



# **REQUEST FOR PROPOSAL**

## **Consulting Services**

**To Provide  
Needs Assessment and Business Case Justification  
For  
Utility Management Software Replacement**

**ACCT 794.2**

### **Proposal Closing:**

**DATE:** Tuesday, September 8, 2009  
**TIME:** 3:00 p.m., Local Time  
**PLACE:** Medford Water Commission Office

**Medford Water Commission**  
200 South Ivy Street – Room 177  
Medford, Oregon 97501  
Telephone: (541) 774-2440 ♦ Fax: (541) 774-2555

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# REQUEST FOR PROPOSAL

Notice is hereby given that the Medford Water Commission (MWC), by and through its Board of Water Commissioners, will receive sealed proposals until 3:00 p.m., Local Time, Tuesday, September 8, 2009 at MWC office, 200 S. Ivy St. – Room 177, Medford, Oregon 97501, for providing the following services:

## **Consulting Services to Provide Needs Assessment and Business Case Justification For Utility Management Software Replacement**

Proposals received after the time established for receiving proposals will not be considered. Facsimile (FAX) proposals are not acceptable. Each proposal must contain a Signed Proposal Submission Form.

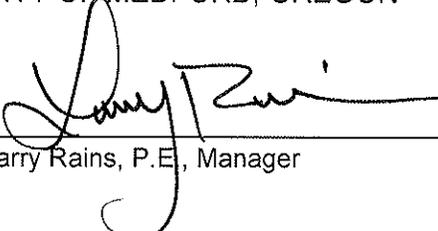
A set of such Request for Proposal documents may be obtained from MWC's office, 200 S. Ivy St., Room 177, Medford, Oregon 97501, by calling (541) 774-2440, or from the Web site: [www.medfordwater.org](http://www.medfordwater.org).

Changes to the RFP are not binding upon MWC unless confirmed by Written Addendum.

Sealed proposals are to be sent to Medford Water Commission, Attention: Kris Stitt, Technology Services Coordinator, 200 S. Ivy St. – RM 177, Medford, OR 97501. MWC may reject any proposal not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any and all proposals upon a finding of MWC that it is in the public interest to do so. MWC also reserves the right to waive any informality in any proposal and to delete certain items listed in the proposal as set forth herein.

Dated this 31st day of July 2009.

MEDFORD WATER COMMISSION  
CITY OF MEDFORD, OREGON



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Larry Rains, P.E., Manager

## **SCHEDULE**

Advertise RFP.....	Thurs., Aug. 6 & Fri., Aug. 7, 2009
Deadline - Last Date to Protest Specification (in writing).....	Tues., Aug. 18, 2009
Deadline - MWC's Response to Specs Protest .....	Thurs., Aug. 20, 2009
RFP Due Date/Time.....	Tues., Sept. 8, 2009 - 3:00 p.m.
Notice of Intent to Award.....	Wed., Sept. 23, 2009
Deadline - Last Date to Protest Award (in writing) .....	Wed., Sept. 30, 2009
Deadline – MWC's Response to Award Protest .....	Fri., Oct. 2, 2009
Award Contract .....	Wed., Oct. 7, 2009 Board Meeting
Work to Commence .....	Upon execution of contract
Findings Report Deadline .....	Fri., February 26, 2010

# GENERAL INFORMATION

## CONSULTING SERVICES TO PROVIDE NEEDS ASSESSMENT AND BUSINESS CASE JUSTIFICATION FOR UTILITY MANAGEMENT SOFTWARE REPLACEMENT

### INVITATION

The Medford Water Commission (MWC) is evaluating the need for replacement of the existing utility management software system. Responses to this request will be used to compare with existing software systems and evaluated for technical, functional, and procedural innovations that may be incorporated into a future Request for Proposal. Respondents should evaluate this request and identify all costs associated with a replacement project, including but not limited to all pertinent licensing, maintenance, implementation, conversion and training. *The ideal respondent will be an independent consultant (not a vendor, supplier or software representative) that has experience assessing software solutions based on products from a number of different vendors and manufacturers.* The respondent is requested to provide an estimate of all costs associated with the project with the understanding that this is not an actual bid to provide software to MWC.

