



City of Prineville

387 NE THIRD STREET ♦ PRINEVILLE, OREGON 97754

Phone: (541)447-5627 FAX: (541) 447-5628

EMAIL: eklann@cityofprineville.com

Web Site: or www.cityofprineville.com

October 7, 2008

TO INTERESTED PARTIES

The City of Prineville Oregon is requesting letters of interest and proposals from qualified engineering persons, firms or teams related to Water Rights acquisition and technical support.

The City of Prineville seeks to select a consultant, professional firm, or teams with demonstrated experience in Central Oregon Water Right acquisition for ground water. The successful applicant will be engaged for varied services over the next 2 years.

PROFESSIONAL, TECHNICAL AND EXPERT SERVICES

for

“Professional Ground Water Water Rights Acquisition and Support”

The successful applicant will be asked to enter into a contract with the City of Prineville. Any tasks outside the proposed scope will require proposals for individual projects or work tasks to be negotiated with the City prior to start of work.

Parties interested in receiving copies of the request documents electronically should contact Kay Thompson at (541) 447-8326 planning@cityofprineville.com
City Hall, 387 NE Third, Prineville, OR 97754.

Questions pertaining to the RFP please contact:
Eric Klann at (541) 447-2357 eklann@cityofprineville.com

Deadline for filing of the “Request for Proposals” is October 30, 2008 2:00 PM PSDST at the above address.

Eric Klann
Assistant City Engineer

Advertisement Date: October 8, 2008

Date: October 8, 2008

City of Prineville, Oregon

RFP NO. 1002-08-09

PROFESSIONAL, TECHNICAL AND EXPERT SERVICES

REQUEST FOR PROPOSALS

For

“Ground Water Water Right Acquisition and Support”

PROPOSALS DUE: Thursday, October 30, 2008, by 2:00 p.m.

Envelope(s) shall be sealed and marked with RFP# and Project Title.

Submit one (1) original and (6) complete copies of the proposal to:

City of Prineville

Attention: Cindy MacDonald

RFP Selection

387 NE Third

Prineville, OR 97754

Refer questions to:

Eric Klann 387 NE Third

Prineville, OR 97754

Phone: (541) 447-2357

Fax: (541) 447-5628

Email eklann@cityofprineville.com

MANDATORY PRE-SUBMITTAL MEETING has been scheduled for October 16th, 2008 @ 2:00 p.m. at Prineville City Hall, 387 NE Third Street, Prineville OR 97754.

GENERAL INSTRUCTIONS AND CONDITIONS

INVESTIGATION - The respondent shall make all investigations necessary to inform it regarding the service(s) to be performed under this Request for Proposals.

SPECIAL CONDITIONS - Where special conditions are written in the Request for Proposals, these special conditions shall take precedence over any conditions listed under the Request for Proposals "General Instructions and Conditions".

CLARIFICATION OF REQUEST FOR QUALIFICATIONS - Any potential respondent requesting a clarification of the RFP requirements must submit questions in writing to the person(s) shown in the **REFER QUESTIONS TO** section on the cover of the RFP, or present them verbally at a scheduled informational conference. The City must receive written questions no later than five (5) working days prior to the scheduled deadline for submitting qualifications. The City will issue a response in the form of an addendum to the RFP, if a substantive clarification is in order.

Oral instructions or information concerning the request for proposals given out by others within the City including but not limited to: City Manager, employees or agents to prospective respondents shall not bind the City.

ADDENDUM – Any change to this RFP shall be made by written addendum. The City is not responsible for any explanation, clarification or approval made or given in any manner except addendum.

CANCELLATION – The city reserves the right to modify, revise or cancel this RFP. Receipt and evaluation of responses or the completion of interviews do not obligate the city to award a contract.

REJECTION OF SUBMITTED MATERIALS - The City reserves the right to reject any or all responses to the Request for Proposals if found in the City's best interest to do so.

LATE RESPONSES - Responses and qualifications received after the scheduled closing time for filing will be returned to the respondent unopened.

EEO AFFIRMATIVE ACTION EMPLOYER - Respondents must comply with Federal and State of Oregon requirements.

CONFLICT OF INTEREST - A respondent filing materials and qualifications in response to this RFP hereby certifies that no officer, agent or employee of the City who has a pecuniary interest in this Request for Proposals has participated in the contract interviews on the part of the City, that the submitted materials and qualifications are made in good faith without fraud, collusion or connection of any kind with any other respondent of the same call for proposals, and that the respondent is competing solely in its own behalf without connection with or obligation to, any undisclosed person or firm.

CONFIDENTIALITY – All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records act (ORS 192.410 et seq.), except such portions of the proposals for which Proposers requests exception from disclosure consistent with Oregon Law. Any portion of a proposal that the Proposers' claims constitutes a "trade secret" or is "confidential" must meet the requirements of ORS 192.501(2) and ORS 192.502(4). No information or segments of any proposal shall be made public until the City has completed its selection process.

If a request to inspect the proposal is made, the City will notify the Proposers of the request. If the City refuses to release the records, the proposer agrees to provide information sufficient to sustain its position to the City attorney for the City of Prineville, who currently considers such appeals. If the City attorney orders that the records be disclosed, the city will notify the Proposers in order for the Proposers to take all appropriate legal action. The Proposers further agrees to hold harmless, defend and indemnify the City for all costs, expenses and attorney fees that may be imposed on the City as a result of appealing any decision regarding the Proposers records.

These "Request for Proposals General Terms and Conditions" are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be or may become available under ORS Chapter 279.

