. Staff will assist Consultant with obtaining all necessary background documents.
3. Staff will assist Consultant with all necessary contacts and logistics to arrange or conduct public meetings.
4. Staff will be available during all phases of the project to assist in providing technical assistance, information, documentation and explanations as needed. All requests will first be directed to the Urban Renewal Program Manager.

SECTION 5. SOQ REQUIREMENTS

SOQs shall be prepared simply and sustainably. Provide a straightforward, concise description of the proposer's capabilities to satisfy the requirements of this RFQ.

Information included within the SOQ may be used to evaluate your submission as part of any criteria regardless of where that information is found within the SOQ. Information obtained from the SOQ and from any other relevant source may be used in the evaluation and selection process.

A. Letter of Transmittal

All SOQs must include a cover letter addressed to Kelly Morse, City Recorder, and signed by a duly constituted official legally authorized to bind the applicant to both its proposal and cost schedule. The cover letter must include name, address, and telephone number of the proposer submitting the proposal and name, title, address, telephone number, and email address of the person, or persons to contact who are authorized to represent the proposer and to whom correspondence should be directed.

B. Executive Summary

The proposer shall use this section to introduce the scope of the SOQ and to summarize the key provisions. Provide a statement describing why you or the firm are qualified to perform this work.

C. Experience, Technical and Other Qualifications (20 points)

List the firm and key personnel qualifications relative to the Scope of Consultant Services (Section 3) of this RFQ. Including but not limited to the items listed below:

1. Indicate the location of the office and the number of people, by level, expected to handle the project.
2. Provide a list of the office's current and recent government clients, indicating the type(s) of services performed and the number of years served for each.
3. Provide names of principals, key personnel, and any subcontractors who will be assigned to the project, their experience, qualification, and periods of service with the firm.
4. Identify proposed sub-contractors, if any, and the portion(s) of the engagement for which they will be used.
5. Describe liability insurance coverage arrangements to assure that it is sufficient to cover claims.

D. Response to Scope of Services (20 points)

Demonstrate the understanding of the project and describe approach to studying the feasibility of establishing a new Urban Renewal District in the South Highway 97 area of Redmond.

E. References (10 points)

Provide contact information for at least two municipal clients, current and/or prior, so reference checks can be conducted.

F. Compensation

SOQs should include cost estimates and other necessary cost information for project, however compensation will not be the primary factor in the selection of a Consultant.

List the Consulting firm’s billing rates for all other applicable professional services for City reference as the City may request additional services which are outside of Study contract.

G. Additional Information

Any other information that the proposer feels applicable to the evaluation of their qualifications for accomplishing the insurance services should be included in this section. You may use this section to address those aspects of your services that distinguish you or your firm from others. You might consider include examples of reports or educational bulletins.

SECTION 6. ATTACHMENT A – SAMPLE CONTRACT TERMS & CONDITIONS

CITY OF REDMOND CONSULTANT/PROFESSIONAL SERVICES CONTRACT
CONTRACT NO. _____ PROJECT NO. _____

This Agreement is between The City of Redmond (City) and _____ (Consultant). The parties agree as follows:

Effective Date and Termination Date. The effective date of this Agreement shall be _____ or the date on which each party has signed this Agreement, whichever is later. Unless earlier terminated or extended as provided in the Agreement Documents, the completion date shall be _____.

Statement of Work. Consultant shall perform the Work described in Exhibit 1.

Payment for Work. City agrees to pay Consultant in accordance with Exhibit 1.

Agreement Documents. The Agreement Documents include this cover page, the Agreement and its Exhibits as listed in the chart below, the documents identified in Section 3.1 below and all other items referenced in the definition of “Agreement Documents” in Section 3.6 below.

Exhibit #	Description	# Pages	Included?
1	Statement of Work and Compensation		x
2	Insurance (including certificate(s) of insurance & endorsements)		x
2a	Worker's Compensation Certification		x
4	Independent Contractor Certification & Representations & Warranties		x

CONSULTANT DATA AND SIGNATURE

Consultant Mailing Address (remit payment and notices):

Is Consultant a nonresident alien? Yes No

Federal Tax ID# or Social Security #: _____

A Federal tax ID number or Social Security number is required to be provided by the Consultant and shall be used for the administration of state, federal and local tax laws. Payment information shall be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

Note: Consultant must sign all applicable Exhibits.