### BACKGROUND

MWC is an independently chartered municipal water utility of the City of Medford. Its primary duty is to provide domestic water to its 27,000 accounts in and around the City of Medford. In addition, MWC provides billing services for the City of Medford's sewer, stormwater, street light, parks, and public safety fees.

MWC currently utilizes an IBM AS/400-based system for a majority of our day-to-day utility management operations such as utility billing, payroll, inventory, and finance. The system was originally written in the 1980s and is currently maintained by MWC staff.

### CURRENT FINANCE SOFTWARE

A majority of software that MWC uses today is written in RPG36 (RPG II/III) and is run in system/36 mode on the AS/400. Almost all of the data is stored in a flat file format.

The current system has been in use at MWC for about 25 years and the software has been maintained and enhanced as needed over the years.

Below is a list of the core functions that are provided by our current software:

- Customer Account Maintenance
- Deposit Tracking
- General Ledger
- Cash Receipts and Accounts Receivable
- Accounts Payable
- Payroll
- Inventory
- Fixed Assets
- Work Orders

- Utility Billing
- Payment Processing
- Service Work Orders
- General Reporting
- Cashiering
- Meter Reading
- Meter Service Tracking
- Fire Services Testing
- Delinquent Account Tracking and Collections
- Backflow Prevention Device Tracking and Testing Records

Our current system does not provide some features that may be considered with a new system, such as:

- Complex billing systems
- Budget Preparation and Administration
- Asset Management
- Statistical Reporting and Historical Data
- Report Writing
- Fleet Tracking
- Human Resource Information System
- Work Order Management/Billing
- Materials Bid Tracking
- Conservation Program Tracking
- GIS Integration
- Water Quality Complaint Tracking
- Online Services (utility bill presentation and payment)

## **HARDWARE**

Our current software is run on a single IBM AS/400 server model 270. This server is scheduled for replacement during Fiscal Year 2009-10.

### **AS/400 Hardware**

- AS/400 Model 270 running IOS V5R1
- 2 IBM Model 6400 Impact Printers (Twinax)
- 3 IBM (green screen) terminals (Twinax)
- 20-25 PC users that connect to the AS/400 using 5250 emulation

### **Other Hardware**

- 2 Dell Power Edge servers running Windows 2003 server
- 40 Desktop Computers
- 10 printers

Other Services and Hardware: MWC gets many of its networking and network services through a partnership with the City of Medford. The city provides us with network access and support, e-mail, Internet, Active Directory, security, and other services.

GIS: MWC utilizes ESRI 9.3.1 Software for its GIS Systems; MWC is currently using ESRI SDE on a Microsoft SQL Server to store the data; the server resides with the City of Medford.

## SCOPE OF WORK

While the existing system does currently meet MWC’s needs, it is time to consider updating to a newer software package. The current system utilizes older technology and has limitations for future expansion. MWC would like the assistance of a consultant to analyze our current system and provide a recommendation on the best course of action for future software implementation.

At a minimum, the project shall address the following items:

