

WHERE INNOVATION MEETS ELEVATION



**SANDY**  
**OREGON**

**REQUEST FOR PROPOSAL**

CITY OF SANDY, OREGON

Professional Consulting Services for  
Sandy Wastewater Program  
NPDES Permitting Support

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## Section 1 - Introduction

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The City of Sandy, Oregon (“City”) requests proposals from qualified consultants for professional services required for the permitting of the City’s new Sandy River Outfall Oregon through the Department of Environmental Quality (DEQ) National Pollution Discharge Elimination System (NPDES) and other related services.

The City of Sandy upcoming wastewater program projects include the construction of an Eastside Satellite Treatment Facility and a new year-round discharge outfall to the Sandy River. The successful proposer will lead the work needed to advance the DEQ permitting process for these projects, with an idealized goal of negotiating and developing agreed-upon draft permit by 2022.

Project information, proposal requirements and procurement schedule are provided below.

## Section 2 - Project Contact

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The Director of Public Works is the issuing officer for this Request for Proposal (RFP) and the point of contact for the City for all process and contract questions as well as protests.

Mike Walker  
Director of Public Works  
39250 Pioneer Blvd, Sandy, OR 97055  
[mwalker@ci.sandy.or.us](mailto:mwalker@ci.sandy.or.us)

Rob Lee, PE, PMP  
Owner’s Representative  
Leeway Engineering Solutions  
[rob.lee@leewayengineeringsolutions.com](mailto:rob.lee@leewayengineeringsolutions.com)

## Section 3 - Background

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The City of Sandy is located approximately 25 miles east of Portland, OR with a population of about 11,000.

The City of Sandy has started a large program to improve their wastewater collection, conveyance, and treatment system. The 2019 Wastewater System Facilities Plan (WSFP), located at <https://www.ci.sandy.or.us/publicworks/page/sewer-wastewater-system-facilities-plan>, identified improvements to be implemented in three phases until 2040; including sanitary sewer rehabilitation, upgrades to the existing treatment plant, a new satellite treatment facility, and a new outfall.

The existing Wastewater Treatment Plant (WWTP) was first built in 1971 and expanded in 1998. Under the current NPDES permit, the effluent is used for irrigation by a local nursery during the summer months, May through October. During the winter months, November through April, the effluent is discharged to Tickle Creek which flows into the Clackamas River.

The City of Sandy's discharge into Tickle Creek is limited by receiving stream dilution and mass load requirements under OAR 340-041-0350. As the City grows, Tickle Creek will no longer have the capacity to handle all of the City’s discharge. In response, the City has searched for other solutions for their treated water. Draft technical memoranda (TMs) summarizing the various discharge locations and developed preliminary engineering assessments of various components of the program. These

TMs are located on the City’s website: <https://www.ci.sandy.or.us/publicworks/page/sandy-river-discharge-alternatives-evaluation-wastewater-improvements-project>

The WSFP Recommended Plan includes the construction of an Eastside Membrane Bioreactor Satellite Treatment Facility, a new year-round Sandy River Outfall, and constructed wetlands. The treatment plant will use state-of-art membrane technology, producing high-quality water. This treated water is anticipated for discharge to the Sandy River, which has a greater capacity than Tickle Creek and can allow a potential year-round discharge. Additionally, partial discharge to constructed wetlands is planned during the warmer months for temperature mitigation.

The existing WWTP will continue to discharge to Tickle Creek under the current permit and only the new satellite treatment facility will discharge to the Sandy River Basin. In introductory talks with the Oregon Department of Environmental Quality, the new Sandy River Outfall will be permitted on a new and separate permit from the City’s current NPDES permit. The next stage of the project is to acquire DEQ approval for a new discharge into the Sandy River.

The City of Sandy currently is conducting a water quality and temperature data collection and sampling program in the Sandy River that will continue into 2023. Proposers may email Project Contacts and request temperature data files and water quality sampling results for their reference.

The following references related to previous plant studies, construction projects, and operations are available for consultants to review during the preparation of their proposal.

- 2019 Wastewater System Facilities Plan
- 2021 Sandy River Detailed Discharge Alternative Evaluation TMs

#### **Section 4 – Scope of Work**

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The Project will include the professional services required to successfully apply for and obtain a new NPDES permit and other related services. The Consultant Scope of Work shall include, but not be limited to, the following:

1. NPDES Permitting Support Services
  - Facilitate the new NPDES Permit application process and approval for a new outfall in the Sandy River, including developing needed studies and reports required by DEQ (e.g., Mixing Zone study, update to the anti-degradation study, 303d and TMDL studies and status, etc.).
  - Facilitate Joint Permit approval for in-water work on the Sandy River Outfall Construction. Approval from the US Army Corps of Engineers, Oregon Department of Lands, and DEQ are required.
  - Facilitate any permitting needed for Rosyln lake wetlands and/or other temperature

mitigation alternatives as determined in Scope of Work Item #2 below.

- Prepare any DEQ-required applications, studies, and technical memorandums (i.e., mixing zone study) associated with the New NPDES Permit, or the Joint Permits.
- Meet with the Department of Environmental Quality on the City's behalf on NPDES permitting.
- Make recommendations to the City for navigating options within the permitting process.
- Provide cost estimates on all permit recommendations and options.
- Prepare a schedule that is inclusive of all permitting milestones.
- The consultant must work closely with the City, Owner's Rep, and other consultants to implement the project, including coordination with regulators and other stakeholders.