RFP TITLE: GROUND WATER WATER RIGHTS ACQUISITION AND SUPPORT

RFP# 1002-08-09

PART I RFP REQUIREMENTS

SECTION A GENERAL INFORMATION

- PURPOSE** The purpose of this RFP is to select a qualified firm or individual a competitive process to offer a wide variety of services related to Groundwater Water Rights Acquisition and Support.
- 1. INTRODUCTION** The Public Works Department of the City of Prineville is responsible for managing the design and construction or review of multiple infrastructure improvements including but not limited to: water supply and storage systems, fire protection systems, sanitary and storm sewer systems, streets and roadways, bridges and in some cases projects involving the City's Railroad. This request for Proposals seeks a firm or individual that can assist the City's acquisition of Ground Water, Water Rights.
- 2. SCOPE OF WORK** The City of Prineville is seeking proposals from Professional firms, teams or consultants with demonstrated experience in Central Oregon ground water development listed in Part I, Section B. The City of Prineville proposes to select a firm or individual to engage for varied services over the next 2 years.
- 3 PROJECT FUNDING** The City has not determined the anticipated cost for the requested services. The consultant's proposal shall include the consultant's cost proposal for the scope of work identified in Section B, item 1. Each task shall be accounted for.

SECTION B WORK REQUIREMENTS

- 1. TECHNICAL OR REQUIRED SERVICES**
- TASK 1**
Verify and assess the feasibility of utilizing Ochoco Creek's surface water (certificate 531) for municipal use. Prepare a technical memorandum summarizing the benefits and disadvantages of a surface treatment plant regarding location, capacity, phasing and cost estimates for both construction and operations.
- TASK 2**
The City of Prineville has a pending application (G-16900) to divert up to 5,600 gpm from six (6) new wells for municipal use. Prepare a technical memorandum outlining the process, completed date estimation and recommend course of mitigation.
- TASK 3**
Participate in the Public Works Subcommittee meetings with City staff. This Subcommittee is anticipated to meet four (4) times over the course of this proposal and continue to identify optimal locations for new wells, and seek mitigation and water rights for transfer or offset.
- TASK 4**
Propose for, proceed with and complete a 100 gpm offset from two (2) City of Prineville existing water rights to the new Airport well #2. Once completed, process and procedure to maximize the Airport well #2 production of roughly 750 gpm with the appropriate water rights. Summarize process to completion with a technical memorandum.
- 2. WORK PERFORMED BY THE CITY OR OTHERS** City staff shall make available sufficient hours of staff personnel as is required to meet with consultant and provide such information as required. The selected consultant, firm or team will perform the selected and agreed tasks for projects and

shall be expected to work closely with affected public works and other City representatives to quickly, simply and cost effectively accomplish these goals. Public Works or other City authorized representatives will provide the selected consultant direction and review of work products for the City of Prineville, by telephone or fax, or by email in one day's notice.

3. DELIVERABLES AND SCHEDULE

Deliverables shall be considered those tangible resulting work products which are to be delivered to the City of Prineville such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings and reports. Deliverables and schedule for this project shall include:

- a. 3 Technical Memorandums (date of deliveries to be determined)

All deliverables and resulting work products from this contract will become the property of the City of Prineville.

4. PERIOD OF PERFORMANCE

It is the intent of the City to enter into a contract that is in effect through June 30, 2011.

5. PUBLIC SAFETY

Public safety may require limiting access to public work sites, public facilities, and public offices, sometimes without little advance notice. The consultant shall anticipate delays in such places and provide a unit cost for delay in individual job specific proposals. The consultant's employees and agents shall carry sufficient identification to show by whom they are employed and display it upon request to security personnel.

PART II

RFP PREPARATION AND SUBMITTAL

SECTION A

PRE-SUBMITTAL MEETING/CLARIFICATION

1. PRE-SUBMITTAL MEETING

There will be a mandatory pre-submittal meeting and site visit scheduled for this project Thursday, October 16, 2008 at 2:00 p.m. at Prineville City Hall, 387 NE Third Street, Prineville, OR 97754.

This is a **mandatory** meeting therefore, all proposers will be required to attend if they intend to submit a proposal

2. PROPOSAL CLARIFICATION

Questions and requests for clarification regarding this Request for Proposal must be directed in writing, via email or fax, to the person listed below at least seven (7) working days prior to the proposal due date. An addendum will be issued no later than 72 hours prior to the proposal due date, to all recorded holders of the RFP if a substantive clarification is determined to be in order.

Eric Klann
City of Prineville
387 NE Third Street
Prineville, Oregon 97754
eklann@cityofprineville.com

Phone: (541) 447-2357
Fax: (541) 447-5628

SECTION B

PROPOSAL SUBMISSION

1. PROPOSALS DUE

Sealed proposals must be received in this office no later than the date shown on the cover of this solicitation. The outside of the envelope shall plainly identify the subject of the proposal, the RFP number and the name and address of the proposer. Responses received after time or date listed herein shall not be considered. Proposals received after the scheduled closing time for filing will be returned to the proposer unopened.

2. PROPOSAL

Proposals must be clear, succinct and not exceed **10** pages, excluding Attachment materials. Proposers who submit more than the pages indicated may not have their proposal read or considered.

For purposes of review and in the interest of sustainable business practices, the City encourages the use of double-sided copying. Spiral or other bindings and plastic or glossy covers are not to be used, and there should be no dividers, table of contents, or additional pages beyond the number of internal pages allowed (note: one page is considered to be one side of a single 8-1/2" x 11" sheet. Firms may use both sides of a single sheet of paper for conservation purposes, and are encouraged to do so. If sheets are printed on both sides, it is considered to be two pages). Color is acceptable, but black-and-white printing or copying should not lose content. Lack of response to any of the criteria may constitute a non-responsive proposal.