INSURANCE REVIEWED _____

CITY OF REDMOND CONSULTANT/PROFESSIONAL SERVICES
CONTRACT NO. _____ PROJECT NO. _____

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between the **CITY OF REDMOND**, a municipal corporation of the state of Oregon, hereinafter referred to as "CITY", and _____, operating as an independent contractor providing Professional Services, hereinafter referred to as "CONSULTANT".

The signing of this Agreement by CITY and CONSULTANT authorizes Consultant to carry out and complete the services as described below in consideration of the mutual covenants set forth in this Agreement.

1. EFFECTIVE DATE AND DURATION. This Agreement is effective _____. Except as otherwise provided in section 1.1, this Agreement terminates _____. Time is of the essence with respect to Consultant's performance under this Agreement.

1.1 Options for Extension (select one).

- n/a
- This Agreement also includes a provision to extend the Agreement in _____ optional _____ increments, subject to review and recommendation of City staff and satisfactory negotiation of terms. If either party does not wish to extend the Agreement for any of the optional increments, this fact shall be communicated to the other party no later than ____ days prior to the expiration of the Agreement.

2. PROJECT Consultant's work will be limited to the projects described below. Work on any additional projects will require written authorization from City. Consultant will be working on the following project(s):

2.1 [identify and describe project]

3. SCOPE OF SERVICES. City and Consultant agree to the following scope of services:

3.1 **Consultant Duties.** Exhibit 1 summarizes a detailed list of duties, including time lines and document production.

3.2 City Duties (select one).

- n/a
- City shall provide Consultant, at City's expense, with material and services described as follows: [identify and describe City duties, if applicable]

- 3.3 **Project Representatives.** City and Consultant shall coordinate services, progress reports and all other aspects of this Agreement through the following authorized representative for each party:

City: _____

Consultant: _____

- 3.4 **Records.** Consultant shall maintain all of its records relating to the Scope of Services on a generally recognized accounting basis and allow City the opportunity to inspect and copy such records at a convenient place during normal business hours. All records shall be maintained by Consultant for three years after City makes final payment and all other pending matters between City and Consultant are closed.
- 3.5 **Compliance with Laws.** Consultant shall comply with all federal, state and local laws and ordinances applicable to public contracts including but not limited to all applicable Oregon Statutes governing public contracts. Without limiting Consultant's duty described in this paragraph, ORS 279B.220, ORS 279B.230 and ORS 279B.235 are incorporated by reference into this Agreement.
- 3.6 **Agreement Documents.** In the event of a conflict between or among the terms of this Agreement and any proposal, bid document, standards and specifications and/or request for proposals, the following order of precedence shall prevail: (a) this Agreement; (b) the Attachments to this Agreement; (c) the request for proposal; (d) the proposal and/or bid documents. Nothing in this Agreement shall be considered as an acceptance of the terms of a proposal if the terms of the proposal conflict or are otherwise incompatible with the terms contained in this Agreement and its attachments or in the City's request for bids or proposals.

4. RESTRICTIONS.

- 4.1 Consultant shall make prompt payments as due to all persons supplying labor or materials to Consultant for the work provided under this Agreement. Consultant shall not permit any lien or claim to be filed or prosecuted against City on account of any labor or material furnished. If Consultant fails, neglects or refuses to make prompt payment of any claim for labor, services or material furnished to Consultant or a subcontractor in connection with this Agreement as such claim becomes due, City may in its sole discretion pay such claim to the person furnishing the labor or material and charge the amount of the payment against funds due or to become due to Consultant under this Agreement.
- 4.2 During the course of this Agreement Consultant may have access to confidential information of City and may participate in confidential discussions with City. Consultant shall not disclose confidential City information to any third party during the term of this Agreement or after its termination except as required by a court of competent jurisdiction or with the consent of City.

5. FEE FOR SERVICES.

- 5.1 City shall pay Consultant a maximum compensation of (select one):
- \$ _____, including expenses.
 - See Exhibit 1.