TASK	DESCRIPTION
Project Kick-off	<ul style="list-style-type: none"> <li>• Consultant meets with MWC staff for direct discussion and to review project goals and activities, establish expectations, and set a schedule.</li> </ul>
Needs Analysis	<ul style="list-style-type: none"> <li>• Analyze and document the fundamental processes used by the current system.</li> <li>• Assess the MWC system and compare to other utilities’ practices and/or best business processes.</li> <li>• Identify key strengths and weaknesses of current system.</li> <li>• Identify new, desired processes.</li> </ul>
Business Case Justification	<ul style="list-style-type: none"> <li>• Perform a risk analysis, identifying current risks with our software system versus implementing a new system.</li> <li>• Perform a cost-benefit analysis, identifying all costs that would affect the total cost of ownership.</li> <li>• Evaluate the impact that replacement would have on MWC including human resources.</li> <li>• Provide a timetable for planning and implementation of a new software package.</li> <li>• Evaluate financial analytics from cash flow projections to return on investment.</li> <li>• Provide a gap analysis</li> <li>• Provide a recommendation, alternative solutions, and cost justifications.</li> <li>• Discuss how a replacement system could help meet or exceed customer satisfaction and other intangible benefits.</li> <li>• Provide a “do-nothing” scenario</li> </ul>
Presentation of Findings	<ul style="list-style-type: none"> <li>• Prepare an executive summary presentation for MWC board members and staff.</li> <li>• Provide a detailed written report of findings both in hard copy and electronic format.</li> </ul>

## PROPOSAL INSTRUCTIONS

The proposal submittals must include, at a minimum, the following required information:

1. **PROCESS AND METHODOLOGY:** A discussion of approach to the project.
2. **SCOPE OF WORK:** A recap but further detailed description of the scope of work to be performed by the consultant on all phases of the project.
3. **PROJECT SCHEDULE:** A detailed schedule of all phases of the project.
4. **QUALIFICATIONS & EXPERIENCE:** A history and structure of the firm; *disclosure of any affiliations or association with vendors or manufacturers that provide utility software and may have an interest in this project*; a listing of the project manager and all key personnel to be utilized on the project, including their educational background, certifications, work history, percentage time commitments for this project, areas of responsibility, and a statement of their particular expertise and experience related to all phases of this type of project.
5. **STAFFING PLAN:** Indicate the total number of projects that will be managed by the designated project manager during the period the consultant is managing this project.
  - 5.1 Attach an organizational chart of the office that will be providing the services to MWC.
6. **REFERENCES:** A minimum of three (3) references for similar work completed by the project team within the last (3) years. List should include names, addresses, telephone numbers, FAX numbers and e-mail addresses. MWC reserves the right to investigate the references and past performance of any respondent with respect to successful performance of similar projects, compliance with specifications and contractual obligations, and completion of a project on schedule.
7. **SUB-CONSULTANTS:** Provide a list and description of tasks, qualifications, and responsibilities of any sub-consultant that may be hired.
8. **PROPOSAL SUBMISSION FORM:** Signed by an individual authorized to bind your firm.
9. **COST ESTIMATE:** In a separate sealed envelope, provide a not-to-exceed cost estimate adequate to cover the scope of the project. The cost estimates should be broken down by task and include a list of charge out rates related to names of key personnel to be used by the firm during this project. Include time, materials, travel, and other expenses, which may be associated with the duties and obligations under this Request for Proposal. All costs must be identified. This process is not considered a bid, nor will cost alone decide who is selected. Please note that MWC relies heavily on the not to exceed amount and is reluctant to grant further increases unless substantial reasons are made for overage.

**Proposal Modification:** Modifications or erasures made before signing by the authorized representative must be initialed in ink. Once submitted, proposals may be modified in writing before the time and date set for proposal closing. Any modifications shall be prepared on company letterhead, signed by an authorized representative, and state that the new document supersedes or modifies the prior proposal. Modification must be submitted in a sealed envelope clearly marked "Proposal Modification", and identifying the proposal title and closing date and time. Respondent may not modify proposal after proposal closing time.

**Proposal Withdrawal:** Proposals may be withdrawn in writing on company letterhead signed by an authorized representative and received by MWC Manager prior to proposal closing time.

Proposals may also be withdrawn in person before proposal closing time upon presentation of appropriate identification.

**Protest of Proposal Specifications:** A respondent who believes the proposal scope of work or specifications are unnecessarily restrictive or limit competition may submit a protest, in writing, to the Manager. To be considered, protests must be received at least five (5) days before the proposal closing date. Envelopes containing protests should be marked as follows:

Proposal Specification Protest  
Proposal Title  
Closing Date and Time

**Protest of Award:** The award by the Board of Water Commissioners shall constitute a final decision of MWC to award the contract if no written protest of the award is filed with MWC within seven (7) calendar days of the Notice of Intent to Award. The written protest shall specify the grounds upon which the protest is based. In order to be an adversely affected respondent with a right to submit a written protest, a respondent must be next in line for award. MWC will not entertain a protest submitted after the time period established in this rule.