All submittals will be evaluated on the completeness and quality of the content. Only those firms providing complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.

3. ORGANIZATION OF RESPONSE

The respondents must provide all information as requested in this Request for Proposal (RFP). Responses must follow the format outlined herein. Additional materials in other formats, or pages beyond the stated page limit(s) may not be considered. The City may reject as non-responsive at its sole discretion any proposal or any part thereof that is incomplete, inadequate in its response, or departs

in any substantive way from the required format. Proposal responses shall be organized in the following manner:

- a. Cover letter which shall be addressed as indicated on the cover page of this proposal (1 page)
- b. Project Team (1 page)
- c. Respondent's Capabilities (1 page)
- d. Respondent's Project Understanding and Approach (5 pages)
- e. Diversity in Employment and Contracting requirements (1 page)
- f. Proposed Cost (1 page)

As part of the proposal response, the respondent will provide, the required number of response copies as identified on the cover page of the proposal.

4. COVER LETTER

By submitting a response, the proposer is accepting the General Instructions and Conditions of this Request for Proposal (reference second page of the proposal). The Cover Letter must state the name(s) of the person(s) authorized to represent the consultant in any negotiations, the name(s) of the person(s) authorized to sign any contract that may result, the contact person's name, mailing or street addresses, phone and fax numbers and email addresses. A legal representative of the successful firm, authorized to bind the firm in contractual matters must sign the Cover Letter and the Proposal.

5. PROJECT TEAM

Team qualifications and experience on similar or related projects:

- qualifications and relevant experience of prime consultant
- qualifications and relevant experience of sub-consultants, if any
- project manager's experience with similar projects;

Names of key members who will be performing the work on this project, and:

- their responsibilities on this project
- current assignments and location
- experience on similar or related projects
- unique qualifications
- percentage of their time that will be devoted to the project.]

Key Personnel

General statement: Describe the education background, directly related work experience, professional development, and demonstrated performance record of the proposed key personnel.

Specific requirement: Define or identify exactly what is required in the key personnel resumes or how they can demonstrate that the individual(s) meets the minimum qualification criteria provided in the scope of work. Information regarding the project manager, staff member's present employment status may be requested along with information regarding their activities on any another work project presently under contract by the firm. If any key personnel are presently on a project, the city will want to know when they would be available for the proposed project and, any other projects to which the key personnel are committed, (do they send in a "start team" and change mid-project to a "completion team", etc).

6. TEAM ORGANIZATION AND APPROACH

Similar projects performed within the last 5 years, which best characterize capabilities, work quality and cost control.

Similar projects with other government agencies

Resources available to perform the work for the duration of the project and other on-going projects.

7. PROJECT APPROACH AND UNDERSTANDING

Provide clear and concise understanding of the project and clarify any major issues based upon existing information. For each phase, the approach should:

- < Describe the tasks and activities, the methodology that will be used to accomplish them, and which team members will work on each task;
- < Describe the products that would result from each task or activity;
- < Identify points of input and review with staff.

8. DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS

The City of Prineville seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) in order to promote their economic growth and to provide additional competition for City contracts.

The City encourages and supports the utilization of Minority, Women, and Emerging Small Businesses (M/W/ESB) at both a prime and sub consulting level. All proposers shall respond to the following factors in their proposal:

1. Identify your current diversity of workforce:
 - Number of employees
 - Describe and identify the number of minorities and women within your current workforce.
 - Identify any underutilization of minorities or women within your workforce.
 - Describe the process you use to recruit minorities and women
2. Have you ever subcontracted or partnered with certified Minority-owned, Women-owned and Emerging Small Businesses (M/W/ESB) on any project within the last 24-months? If so, please describe the history of the firm's sub-consulting and partnering with certified Minority-owned, Women-owned and Emerging Small Businesses (M/W/ESB).
3. Are you subcontracting any element of your proposal? If yes, what efforts were made relating to outreach and recruitment of M/W/ESB firms on this project? What were the actual results of such efforts?

The City will review and enforce all EEO/Diversity and M/W/ESB commitments submitted by the successful proposer.

9. PROPOSED COST

Cost for each task plus total cost of proposal

Give Example

- Task 1
- 2
- 3
- 4

Total:

PART III

PROPOSAL EVALUATION

SECTION A

PROPOSAL REVIEW AND SELECTION

1. EVALUATION CRITERIA

Each proposal shall be evaluated on the following evaluation criteria, weighting, maximum points, and page limitations, as follows :

Criteria	Maximum Score
a. Cover Letter	Ø
b. Project Team	10
c. Respondent's Capabilities	20
d. Project Understanding and Approach	50
e. Diversity in Employment and Contracting	10
g. Proposed Cost	10
TOTAL	100 points

2. PROPOSAL REVIEW

A selection review committee will be appointed to evaluate the proposals received. For the purpose of ranking proposals each of the Committee members will evaluate each proposal based upon the criteria listed above. For contracts over \$50,000, the Committee's recommendation will be submitted to the Prineville City Council for approval. The City has the right to reject any or all proposals for good cause, in the public interest.