- 5.2 Consultant shall invoice City for services performed and City will remit payment in accordance with City procedures. Consultant shall not submit invoices for, and City shall not pay for any amount in excess of the maximum compensation set forth above. If this maximum compensation amount is increased by amendment of this contract, the amendment shall be fully effective before Consultant performs work subject to the amendment.
- 5.3 In the event that a dispute arises regarding Consultant's billing, City shall pay any amounts it agrees it owes and shall withhold payment of disputed amounts pending resolution of those disputes. Consultant shall provide any necessary documentation to support its billing to City. In all such instances, Consultant will continue to diligently and timely perform its duties under this Agreement.
- 6. STANDARD OF PERFORMANCE/LIMITED WARRANTY.** Consultant warrants that its findings, recommendations, specifications or professional advice provided hereunder will be prepared and presented in accordance with the Professional, certification and licensing standards in effect at the time the Services are performed. Consultant makes no other warranty or representation, express or implied, and City accepts said limited warranty.
- 7. INDEPENDENT CONTRACTOR.** Consultant, for the purpose of this Agreement, shall be considered an independent contractor. As an independent contractor, Consultant agrees as follows:
- 7.1 Consultant will be solely responsible for payment of Federal or State taxes required as a result of this Agreement;
- 7.2 Consultant is not entitled to any benefits generally granted to City employees; Consultant is solely liable for any Workers Compensation coverage under this Agreement.
- 7.3 If Consultant has the assistance of other persons in the performance of this Agreement, Consultant shall qualify and remain qualified for the term of this Agreement as a direct responsibility employer under Oregon Workers' Compensation law.
- 8. CONSULTANT NOT AN AGENT OF CITY.** It is agreed by and between the parties that Consultant is not carrying out a function on behalf of City, and City does not have the right of direction or control of the manner in which Consultant delivers services under this Agreement or exercise any control over the activities of Consultant. Consultant is not an officer, employee or agent of City as those terms are used in ORS 30.265.
- 8.1 This Agreement does not entitle the Consultant nor any of its Agents to any benefits generally granted to City employees. Without limitation, the benefits which are not intended to be extended by this Agreement are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement. Consultant shall be responsible for all federal or state taxes applicable to compensation or payment paid to Consultant under this Agreement.
- 9. PARTNERSHIP.** City is not, by virtue of this Agreement, a partner or joint venturer with Consultant in connection with activities carried out under this Agreement, and shall have no obligation with respect to Consultant's debts or any other liabilities of each and every nature.
- 10. INSURANCE** – requirements are detailed in Exhibit 2.

- 11. FAILURE TO SECURE.** If Consultant at any time during the term hereof should fail to secure or maintain insurance required in Exhibit 2, City may obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid. The City may withhold the amount of such premiums from any amount otherwise due Consultant under this Agreement or any other contract Consultant may have with City.
- 12. INDEMNIFICATION HOLD HARMLESS.** Consultant shall defend, save, hold harmless and indemnify the City and its officers, directors, agents, employees and volunteers from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of Consultant or its officers, employees, contractors, or agents under this Agreement. Neither party shall be liable to the other for any incidental or consequential damages arising out of or related to this Agreement. Neither party shall be liable for any damages of any sort arising solely from a lawful termination of this Agreement or any part hereof in accordance with its terms.
- 13. SUBROGATION WAIVER:** Consultant agrees that in the event of loss due to any of the perils for which it has agreed to provide commercial general and automotive liability insurance, Consultant shall look solely to its own insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing commercial general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.
- 14. PERMITS AND LICENSES:** Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and professional licenses related to the scope of services provided, including a City Business License, which may be required in connection with the performance of services hereunder. Failure to maintain all Professional licenses, required permits or Professional certificates will void this agreement in its entirety.
- 15. PREFERENCE FOR RECYCLED MATERIALS (ORS 279A.125).** Consultant will use where applicable, recycled materials if (a) The recycled product is available; (b) The recycled product meets applicable standards; (c) The recycled product can be substituted for a comparable non-recycled product; and (d) The recycled product's costs do not exceed the costs of non-recycled products by more than five percent (5%).
- 16. DRUGS AND ALCOHOL.** Consultant shall maintain and enforce a policy prohibiting Consultant and its employees, agents and subconsultants, if any, from dealing, possessing, or using drugs or alcohol while performing work under this Agreement.
- 17. CRIMINAL BACKGROUND INVESTIGATIONS.** Consultant understands that Consultant is subject to periodic criminal background investigations by City and, if such investigations disclose criminal activity not disclosed by Consultant, such non-disclosure shall constitute a material breach of this Agreement and City may terminate this Agreement effective upon delivery of written notice to the Consultant, or at such later date as may be established by the City.