### PROPRIETARY INFORMATION

The opened proposals shall be available for public inspection (ORS 192.420 to 192.505) except to the extent the respondent designates trade secrets or other proprietary data to be confidential. (ORS 192.501 (2))

### TIME AND PLACE FOR RECEIVING PROPOSALS

Respondents shall submit sealed proposals containing: one (1) clearly marked "ORIGINAL" and three (3) copies of the proposal to Medford Water Commission, ATTN: Kris Stitt, Technical Services Coordinator, 200 S. Ivy St., RM 177, Medford, Oregon 97501 by:

**3:00 p.m. - Local Time – Tuesday, September 8, 2009**

Only one sealed envelope containing the separate cost estimates need be submitted with all four proposals. Proposals received after the deadline will not be considered. Facsimile (FAX) proposals are not acceptable. Respondent may be present; however, award decisions will not be made at the opening.

 **PLEASE NOTE** 

In order to ensure consideration, proper identification and handling, the Proposal must be enclosed in a sealed envelope clearly marked:

**RFP - CONSULTING SERVICES  
TO PROVIDE NEEDS ASSESSMENT AND BUSINESS CASE JUSTIFICATION  
FOR UTILITY MANAGEMENT SOFTWARE REPLACEMENT**

MWC will not be responsible for identifying and handling any proposal that is not submitted in an envelope labeled this way. Failure to so label the *exterior* of your envelope, whether shipped by the U.S. Postal Service or by an express carrier such as FedEx®, may result in disqualification of your proposal.

## **EVALUATION PROCESS**

An Evaluation Committee so designated by MWC Manager will evaluate the proposals submitted. Based on this review, up to three (3) respondents may be selected for personal interviews, in Medford, with the Committee. An award recommendation by the Committee will be based on merit, relying on the information in the proposal. Evaluation criteria shall include: prior experience performing similar work, qualifications, process and methodology, references, cost, ability to meet deadlines and budget, and the quality of the written and oral communications.

Information contained in the cost envelope will be secondary and will be opened after the proposals have been reviewed by the Evaluation Committee. How the Committee uses that information is at their discretion. The Evaluation Committee will recommend the highest rated respondent to the Manager.

MWC reserves the right to solicit additional information from applicants should MWC deem such information necessary during the evaluation process.

## **AWARD**

The Board of Water Commissioners will consider award of the project based on the Manager's recommendation and will authorize the Manager to execute a contract. The contract will be awarded to the respondent who, in the opinion of the Board of Water Commissioners, offers the best combination of price and performance, and meets all required specifications. MWC may reject any proposal not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any and all proposals upon a finding of MWC that it is in the public interest to do so. MWC also reserves the right to waive any informality in any proposal and to delete certain items listed in the proposal as set forth herein.

## **CONTRACT**

A sample consulting services contract is attached as Exhibit A; conditions and terms may be modified at the time of contract negotiations.

## **CONTACT PERSON**

For additional information regarding this proposal, please direct questions to Kris Stitt, Technology Services Coordinator, at (541) 774-2449 or write to the address on the front cover. Please do not attempt to contact any other member of the Evaluation Committee. Such contact may disqualify your submittal.

# PROPOSAL SUBMISSION FORM

I, the undersigned, having read and with full understanding of all Proposal specifications, terms and conditions, do submit the following Proposal to provide the Medford Water Commission with Consulting Services to Provide Needs Assessment and Business Case Justification for Utility Management Software Replacement, and certify that the Proposal is made without connection with any person, firm or corporation making a proposal for the same goods and/or services and is in all respects fair and without collusion or fraud.