The consultant shall be selected by the following process:

- a. A consultant evaluation committee will be appointed to evaluate submitted proposals.
- b. The committee will rank the proposals according to the criteria, based on the information submitted.
- c. The committee will require a minimum of 5 working days to evaluate and rank the proposals.
- d. A short list of up to three (3) candidates may be selected for oral interviews if deemed necessary
- e. If oral interviews are determined to be necessary, they will be evaluated based upon the previously identified evaluation (ref. Section III.A.3.) criteria and weighting. The resulting scores will be re-scored to reflect the candidate's scores from both the written submission and interview process.
- f. Negotiations will follow with the selected consultant(s), and if successful, the consultant(s) and City will enter into a professional services contract for the work. The PTE Services Contract used by the City is attached for review

3. CLARIFYING PROPOSAL DURING EVALUATION

During the evaluation process, the City has the right to require any clarification or change it needs in order to understand the consultant's approach to the project and view of the scope of the work. Any changes to the Proposal will be made before executing the contract and will become part of the final consultant(s) contract.

4. EVALUATION OF COST

The evaluation of proposer's costs will be performed objectively using the following formula and as shown in the example. The costs will take into account that the level of services provided for in the proposal stated in the Project Approach and Proposed Costs are comparable; the evaluation will be factored by awarding the total number of points to the lowest proposer and total number of points times lowest proposers cost divided by other proposers costs.

Proposer	Cost	Lowest cost	Percentage	Points
A	\$10,000	\$10,000	100%	10
B	\$12,500	\$10,000	80%	8
C	\$13,000	\$10,000	77%	7
D	\$20,000	\$10,000	50%	5

SECTION B

CONTRACT AWARD

1. CONSULTANT SELECTION

The City will award a contract to the consultant(s) whose proposal would be most advantageous to the City.

2. CONTRACT DEVELOPMENT

The proposal and all responses provided by the consultant(s) may become a part of the final contract. The form of contract shall be the City's Contract for Professional Services

3. AWARD CLARIFICATIONS AND PROTESTS AND

CLARIFICATIONS. Following the Notice of Intent to Award, the public may view proposal documents. However, any proprietary information so designated by the proposer as a trade secret and meeting the requirements of ORS 192.410 will not become public record. At this time, proposer's not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee.

Protests must be received by the Purchasing Agent within seven (7) calendar days following the date of the City's Notice of Intent to Award was issued. The protest must specifically state the reason for the protest and show how its proposal or the winning proposal was miss-scored or show how the selection process deviated from that described in the solicitation document. The contract award process will be put on hold until the protest has been resolved.

Right to Hearing

Any person who has been debarred from competing for city contracts or for whom prequalification has been denied, revoked or revised may appeal the City's decision to the Council as provided in Resolution 1070 Section 13.

Filing of Appeal

The person must file a written notice of appeal with the City's Purchasing Manager within three business days after the prospective contractor's receipt of notice of the determination of debarment, or denial of prequalification.

Notification of Council

Immediately upon receipt of such notice of appeal, the Purchasing Manager shall notify the Council of the appeal.

Hearing

The procedure for appeal from a debarment or denial, revocation or revision of prequalification shall be as follows:

(1) Promptly upon receipt of notice of appeal, the City shall notify the appellant of the time and place of the hearing;

(2) The Council shall conduct the hearing and decide the appeal within 30 days after receiving notice of the appeal from the Purchasing Manager; and

(3) At the hearing, the Council shall consider de novo the notice of debarment, or the notice of denial, revocation or revision of prequalification, the standards of responsibility upon which the decision on prequalification was based, or the reasons listed for debarment, and any evidence provided by the parties,

Decision

The Council shall set forth in writing the reasons for the decision.

Costs

The Council may allocate the Council's costs for the hearing between the appellant and the City. The allocation shall be based upon facts found by the Council and stated in the Council's decision that, in the Council's opinion, warrant such allocation of costs. If the Council does not allocate costs, the costs shall be paid as by the appellant, if the

4. APPEAL OF DEBARMENT OR PREQUALIFICATION DECISION

decision is upheld, or by the City, if the decision is overturned.

Judicial Review The decision of the Council may be reviewed only upon a petition in the Circuit Court of Crook County filed within 15 days after the date of the Council's decision.

5. KICK-OFF MEETING

If requested by the City, the successful consultant(s) shall begin work by attending an orientation meeting with the City to take place within 30 days following execution of the contract. The Consultant shall then develop and maintain a comprehensive schedule for all elements of the project.

PART IV

SAMPLE CONTRACT

City of Prineville

STANDARD PROFESSIONAL SERVICES CONTRACT

(for Architectural, Engineering, Land Surveying and Related Services)

THIS PROFESSIONAL SERVICES CONTRACT is between the City of Prineville, (the "Owner"), and: [REDACTED], Inc.

Company _____	Contract # _____
Address _____	Project/Phase _____
City, State Zip _____	Federal ID # _____
Phone _____	Fax # _____

(the "Consultant") (collectively the Owner and the Consultant are referred to as the "Parties"). This Contract is for all Services related to completion of the project more particularly described as follows [REDACTED] as will be incorporated by project in Exhibit A:

This Contract shall become effective on the date that the Contract is fully executed by the Parties and all required City of Prineville approvals have been obtained. This date is known as the Contract "Effective Date." No Services shall be performed prior to the Contract Effective Date. The Contract shall expire, unless otherwise terminated or extended, on [REDACTED]. Generally, the services to be performed by the Consultant on the Project consist of the following:

Professional Services for the [REDACTED] as described in Exhibit A.

The Services are more specifically described in the **EXHIBIT A Statement of Work**, attached to this Contract. The Owner agrees to pay Consultant a sum not to exceed (\$ [REDACTED]) for performance of the Services, Consultant progress payments shall be made in accordance with **EXHIBIT B, Consultant Compensation**.