18. DELEGATION, SUBCONTRACTS AND ASSIGNMENT. Consultant shall not delegate or subcontract any of the work required by this Agreement or assign or transfer any of its interest in this Agreement, without the City's prior written consent.

- 18.1 Any delegation, subcontract, assignment, or transfer without prior written consent of City shall constitute a material breach of this Agreement.
- 18.2 Any such assignment or transfer, if approved, is subject to such conditions and provisions as the City may deem necessary.
- 18.3 No approval by the City of any assignment or transfer of interest shall be deemed to create any obligation of the City to increase rates of payment or maximum Agreement consideration.
- 18.4 Prior written approval shall not be required for the purchase by the Consultant of articles, supplies and services which are incidental to the provision of services under this Agreement that are necessary for the performance of the work.
- 18.5 Any subcontracts that the City may authorize shall contain all requirements of this Agreement, and the Consultant shall be responsible for the performance of the subcontractor.

19. NON-DISCRIMINATION. Consultant agrees that it shall not discriminate on the grounds of race, color, creed, national origin, sex, marital status, age, or disability in Consultant's performance of this Agreement. Consultant agrees to comply with Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws. Consultant agrees to comply with ADA in its employment and nondiscrimination practices, and that it shall perform its contractual obligations consistent with ADA federal requirements/regulations, state disability and accessibility law and requirements, and applicable regulations and administrative rules established pursuant to those laws.

20. TERMINATION. This Agreement may be terminated as follows:

- 20.1. This Agreement may be terminated at any time by mutual consent of both parties.
- 20.2. City may, in its sole discretion, terminate this Agreement, in whole or in part, upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
- 20.3. City may terminate this Agreement, effective upon delivery of written notice to the Consultant, or at such later date as may be established by the City under any of the following conditions:
 - 20.3.1. City funding is not obtained and continued at levels sufficient to pay for Consultant's Work. The Agreement may be modified to accommodate a reduction in funds.
 - 20.3.2. If federal, state or City regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
 - 20.3.3. If any license or certificate required by law or regulation to be held by the Consultant to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
 - 20.3.4. Any termination of this Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- 20.3.5 The City by written notice of default (including breach of contract) to the Consultant may terminate the whole or any part of this Agreement:
 - 20.3.6 If the Consultant fails to provide services called for by this Agreement within the time specified or any extension of the Agreement, or
 - 20.3.7 If the Consultant fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from the City, fails to correct such failures within 10 days or such longer period as the City may authorize.
 - 20.3.8 If the consultant fails to maintain all Professional licenses, Professional certificates or required permits, the agreement will be voided in its entirety. Payments for valid Professional services will be assessed to determine if any payment under this agreement is required up to the date required Professional licenses, Professional certifications or permits lapse.
- 20.4. Consultant may terminate this Agreement upon 30 days' written notice to City if City fails to pay Consultant pursuant to the terms of this Agreement and City fails to cure within 30 business days after receipt of Consultant's notice, or such longer period of cure as Consultant may specify in the notice.
- 20.5 City expressly reserves any and all rights it has in law or equity if Consultant defaults under this Agreement and fails to cure such default in accordance with this Agreement's terms.

21. ACCESS TO RECORDS. Consultant shall maintain fiscal records and all other records pertinent to this Agreement.

- 21.1 All fiscal records shall be maintained pursuant to generally accepted accounting standards, and other records shall be maintained to the extent necessary to clearly reflect actions taken. All records shall be retained and kept accessible for at least three years following the final payment made under this Agreement or all pending matters are closed, whichever is later. If an audit, litigation or other action involving this Agreement begins before the end of the three year period, the records shall be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later.
- 21.2 City and its authorized representatives shall have the right to direct access to all of Consultant's books, documents, papers and records related to this Agreement for the purpose of conducting audits and examinations and making copies, excerpts and transcripts. These records also include any records in electronic form or other electronic storage devices. City shall reimburse Consultant for Consultant's cost of preparing copies. Upon advanced notice and request to enter Consultant's premises, Consultant will cooperate and allow, the City, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives, to enter upon Consultant's premises to access and inspect the books, documents, papers, electronic files and any other records of the Consultant which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, copies and transcriptions.