Respondent's Printed Name: \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

FAX Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## RESIDENT BIDDER CERTIFICATE

Pursuant to Compliance with Oregon Revised Statutes:

"Resident Bidder" Certification:

Yes, I certify that I am a "resident bidder."

(ORS 279A.120(6)(b) defines a "resident bidder" as a bidder that has paid unemployment taxes or income taxes in the State of Oregon during the twelve (12) calendar months immediately preceding submission of the bid, has a business address in the state and has stated in the bid whether the bidder is a "resident bidder.")

No, I am not a "resident bidder."

("Non-resident bidder" means a bidder who is not a "resident bidder" as defined in ORS 279A.120; please refer to the Oregon Revised Statutes regarding state requirements for Non-Resident Bidders that are awarded a contract in Oregon.)

I am domiciled in the State of \_\_\_\_\_  
Indicate State

# **SAMPLE CONTRACT**

## **CONSULTING SERVICES TO PROVIDE NEEDS ASSESSMENT AND BUSINESS CASE JUSTIFICATION FOR REPLACEMENT UTILILTY MANAGEMENT SOFTWARE ACCT. 794.2**

THIS AGREEMENT, made in duplicate this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between \_\_\_\_\_, (hereinafter referred to as "CONSULTANT"), and Medford Water Commission, a chartered municipal water utility of the City of Medford, Oregon, and governed by and through its Board of Water Commissioners, (hereinafter referred to as "CLIENT").

### WITNESSETH:

WHEREAS, the CLIENT desires to engage the CONSULTANT to render certain technical and/or professional services hereinafter described in connection with \_\_\_\_\_, and;

WHEREAS, the CONSULTANT is qualified and agreeable to render the aforesaid technical and/or professional services;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual promises hereinafter expressed, and intending to be legally bound hereby, the parties hereto do mutually agree as follows:

#### Article 1. Engagement of Consultant

The CLIENT hereby agrees to engage the CONSULTANT to perform the technical and/or professional services as hereinafter set forth. CONSULTANT is not an employee of the CLIENT.

#### Article 2. Scope of Services

The CONSULTANT shall perform the services set forth in Exhibit A, entitled Proposal, a copy of which is filed in CLIENT's office, by reference incorporated herein and made a part hereof. CONSULTANT is employed to render a professional service only, and any payments made to the CONSULTANT are compensation solely for such services rendered and recommendations made in carrying out the work. Except as otherwise agreed by the parties, CONSULTANT shall follow the usual and customary practice of the CONSULTING profession to make findings, provide opinions, make factual presentations, and provide professional advice and recommendations.

### Article 3. Data to be Furnished

All information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work as outlined in Exhibit A hereof shall be made available to the CONSULTANT without charge by the CLIENT, and the CLIENT shall cooperate in the carrying out of the work without undue delay.

### Article 4. Personnel

- A. The CONSULTANT represents that it employs, or will employ at its own expense, all personnel required in performing the services under this Agreement.
- B. All of the services required hereunder will be performed by the CONSULTANT or under his direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
- C. CONSULTANT shall be responsible to ensure that it and any sub-consultants comply with all applicable Federal, State and local laws regarding employee wages, hours, benefits, health care, and workers compensation, and shall ensure that all expenses and claims related thereto are paid promptly. The provisions of ORS 279C.505 to 279C.520 and 279C.530 are attached hereto as Exhibit \_\_\_ and incorporated herein by reference.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the CLIENT.

### Article 5. Time of Performance

The services of the CONSULTANT are to commence within \_\_\_\_\_ after the date of this Agreement. The work shall be completed in accordance with the schedule developed by the parties hereto and contained in the schedule of performance and all work covered by this Agreement shall be completed within \_\_\_\_\_ from the date of this Agreement.

### Article 6. Compensation

The CLIENT shall compensate the CONSULTANT in accordance with the Schedule of Charges and Payment Schedule set forth in Exhibit B, which shall include the basis for rates and charges. Compensation shall be billed monthly in summary form giving employees names and hours and expense data. Payment to CONSULTANT is due upon presentation of invoice to CLIENT and is to be made within thirty (30) days.