This Contract consists of the introductory provisions and signature page(s) of this Contract, Section 1-Relationship Of The Parties, Section 2-Consultant's Professional Responsibility, Section 3-Responsibilities Of The Owner, Section 4-General Contract Provisions and the following exhibits attached hereto and incorporated herein by this reference:

- EXHIBIT A: Statement of Work**
- EXHIBIT B: Consultant Compensation**
- EXHIBIT C: Insurance Requirements**
- EXHIBIT D: Special Contract Provisions**
- EXHIBIT E: Consultant Proposal**

THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER ADDRESSED HEREIN. THE TERMS OF THIS CONTRACT CAN NOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED, OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED CITY OF PRINEVILLE APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION, OR AMENDMENT, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS CONTRACT EXCEPT AS CONTAINED, INCORPORATED OR REFERENCED HEREIN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS THIS CONTRACT, AND ANY AMENDMENTS TO THIS CONTRACT, MAY BE EXECUTED IN COUNTERPARTS (EACH OF WHICH SHALL BE AN ORIGINAL AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT) OR IN MULTIPLE ORIGINALS. A FAXED FORM OF THIS CONTRACT OR ANY AMENDMENT THERETO, EXECUTED BY ONE OR MORE OF THE PARTIES, WILL CONSTITUTE A COUNTERPART HEREOF, AS LONG AS THE COUNTERPART BEARING THE PARTY'S ORIGINAL SIGNATURE IS TRANSMITTED TO THE OTHER PARTY AND RECEIVED BY THAT PARTY FORTHWITH.

Consultant

Name/Title Date

City of Prineville

Name/Title Date

Approved for Legal Sufficiency

Approved by Date
Name/Title

1. RELATIONSHIP OF THE PARTIES

1.1. The Consultant shall provide the Services for the Project in accordance with the terms and conditions of this Contract. The Consultant's performance of Services shall be as a professional consultant to the Owner to carry out the activities of the Project and to provide the technical documents and supervision to achieve the Owner's Project objectives.

1.2. In administering this Contract, the Owner may retain the services of an independent project manager, and potentially, other consultants as needed to fulfill the Owner's objectives.

1.3. The Consultant shall provide a list of all sub-consultants which the Consultant intends to utilize on the Project (the "Sub-consultants"). This list shall include such information on the qualifications of the Sub-consultants as may be requested by the Owner. The Owner reserves the right to review the Sub-consultants proposed, and the Consultant shall not retain a Sub-consultant to which the Owner has a reasonable objection.

1.4. The Consultant shall provide to the Owner a list of the proposed key Project personnel of the Consultant and the Sub-consultants to be assigned to the Project. This list shall include such information on the professional background of each of the assigned personnel as may be requested by the Owner. The Consultant acknowledges that this Contract was awarded on the basis of the unique background and abilities of the key personnel and Sub-consultants identified by Consultant. Therefore, Consultant shall make available key personnel and Sub-consultants as identified in its proposal. Any attempted substitution without written consent of Owner shall constitute a material breach of the Contract. In the event that key personnel or Sub-consultants become unavailable to Consultant, the Parties shall mutually agree upon appropriate replacements. Likewise, the Consultant shall remove any individual or Sub-consultant from the Project if so directed by Owner in writing following discussion with the Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.

2. CONSULTANT'S PROFESSIONAL RESPONSIBILITY

2.1. By execution of this Contract, the Consultant agrees that:

2.1.1. The Consultant is an experienced firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Contract to design and administer a project having this scope and complexity; and will perform such Services pursuant to the standard of care defined in Section 4.4.1 of this Contract.

2.1.2. The Consultant has the capabilities and resources necessary to perform Consultant's obligations under this Contract.

2.1.3. The Consultant either is, or will in a manner consistent with the standard of care defined in Section 4.4.1 of this Contract, become familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project. All drawings, specifications, deliverables and other documents prepared by the Consultant shall be prepared in accordance with this standard of care in an effort to accurately reflect, fully comply with and incorporate all such laws, rules, and regulations.

2.2. The Consultant hereby agrees that it will prepare, in a manner consistent with the standard of care defined in Section 4.4.1 of this Contract, all drawings, specifications, deliverables and other documents pursuant to this Contract so that they are complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of the Consultant) and that the Project, if constructed in accordance with the intent established by such drawings, specifications, deliverables and other documents, shall be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended.

2.3. The Consultant shall be responsible for correcting any inconsistencies, errors or omissions in the drawings, specifications, deliverables and other documents prepared by the Consultant, at no additional cost to the Owner.

3. RESPONSIBILITIES OF THE OWNER; SPECIAL CONTRACT PROVISIONS

The Owner's responsibilities under this Contract, and certain additional responsibilities of the Consultant, are set forth in **Exhibit D-Special Contract Provisions**.

4. GENERAL CONTRACT PROVISIONS

4.1. **Contract Performance.** The Consultant shall at all times perform the Services diligently, without delay and punctually fulfill all requirements herein, consistent with the schedule for the performance of Consultant's Services set forth in **Exhibits A**. The passage of the Contract expiration date shall not extinguish, prejudice, or limit either

party's right to enforce this Contract with respect to any default or defect in performance. Time is of the essence in the performance of this Contract.

4.2. Access to Records. For not less than three (3) years after the Contract's expiration, the Owner and their duly authorized representatives shall have access to the books, documents, papers, and records of the Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Consultant shall provide the Owner and the other entities referenced above with full access to these records in preparation for and during litigation.