22. OWNERSHIP OF WORK. All work of Consultant that results from this Agreement (the "Work Product") is the exclusive property of City. City and Consultant intend that such Work Product

be deemed “work made for hire” of which City shall be deemed author.) If for any reason the Work Product or any part of it would not be considered a work made for hire under applicable law, Consultant irrevocably sells, assigns, and transfers to City, its successors and assigns, the entire right, title and interest in and to the Work Product, any registrations, trademarks, patents or copyrights relating to it and any renewals and extensions of same, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect to the Work Product, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on such rights accruing to the Work Product. Consultant shall execute such further documents and instruments as City may reasonably request in order to fully vest such rights in City. Consultant forever waives any and all rights relating to Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modification, provided that City will only use such Work Product for its intended purpose and not modify the Work Product which would be prejudicial to Consultant’s honor or reputation. City shall have no rights in any pre-existing work product of Consultant provided to City by Consultant in the performance of this Agreement except to copy, use and re-use any such work product for City use only. If this Agreement is terminated prior to completion, and the City is not in default, City, in addition to any other rights provided by this Agreement, may require the Consultant to transfer and deliver all partially completed work products, reports or documentation that the Consultant has specifically developed or specifically acquired for the performance of this Agreement.

- 23. GOVERNING LAW.** 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 City and Consultant that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes County for the State of Oregon; provided, however, if a Claim shall be brought in federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Any trial will be to the court without a jury. CONSULTANT, BY EXECUTION OF THIS AGREEMENT, CONSENTS TO THE PERSONAL JURISDICTION OF SAID COURTS.
- 24. FORCE MAJEURE.** Neither party to this Agreement shall be liable to the other party for delays in performing the Services or for the direct or indirect cost resulting from such delays that may result from strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.
- 25. WAIVER.** City’s delay in exercising, or failure to exercise any right, power, or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise or any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.
- 26. ATTORNEY FEES.** If a suit or action is filed to enforce any term of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum that a court, including any appellate court, may adjudge reasonable as attorney’s fees.

27. SEVERABILITY. If any term or provision of this Agreement is declared illegal or in conflict with any law by a court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

28. NOTICE. Any notices required under this Agreement shall be effective when received at the following addresses:

City: 411 SW 9th Street, Redmond Oregon 97756

Consultant: _____

It is incumbent on the party sending notice to confirm the other party's receipt of the notice in writing.

29. REPRESENTATION ON AUTHORITY OF PARTIES/SIGNATORIES. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF REDMOND

Signature

Signature

Print

Print

Title

Title

Date

Date

ATTEST:

By:

STATEMENT OF WORK. Consultant shall perform the following work including Incorporated Documents. The REQUEST FOR QUOTES, REQUEST FOR PROPOSALS, INVITATION TO BID, the INSTRUCTIONS TO BIDDERS, the signed copy of the PROPOSAL, the BID BOND, the fully executed PERFORMANCE BOND and PAYMENT BOND, the GENERAL CONDITIONS, the SUPPLEMENTARY CONDITIONS, any ADDENDA, the SPECIFICATIONS, and the PLANS, if applicable, are hereby referred to and by reference made a part of this Scope of Work, as fully and completely as if the same were fully set forth herein and are mutually cooperative there-with.

- Substitute Statement of Work (ex: request for proposal, signed proposal, quote, etc.) attached.

or

- Detailed list of duties, including time lines and document production, are as follows:

COMPENSATION. Consultant shall be compensated as follows.

- Substitute compensation document (ex: signed proposal, quote, rate sheet, etc.) attached.

or

- Maximum compensation under this contract and other relevant compensation and payment terms are as follows:

Consultant Signature

Date

EXHIBIT 2 – INSURANCE (CONSULTANT/PROFESSIONAL SERVICES CONTRACT)

The Consultant shall at all times maintain, in force, at Consultant’s expense, each insurance noted below. Insurance coverage must apply on a primary and non-contributory basis. All insurance policies, except Professional Liability, shall be written on an occurrence basis and be in effect for the term of this contract. Policies written on a “claims made” basis must be approved and authorized by the City of Redmond.