### Article 7. Changes

The CLIENT may from time to time request changes in the scope of the services and the time of performance as set forth herein. Such changes, including any increase or decrease in the amount of compensation to the CONSULTANT, shall be mutually agreed upon by and between the parties hereto and shall be incorporated as written amendments to this Agreement.

#### Article 8. Extras

Except as otherwise provided herein, no payment for extras shall be made unless and until such extras and the price therefore have been authorized in writing in advance.

#### Article 9. Suspension of Work

CLIENT may suspend, in writing, all or a portion of the work under this Agreement if unforeseen circumstances beyond CLIENT's control make normal progress of the work impossible. CONSULTANT may request that the work be suspended by notifying CLIENT, in writing, of circumstances that are interfering with the normal progress of work. CONSULTANT may suspend work on Project in the event CLIENT does not pay invoices when due. The time for completion of the work shall be extended by the number of days work is suspended. If the period of suspension exceeds ninety (90) days, the terms of this Agreement are subject to renegotiation, and both parties are granted option to terminate work on the suspended portion of Project in accordance with Article 10.

#### Article 10. Termination of Work

CLIENT may terminate all or a portion of the work covered by this Agreement for its convenience. CLIENT or CONSULTANT may terminate work if the other party fails to perform in accordance with the provisions of this Agreement by providing fifteen (15) days prior, written notice to the other by certified mail with receipt for delivery returned to the sender.

In that event, all finished or unfinished documents and other materials shall, at the option of CLIENT, become its property. If requested by CLIENT, CONSULTANT shall perform such additional work as is necessary for the orderly filing of documents and closing of Project. The time spent on such additional work shall not exceed ten (10%) percent of the time expended on the Project prior to the effective date of termination. CONSULTANT shall be compensated for work on the Project, plus work required for filing and closing as described in this Article, either of which is performed up to the effective date of termination; provided, however, that CLIENT shall not be required to pay for work that is not done in substantial compliance with requirements of this contract and CONSULTANT shall be liable to CLIENT for any damages resulting from CONSULTANT'S breach of its obligations under this contract.

#### Article 11. Interest of the Consultant

The CONSULTANT hereby covenants that it has, at the time of the execution of this Agreement, no interest and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work no person having any such interest shall be employed.

#### Article 12. Findings Confidential

No report, information, or other data given to or prepared or assembled by the CONSULTANT pursuant to this Agreement which the CLIENT has requested be kept confidential, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CLIENT.

### Article 13. Subletting or Assignment

Neither of the parties hereto shall assign, sublet or transfer his interest in this Agreement or any portion thereof without the prior written consent of the other.

### Article 14. Rights to and Disposition of Data

The term "subject data" as used herein includes all data, written materials, photographs, drawings or other information collected or created under this Agreement whether delivered under this Agreement or not. The term does not include financial records, accounting records or other information incidental to the administration of this Agreement. All subject data shall be retained by the CONSULTANT, in accordance with the terms of this Agreement, until disposition of such subject data shall have been determined in a manner mutually agreeable to the parties hereto. Subject data shall be available for study and utilization by the CLIENT so long as such subject data is in the possession of the CONSULTANT. Following termination or completion of the work pursuant to this Agreement, upon request, CONSULTANT will make all subject data available for CLIENT on CLIENT's premises and the CLIENT may duplicate, use and disclose in any manner and for any purpose whatsoever all subject data.