4.3. Funds Available and Authorized. Owner reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Owner's appropriation or limitation. Consultant understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under this Contract attributable to Services performed contingent on Owner receiving from Connect Oregon I and II appropriations or other expenditure authority sufficient to allow Owner, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

4.4. Representations and Warranties.

4.4.1. Consultant's Representations and Warranties: Standard of Care. Consultant represents and warrants to Owner that: (i) Consultant has the power and authority to enter into and perform this Contract; (ii) When executed and delivered, this Contract shall be a valid and binding obligation of Consultant enforceable in accordance with its terms; (iii) Consultant shall, at all times during the term of this Contract be duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, be duly qualified and competent; (iv) The Services under this Contract shall be performed in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions; (v) the persons executing this Contract on behalf of the Consultant have the actual authority to bind the Consultant to the terms of this Contract; and (vi) the provisions of this Contract do not conflict with or result in a default under any agreement or other instrument binding upon the Consultant and do not result in a violation of any law, regulation, court decree or order applicable to the Consultant.

4.4.2. Automated Systems; Representations and Warranties. Consultant represents and warrants to Owner that the "Automated Systems" specified, designated and planned pursuant to this Contract shall operate in conformance with the agreed-upon specifications for those Automated Systems. For the purposes of this subsection, "Automated Systems" shall mean fire/life safety systems, security systems and any other electrical, mechanized or computerized devices serving the Project.

4.4.3. Representations and Warranties Cumulative. The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations and warranties provided herein.

4.5. Insurance and Indemnity. Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance required by this Contract, as set forth in **Exhibit C-Insurance Provisions**. The Consultant shall indemnify, defend, save, and hold harmless the City of Prineville from Professional Liability claims, as described in 4.5.2 and all other liability claims as described in 4.5.1.

4.5.1. Claims Other than Professional Liability. Consultant shall indemnify, defend, save, and hold harmless the Owner, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the acts or omissions of the Consultant or its Sub-consultants, subcontractors, agents, or employees under this Contract.

4.5.2. Claims for Professional Liability. Consultant shall indemnify, defend, save, and hold harmless the Owner, its officers, agents, and employees, from all claims, suits, or actions arising out of the professionally negligent acts or omissions of the Consultant or its Sub-consultants, subcontractors, agents, or employees in performance of professional services under this Contract.

4.5.3. Owner Defense Requirements. Notwithstanding the foregoing defense obligations under Sections 4.5.1 and 4.5.2, neither the Consultant nor any attorney engaged by the Consultant shall defend any claim in the name of the City of Prineville, nor purport to act as legal representative of the City or any of its agencies. The City of Prineville may, at anytime at its election assume its own defense and settlement of any claims, in the event that it determines that the Consultant is prohibited from defending the City, that the Consultant is not adequately defending the City's interests, that an important governmental principle is at issue, or that it is in the best interests of the City of Prineville to do so. The City reserves all rights to pursue any claims it may have against the Consultant if the City elects to assume its own defense.

4.5.4 Owner's Actions. This Section 4.5 does not include indemnification by the Consultant of the Owner for the Owner's acts or omissions, whether related to the Contract or otherwise.

4.6. Employment Status.

4.6.1. Consultant, Consultant's employees and the Sub-consultants are not "officers, employees, or agents" of the City of Prineville, as those terms are used in ORS 30.265. Consultant shall perform all Services as an independent contractor. Although Owner reserves the right (i) to set the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Owner cannot and will not control the means and manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services.

4.6.2. Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal of state taxes applicable to any compensation or payments paid to Consultant under this Contract. Consultant will not be eligible for any benefits from any payments made under this Contract for federal Social Security, unemployment insurance, or worker's compensation, except as a self-employed individual. If any payment under this Contract is to be charged against federal funds, the Consultant certifies that it is not currently employed by the federal government.

4.7. Successors & Assignments. The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties, and their respective successors and assigns. After the original Contract is executed, the Consultant shall not enter into any new Sub-consultant agreements for any of the Services scheduled under this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of the Owner.

4.8. Compliance with Applicable Law. Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services under this Contract. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017.

4.9. Governing Law; Jurisdiction; Venue. This Contract 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 Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Crook County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Subsection be construed as a waiver by the City of Prineville of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. CONSULTANT, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

4.10. Tax Compliance Certification.

4.10.1. By signature on this Contract, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of the Consultant and that the Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.

4.10.2. For the purposes of this certification, "Oregon Tax Laws" means those taxes and programs listed in ORS 305.380(4), namely a state tax: imposed by ORS 401.792 to 401.816 and ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Department of Revenue under ORS 305.620.

4.11. Severability. The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, 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 Contract did not contain the particular term or provision held to be invalid.

4.12. Force Majeure. Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.

4.13. Waiver. The failure of the Owner to enforce any provision of this Contract shall not constitute a waiver by the Owner of that or any other provision.

4.14. N/A

4.15. Ownership of Work Product; Confidentiality.

4.15.1 Definitions. As used in this Section 4.15, and elsewhere in this Contract, the following terms have the meanings set forth below:

a. "Consultant Intellectual Property" means any intellectual property owned by Consultant and developed independently from this Contract.

b. "Third Party Intellectual Property" means any intellectual property owned by parties other than The Owner or Consultant.

c. "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports and other materials, that Consultant is required to deliver to the Owner under this Contract, whether completed, partially completed or in draft form.