Consultant Name: _____

Workers Compensation insurance in compliance with ORS 656.017, requiring Consultant and all subcontractors to provide workers’ compensation coverage for all subject workers, or provide certification of exempt status. Employers’ Liability Insurance with coverage limits of not less than \$500,000 must be included.

Required by City (complete Exhibit 2A)

Professional Liability insurance with an occurrence combined single limit of not less than:

Per Occurrence limit	Annual Aggregate limit
___ \$1,000,000	___ \$1,000,000
___ \$2,000,000	___ \$2,000,000
___ \$ _____	___ \$ _____

Professional Liability insurance covers damages caused by error, omission, or negligent acts related to professional services provided under this Contract. The policy must provide extended reporting period coverage, sometimes referred to as “tail coverage” for claims made within two years after this contract is completed.

Required by City (include Certificate of Insurance) **Not required by City**

Commercial General Liability insurance with a combined single limit of not less than:

Per Occurrence limit	Annual Aggregate limit
___ \$1,000,000	___ \$1,000,000
___ \$2,000,000	___ \$2,000,000
___ \$4,000,000	___ \$4,000,000
___ \$ _____	___ \$ _____

Commercial General Liability insurance includes coverage for personal injury, bodily injury, advertising injury, property damage, premises, operations, products, completed operations and contractual damages. **By separate endorsement**, the policy shall name **The City of Redmond, its agents, directors, officers, employees and volunteers as an additional insured**. The additional insured endorsement shall not include declarations that reduce any per occurrence or aggregate insurance

limit. The Consultant shall provide additional coverage based on any outstanding claim(s) made against policy limits to ensure that minimum insurance limits required by the City are maintained. Construction contracts may include aggregate limits that apply on a “per location” or “per project” basis.

- Required by City (include Certificate of Insurance)
- Not required by City
- Per Location or Project required

Automobile Liability insurance with a combined single limit of not less than:

Per Occurrence limit

- \$500,000
- \$1,000,000
- \$2,000,000

Automobile Liability insurance includes coverage for bodily injury and property damage resulting from operation of a motor vehicle. Commercial Automobile Liability Insurance shall provide coverage for *any* motor vehicle (symbol 1 on some insurance certificates) driven by or on behalf of Consultant during the course of providing services under this contract. Commercial Automobile Liability is required for consultants that own business vehicles registered to the business. Examples include: plumbers, electricians or construction contractors. An Example of an acceptable personal automobile policy is a Consultant who is a sole proprietor that does not own vehicles registered to the business.

- Required by City (include Certificate of Insurance)
- Not required by City

Insurance Assigned _____

Additional Requirements: Consultant shall pay all deductibles and retentions. A cross-liability clause or separation of insured's condition must be included in all commercial general liability policies required by this Contract. Consultant's insurance coverage will be primary in the event of loss.

Certificate of Insurance (COI) Required: Consultant shall furnish a current Certificate of Insurance to the City with the signed Contract. The Contractor shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without at least 30 days written notice from the Consultant to the City.

No contract shall be effective until the required certificates have been received and approved by the City of Redmond. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the City of Redmond 10 days prior to coverage expiration.

For commercial general liability coverage, the Certificate shall also provide, **by separate endorsement**, that **The City of Redmond, its agents, directors, officers, employees and volunteers are additional insureds** with respect to Consultant's services provided under this Contract. The endorsement must provide primary and non-contributory coverage. All endorsements must be in a format acceptable to The City of Redmond.

Insurance Carrier Acceptability: Insurance coverage provided to the City of Redmond by the Consultant will be in an acceptable form and underwritten by an insurance company deemed acceptable by the City of Redmond. The City of Redmond reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating. The City of Redmond has the sole authority

and discretion to determine the acceptability of an insurance carrier's financial rating and the form of policies and endorsements.

If requested, complete copies of the Consultant's insurance policies shall be provided to the City.

Consultant Signature

Date

EXHIBIT 2A – WORKERS’ COMPENSATION CERTIFICATION (CONSULTANT/PROFESSIONAL SERVICES _____
CONTRACT)

I understand that in Oregon all workers (even employed family members) are subject to Workers’ Compensation, EXCEPT nonsubject workers as defined in Oregon Revised Statutes (ORS) Chaper 656. Complete section A OR B.