### Article 15. Publications

It is agreed that either or both of the parties hereto may publish at any time, subject to the terms of this Agreement, the results of the work conducted hereunder, provided credit is given to the individuals and organizations who conducted and sponsored the work. A copy of each manuscript to be submitted for publication by either or the parties hereto shall be furnished to the other party prior to such submission for publication, and five (5) copies or reprints shall be furnished to the other party subsequent to publication. Articles or works reporting on the subject work hereunder or on portions thereof which are published by the CONSULTANT shall contain the forward, preface or footnote a statement to the effect that publication of the article or work does not necessarily indicate acceptance by the CLIENT of the findings, conclusions or recommendations either inferred or specifically expressed therein. Any reuse of documents by CLIENT for purposes other than those intended under this Agreement shall be of CLIENT's sole risk and CLIENT shall indemnify, defend and hold harmless CONSULTANT from any such reuse.

### Article 16. Copyrights

Neither party shall claim any copyright protection for any reports, maps or other documents produced in whole or in part under this Agreement.

### Article 17. Federal Requirements and Provisions

If applicable, Federal requirements and provisions are attached hereto as Exhibit D. CONSULTANT agrees to comply with such attached provisions.

### Article 18. Insurance

During the life of this Agreement, CONSULTANT shall maintain the following minimum insurance:

- (1) Commercial general liability insurance, including personal injury liability, blanket contractual liability, and broad-form property damage liability coverage. The

following minimum limits are required: General Aggregate- \$1,000,000, Products/Completed Operations Aggregate- \$1,000,000, Personal & Advertising Injury Aggregate- \$1,000,000, Each Occurrence- \$500,000. "The Medford Water Commission and its officers, employees and agents while acting within the scope of their duties as such" shall be named an additional Insured.

- (2) Commercial automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired autos. The combined single limit for bodily injury and property damage shall be not less than \$500,000. "The Medford Water Commission and its officers, employees and agents while acting within the scope of their duties as such" shall be named an additional Insured.
- (3) Statutory workers compensation and employers liability insurance as required by State law.
- (4) Professional liability insurance. The limit of liability shall be not less than \$500,000.

Coverages 1 and 2 shall be written on an occurrence basis not on a claims-made basis and satisfactory "tail" coverage shall be provided for coverage 4. CONSULTANT shall submit to CLIENT certificates of insurance for all policies listed above. The certificates shall provide that the insurance company give written notice to CLIENT at least ten (10) days prior to cancellation of or any material change in the policy.

#### Article 19. Partial Invalidity

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

#### Article 20. Indemnity and Compliance with Laws and Regulations

CONTRACTOR agrees that (s)he will hold CLIENT, its officers, employees and agents harmless from any claim, liability, damages or obligation arising from CONSULTANT's activities performed during the course of the work and will indemnify CLIENT for the amount of any obligation it may incur on account thereof or arising therefrom. Provided, however, that CONSULTANT shall not be required to indemnify CLIENT against liability for damage arising out of death or bodily injury to persons or damage to property caused in whole or in part by the negligence of CLIENT, except to the extent that the death or bodily injury to persons or damage to property arises out of the fault of CONSULTANT or CONSULTANT's agents, representatives or subcontractors.

CONSULTANT shall at all times observe and comply with all federal and state laws and local ordinances and regulations, in any manner affecting the conduct of the work, including but not limited to, possession of a valid City of Medford business license.

#### Article 21. Integration

This Agreement represents the entire understanding of CLIENT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered

except in writing signed by both parties.

Article 22. Jurisdiction

This Agreement shall be administered and interpreted under the laws of the State of Oregon. Jurisdiction of litigation arising from this Agreement shall be in that state.

**\*\* SIGNATURE PAGE FOLLOWS \*\***

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their proper officers the day and year first above written.

**CLIENT:**

MEDFORD WATER COMMISSION \_\_\_\_\_

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

Title: \_\_\_\_\_

**CONSULTANT:**

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

Title: \_\_\_\_\_

**CONSULTANT'S SIGNATURE WITNESSED BY:**

\_\_\_\_\_  
/

Printed Name / Signed Name

## Exhibit B

### **STATUTORY PUBLIC CONTRACT PROVISIONS**

#### **279C.505 Conditions concerning payment, contributions, liens, withholding and drug testing.**

(1) CONTRACTOR shall:

(a) Make payment promptly, as due, to all persons supplying to CONTRACTOR labor or material for the performance of the work provided for in this contract.