4.15.2 Work Product. All Work Product created by Consultant pursuant to this Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire" or an employment to invent, shall be the exclusive property of the Owner. The Owner and Consultant agree that such original works of authorship are "work made for hire" of which the Owner is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to this Contract is not "work made for hire", Consultant hereby irrevocably assigns to the Owner any and all of its rights, title, and interest in all original Work Product created pursuant to this Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon the Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in the Owner. Consultant forever waives any and all rights relating to original Work Product created pursuant to this Contract, 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 modifications.

4.15.3 Consultant Intellectual Property. In the event that Work Product is Consultant Intellectual Property, Consultant hereby grants to the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Consultant Intellectual Property, including the right of the Owner to authorize contractors, consultants and others to use the Consultant Intellectual Property, for the purposes described in this Contract.

4.15.4 Third Party Works. In the event that Work Product is Third Party Intellectual Property, Consultant shall secure on the Owner's behalf and in the name of the Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third Party Intellectual Property, including the right of the Owner to authorize contractors, consultants and others to use the Third Party Intellectual Property, for the purposes described in this Contract.

4.15.5 Consultant Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Consultant Intellectual Property, or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Consultant Intellectual Property employed in a Contract Work Product, including the right of the Owner to authorize contractors, consultants and others to use the pre-existing elements of the Consultant Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.

4.15.6 Third Party Works-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on the Owner's behalf and in the name of the Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, including the right to authorize contractors, consultants and others to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.

4.15.7 Limited Owner Indemnity. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, the Consultant shall be indemnified, and held harmless by the Owner from liability arising out of re-use or alteration by the Owner, which was not specifically contemplated and agreed to by the Parties in this Contract or under separate contract.

4.15.8 Consultant Use of Work Product. Consultant, despite other conditions of this provision, shall have the right to utilize the Work Product on its brochures or other literature that it may utilize for its sales and, in addition, unless specifically otherwise exempted, the Consultant may use standard line drawings, specifications and calculations on other, unrelated projects.

4.15.9 Confidential Information. Consultant acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is confidential to the Owner or the Owner's clients. Any and all information marked confidential, or identified as confidential in a separate writing, that the Owner provides to Consultant or its employees or agents in the performance of this Contract shall be deemed to be confidential information of the Owner ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Consultant shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by the Owner to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than the Owner without the obligation of confidentiality, (e) is disclosed with the written consent of the Owner, or; (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.

4.15.10 Non-Disclosure. Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information for any purposes whatsoever other than the provision of Services to the Owner under this Contract, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist the Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall advise the Owner immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Consultant will at its expense cooperate with the Owner in seeking injunctive or other equitable relief in the name of the Owner or Consultant against any such person. Consultant agrees that, except as directed by the Owner, Consultant will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract, and that upon termination of this Contract or at the Owner's request, Consultant will turn over to the Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

4.15.11 Injunctive Relief. Consultant acknowledges that breach of this Section 4.15, including disclosure of any Confidential Information, will give rise to irreparable injury to the Owner that is inadequately compensable in damages. Accordingly, the Owner may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the Owner and are reasonable in scope and content.

4.15.12 Publicity. Consultant agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of the Owner.

4.15.13 Security. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of the Owner when using, having access to, or creating systems for any of the Owner's computers, data, systems, personnel, or other information resources.

4.16. Termination.

4.16.1. Parties Right to Terminate for Convenience. This Contract may be terminated by written mutual consent of the Parties.

4.16.2. Owner's Right to Terminate for Convenience. Owner may, at its sole discretion, terminate this Contract by written notice to the Consultant specifying the termination date of the Contract.

4.16.3. Owner's Right to Terminate for Cause. Owner may terminate this Contract, in whole or in part, immediately upon notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

4.16.3.1. Owner lacks lawful funding, appropriations, limitations or other expenditure authority at levels sufficient to allow Owner, in the exercise of its reasonable discretion, to pay for Consultant's Services;

4.16.3.2. Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way

that either the Services under this Contract are prohibited, or Owner is prohibited from paying for such Services from the planned funding source;

4.16.3.3. Consultant no longer holds any license or certificate that is required to perform the Services;

4.16.3.4. Consultant fails to provide the Services called for in **Exhibit A** within the times specified or allowed under this Contract, fails to perform any of the provisions of this Contract, or so fails to perform the Services as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from Owner, does not correct such failures in such time as Owner specifies (which shall not be less than 10 calendar days, except in the case of emergency).

4.16.4. Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by the Owner, Consultant shall immediately cease all activities related to the Services or the Project.

4.16.5. Consultant's Right to Terminate for Cause.

4.16.5.1. Consultant may terminate this Contract if Owner fails to pay Consultant pursuant to this Contract, provided that Owner has failed to make such payment to Consultant within 15 calendar days after receiving written notice from Consultant of such failure to make payment.

4.16.5.2. Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within 10 calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.

4.16.6. Delivery of Work Product/Retained Remedies of Owner. As directed by the Owner, Consultant shall upon termination, deliver to the Owner all then existing Work Product and other property that, if the Contract had been completed, would be required to be furnished to the Owner. By Consultant's signature on this Contract, Consultant allows Owner to use said Work Product and other property for Owner's intended use. The rights and remedies of the Owner provided in this Section 4.16-Termination related to defaults by the Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

4.16.7. Payment upon Termination

4.16.7.1. In the event of termination pursuant to Sections 4.16.1, 4.16.2, 4.16.3.1, 4.16.3.2 or 4.16.5, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under 4.16.3.1 where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 4.3. Within 30 days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Contract Services completed before termination and all Contract close-out costs actually incurred by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by the Owner later than 30 days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall pay any excess to Owner upon demand.