Consultant Name: _____

SECTION A – CERTIFICATION OF COVERAGE

Consutant provides Workers’ Compensation coverage for employees performing under this contract as provided under ORS Chapter 656 with Employers' Liability Insurance with coverage limits of not less than \$500,000.

Insurer Name _____ Policy No. _____

OR

SECTION B – CERTIFICATION OF EXEMPTION

1) I meet the criteria for nonsubject worker as defined in the ORS 656.027 by subsection marked below.
SELECT ONE: For more information see: <http://www.cbs.state.or.us/wcd/communications/defin.html>.

- SOLE PROPRIETOR** (section (7)(a))
 - Consultant is a sole proprietor, and
 - Consultant has no employees, and
 - Consultant shall not hire employees to perform this contract.
- PARTNERSHIP** (sections (8) and (23)(a))
 - Consultant is a partnership, and
 - Consultant has no employees, and
 - All work shall be performed by the partners; Consultant shall not hire employees to perform this contract, and

- Consultant is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto. **

LIMITED LIABILITY COMPANY (sections (9) and (25)(a))

- Consultant is a limited liability company, and
- Consultant has no employees, and
- All work shall be performed by the members; Consultant shall not hire employees to perform this contract, and
- If Consultant has more than one member, Consultant is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto. **

CORPORATION (sections (10) and (24)(a))

- * Consultant's business is incorporated, and
- * All employees of the corporation are officers and directors and have a substantial ownership interest* in the corporation, and
- * The officers and directors shall perform all work. Consultant shall not hire other employees to perform this contract.

OTHER (please describe)

* _____

 * _____

* NOTE: Under OAR436-50-050 a shareholder has a "substantial ownership" interest if the shareholder owns 10% of the corporation or, if less than 10% is owned, the shareholder has ownership that is at least equal to or greater than the average percentage of ownership of all shareholders.

** NOTE: Under certain circumstances partnerships and limited liability companies can claim an exemption even when performing construction work. The requirements for this exemption are complicated.

2) I meet the criteria for an independent contractor as evidenced by the completion of Exhibit 4 – Independent Contractor Certification.

 Consultant Signature

 Date

I certify that I am an independent contractor. Complete ALL sections.

Consultant Name: _____

A. CONSULTANT’S BUSINESS STATUS

I certify under penalty of perjury that Consultant is authorized to do business in the State of Oregon as a:

- Corporation Limited Liability Company Partnership Sole Proprietor
- Other _____

B. CONSULTANT IS AN INDEPENDENT CONTRACTOR.

Consultant certifies under penalty of perjury that the following statements are true:

1. If Consultant performed labor or services as an independent Consultant last year, Consultant filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), **and**
2. Consultant represents to the public that the labor or services Consultant provides are provided by an independently established business registered with the State of Oregon, **and**
3. All of the statements checked below are true.

NOTE: Check all that apply. You shall check at least four (4) - to establish that you are an Independent Contractor.

- The labor or services I perform is primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence that is set aside as the location of the business.
- I purchase commercial advertising or I have business cards for my business, or I am a member of a trade association.
- My business telephone listing is separate from my personal residence telephone listing.
- I perform labor or services only under written contracts.
- Each year I perform labor or services for at least two different persons or entities.
- I assume financial responsibility for defective workmanship or for service not provided by purchasing performance bonds, errors and omission insurance or liability insurance, or providing warranties relating to the labor or services I provide.

C. REPRESENTATIONS AND WARRANTIES

Consultant certifies under penalty of perjury that the following statements are true to the best of Contractor’s knowledge:

1. Consultant has the power and authority to enter into and perform this Contract;

2. This Agreement, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
3. The services under this Consultant shall be performed in manner consistent with and in accordance with the professional standards of the industry and in a timely manner using the schedule, materials, plans and specifications approved by City; and
4. Consultant shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the services.
5. To the best of Consultant's knowledge, Consultant is not in violation of any tax laws described in ORS 305.380(4),
6. Consultant understands that Contractor is responsible for any federal or state taxes applicable to any consideration and payments paid to Contractor under this Contract; and
7. Consultant has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts, pursuant to ORS 279A.110.

Consultant Signature

Date