(b) Pay all contributions or amounts due the Industrial Accident Fund from CONTRACTOR or subcontractor incurred in the performance of this contract.

(c) Not permit any lien or claim to be filed or prosecuted against COMMISSION on account of any labor or material furnished.

(d) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

(2) If a public improvement contract, CONTRACTOR shall demonstrate that an employee drug-testing program is in place.

#### **279C.510 Demolition contracts to require material salvage; lawn and landscape maintenance contracts to require composting or mulching.**

(1) If a contract for demolition, CONTRACTOR shall salvage or recycle construction and demolition debris, if feasible and cost effective.

(2) If a contract for lawn and landscape maintenance, CONTRACTOR shall compost or mulch yard waste material at an approved site, if feasible and cost effective.

#### **279C.515 Conditions concerning payment of claims by public officers, payment to persons furnishing labor or materials and complaints.**

(1) If CONTRACTOR fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to CONTRACTOR or a subcontractor by any person in connection with the public improvement contract as such claim becomes due, the proper officer or officers representing CITY may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due CONTRACTOR by reason of such contract.

(2) Every public improvement contract shall contain a clause or condition that, if the contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The

rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

(3) Every public improvement contract and every contract related to the public improvement contract shall contain a clause or condition that, if the contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

(4) The payment of a claim in the manner authorized in this section shall not relieve CONTRACTOR or CONTRACTOR's surety from obligation with respect to any unpaid claims.

### **279C.520 Condition concerning hours of labor.**

(1)(a) No person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279C.100, the employee shall be paid at least time and a half pay:

(A) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(b) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

(2) CONTRACTOR shall give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

(3) Persons employed under contracts for personal services as described in ORS 279C.100 shall be paid at least time and a half for all overtime work in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.

(4) N/A.

(5)(a) Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater.

(b) CONTRACTOR shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by

posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

**279C.530 Condition concerning payment for medical care and providing workers' compensation.**

(1) CONTRACTOR shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of CONTRACTOR, of all sums which CONTRACTOR agrees to pay for such services and all moneys and sums which CONTRACTOR collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

(2) All subject employers working under this contract are either employers that will comply with ORS 656.017 or are employers that are exempt under ORS 656.126.

**ORS 279C.830 Provisions concerning prevailing rate of wage in specifications, contracts and subcontracts; applicability of prevailing wage; fee; bond.**

(1)(a) Except as provided in paragraph (d) of this subsection, the specifications for every contract for public works shall contain a provision stating the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 3141 et seq) that may be paid to workers in each trade or occupation required for the public works employed in the performance of the contract either by the contractor or subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract. When the prevailing rates of wage are available electronically or are accessible on the Internet, the rate may be incorporated into the specifications by referring to the electronically accessible or Internet-accessible rates and by providing adequate information about how to access the rates.

(b) If a public agency is required under paragraph (a) of this subsection to include the state and federal prevailing rates of wage in the specifications, the public agency also shall include in the specifications information showing which prevailing rate of wage is higher for workers in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815(2)(c).

(c) Every contract and subcontract shall contain a provision that the workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C840.

(d) A public works project described in ORS 279C.800(6)(a)(B) or (C) is subject to the existing state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act that is in effect at the time a public agency enters into an agreement with a private entity for the project. After that time, the specifications for any contract for the public works shall include the applicable prevailing rate of wage.

(2) The specifications for every contract for public works between a public agency and a contractor shall contain a provision stating that a fee is required to be paid to the Commissioner of the Bureau of Labor and Industries as provided in ORS 279C.825 (1). The contract shall contain a provision that the fee shall be paid to the commissioner under the administrative rule of the commissioner.

(3) The specifications for every contract for public works shall contain a provision stating that the contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9). Every contract awarded by a contracting agency shall contain a provision requiring the contractor:

(a) To have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9).

(b) To include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9).