4.16.7.2. In the event of termination pursuant to section 4.16.3.3 or 4.16.3.4, Owner shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively and/or in any order whatsoever. If it is determined for any reason that Consultant was not in default under section 4.16.3.3 or 4.16.3.4, the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 4.16.2.

4.17. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State's Corporation Division all information required by those agencies relative to this Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract.

4.18. Notice. Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Consultant or Owner at the address or number set forth on **Exhibit A** to this Contract, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section 4.18. Any notice so addressed and mailed shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against Owner, any facsimile communication or notice must be confirmed by telephone notice to Owner's Representative for the Project as

indicated in **Exhibit A** to this Contract, and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

4.19. Media Contacts; Confidentiality. Consultant shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without the Owner's prior written authorization.

4.20. Conflict of Interest. Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

Exhibits A through F are attached:

EXHIBIT A

STATEMENT OF WORK

The Owner and the Consultant agree that the following Services shall be provided by the Consultant for [REDACTED] [REDACTED] in Crook County, Oregon. (For purposes of this Contract, "Statement of Work" are those Services described of this **Exhibit A, Statement of Work**, and further defined in Section B.1.03 of **Exhibit B-Consultant Compensation**)

PROJECT DESCRIPTION:

See Proposal by [REDACTED] Exhibit "E"

Company [REDACTED]
Address [REDACTED]
City, State Zip [REDACTED]
Phone [REDACTED]

Contract # 1002-08-09
Project/Phase [REDACTED]
Federal ID # [REDACTED]
Fax # [REDACTED]

All services will be completed in conformance with the City of Prineville's Introductory Contract Provisions.

EXHIBIT B

CONSULTANT COMPENSATION

B.1 BASIS OF COMPENSATION

B.1.01 The Owner shall compensate the Consultant for the performance of Services set forth in the Statement of Work, as defined in **Exhibit A**, as follows:

The maximum, not to exceed total amount payable under this Contract is \$ [REDACTED] for the Professional Services. Reimbursable Expenses are not included in this contract.

B.1.02 Payment for Services shall be paid in a Lump Sum, following Owner's review and approval of detailed invoices submitted by Consultant and acceptance of the Services by the Owner. Payment for Services shall be in proportion to the Services performed as set forth in **Exhibit A - Statement of Work**.

Payment will be made by City check to [REDACTED], [REDACTED]. Payment is conditioned upon completed services performed during the predetermined period which begins upon both parties signatures of this document or, whichever occurs first, and concludes on. Payment is due to Contractor within 30 days of receipt by the City. If the City objects to any invoices submitted by [REDACTED], the City shall advise [REDACTED] in writing, giving reason therefore, within (15) days of the date on said invoice.

Contractor shall send invoice to Accounts Payable Department. Invoices must describe the work performed; deliverables completed (if applicable) and amounts due as follows:

1. Submit on letterhead. Otherwise show company name, address, phone and fax numbers
2. Show City's Contract Number or P.O. Number
3. Invoice date must be current date.
4. Specify Invoice Number or Billing Number
5. Invoices to be addressed to the Contract Manager's attention.
6. Itemize all tasks, deliverables and/or services performed; hours expended and percent complete, where applicable, and dates of activities invoiced.
7. All billings for Change Orders and Amendments to the Basic Contract will be submitted as separate invoices.
8. Change Order and Amendment invoices will use the Basic Contract or P.O. number followed by a letter designation: (Ex. 100001 Basic Contract will use 100001-1 for the first Change Order or Amendment).

B.1.05 The Owner and Consultant agree in accordance with the terms and conditions of this Contract that:

- a. If the scope of the Project or if the Consultant's Services is changed materially, the Consultant shall request in writing, before services are provided, that compensation be adjusted and that the Contract be amended to describe the additional Services to be performed and the compensation for those additional Services. If the Owner agrees to allow additional Services to be performed, the Parties must prepare and fully execute a written amendment to the Contract fully memorializing the Parties' agreement, and all required State of Oregon approvals must be obtained, before the Contract will be deemed amended and before Consultant begins performance of any additional Services pursuant to the amended Contract.
- b. The fee for preparing routine change orders adding or deleting Work from the Project shall be considered part of the compensation.
- c. The Consultant shall make such revisions to completed Contract Documents as are necessary to correct errors or omissions appearing therein, consistent with generally accepted standards of professional practice and with the Consultant's standard of care under Section 4.1.4 of the Contract, when required to do so by the Owner and without additional compensation.

EXHIBIT C

INSURANCE PROVISIONS

INSURANCE (The City's Representative must answer and initial 2, 3, and 4 below)

During the term of this contract Contractor shall maintain in force at its own expense, each insurance noted in 1 through 4 below, unless waived:

1. Workers Compensation insurance in compliance with ORS 656.017, which requires employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

Required

2. General Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract.

Required

3. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate for Bodily Injury and Property Damage, including coverage for owned, hired, or non owned vehicles, as applicable:

Required

4. Professional Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.

Required

5. On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.

6. Certificate of Insurance. As evidence of the above required insurance coverage's, the Contractor shall furnish acceptable insurance certificates to the City at the time Contractor returns the signed contract. The insurance policies described in paragraphs 2 and 3 above shall name the City of Prineville and its agents, officers, and employees as additional insured's, but only with respect to the contractor's services to be provided under this Contract. The Certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause that provides that the insurance shall not terminate or be cancelled without 30 days written notice first being given to the City. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

EXHIBIT D
SPECIAL CONTRACT PROVISIONS
(NOT USED)

EXHIBIT E

CONSULTANT PROPOSAL