## 2. Temperature Mitigation Alternative Analysis

The 2021 Sandy River Detailed Discharge Alternative Evaluation Report identified that in the future, as the city grows, that the Sandy River discharge may exceed thresholds for temperature during October and November. The City would like to be proactive toward this issue and engineer a solution to mitigate potential temperature impacts to the Sandy River. The WSFP outlined constructed wetland, but alternatives were not considered. As part of this contract, the selected consultant will provide engineering services to complete a temperature mitigation alternatives analysis. These services will include:

- A list of temperature mitigation options and planning level cost estimates
- A multicriteria evaluation of options including cost and non-cost factors.
- A Technical Memorandum of findings and recommendations that conform with DEQ requirements.

## 3. Public Engagement Communication and Support

The City of Sandy recognizes that keeping the public informed and involved is a key to successful Wastewater Program Implementation. The selected consultant will provide professional public communication services to support the Sandy Wastewater Program for the duration of the contract. These services will include:

- Support a strategic plan for communications including stakeholder mapping, focused on the Sandy River outfall permitting support.
- Plan and support public meetings, including City Council workshops, Council Advisory Group meetings, and Watershed Council meetings.
- Create materials for the City website, mailers, social media, and other venues of public

communication. The creation of some maps and other graphics will be necessary.

- Provide support responding to email and other inquiries regarding the program

### **Project Deliverables**

The City of Sandy requires submittal packages to adequately review and monitor the progress of the design process. More so, the submittals provide key milestones to exchange project information and work collaboratively toward the completion of the project objectives. The following suggested deliverables represent a baseline for the proper execution of the project:

1. Technical Memo of temperature mitigation alternative analysis.
2. Completed Sandy River NPDES Application
3. DEQ-agreed draft Sandy River NPDES Permit
4. Completed Roslyn Lake NPDES or WPIC Application, as directed by DEQ.
5. DEQ-agreed permit draft for Roslyn Lake Wetlands
6. Completed Joint Permit Application
7. Joint Permit approval for in-water work
8. Public Communications services during permitting
9. Attend bi-weekly progress meetings with the City and Owner’s Representative
10. Attend meetings with DEQ on NPDES permitting

City of Sandy prefers deliverables formatted in the following software programs: Auto Desk Civil 3D, ESRI ArcGIS, Adobe PDF, Microsoft Project, Microsoft Word, and Microsoft Excel.

### **Section 5 - Schedule and Budget**

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Table 1 contains the proposed project schedule. Which includes all services described in the scope of work.

Table 1: Sandy NPDES Permitting Support Project Schedule

<b>Task</b>	<b>Date</b>
Contract NTP	June 2021
Preliminary Design Starts for Satellite Treatment Facility and Sandy River Outfall	March 2022
All NPDES Permitting Complete <i>*subject to DEQ public comment process, appeals of administrative decisions, etc.</i>	June 2023
Construction Starts for Satellite Treatment Facility and Sandy River Outfall	July 2024

### **Section 6 - Proposal Contents**

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Interested and qualified firms are invited to submit a proposal that demonstrates their capabilities in performing similar projects similar to the Project in nature and scale.

Proposals submitted for this project must address all requested information to qualify for evaluation.

Firms are encouraged to keep the proposals brief and to the point, but sufficiently detailed to allow evaluation and differentiation of the firm and team.

Responses must include the following items:

### **1. Cover letter**

The Cover Letter must include the following:

- Project title
- The full legal name of proposing business entity
- Structure or type of business entity
- Name(s) of the person(s) authorized to represent the Proposing Firm in any negotiations
- Name(s) of the person(s) authorized to sign any contract that may result
- Contact person's name, mailing or street addresses, phone, and email address
- introductory letter expressing interest in the project

### **2. Project Understanding and Approach (30 points)**

Provide a statement of project understanding, including project objectives, issues to be addressed, and potential complications or conflicts.

Describe the proposed project delivery method, approach, solution concepts, and methodologies to performing the work to accomplish the project objectives and tasks listed in the statement of work. Describe how the approach will benefit the City and the implementation of this project. Using the provided project description and map as a basis of understanding, provide recommendations and solutions to improve upon or confirm that the base concept will meet the project objectives in the most effective way possible.

Include a complete project design schedule along with a discussion of scheduling considerations, including any deviations or enhancements. The project schedule shall identify duration and completion dates for all major milestones, including council progress review updates and staff/consultant review/comment periods. The project schedule shall identify the project design critical path and expectations of City involvement and review.

### **3. Firm profile (10 Points)**

Describe the firm's overall experience with providing services related to the project in the Pacific Northwest. The profile should demonstrate the firm's qualifications and ability to provide professional services as required to successfully complete the project.

### **4. Project Team Qualifications (30 points)**

The City wishes to engage a team that has the ability to provide quality work in a timely manner; a commitment to collaborative project delivery; the resources, capacity, and capabilities to deliver the work. The consultant team and Project Manager must have a

demonstrated record in new NPDES discharge permitting support services and projects similar in scope and scale to the Project.

Information for the proposed team should include the following:

1. Organization chart including key personnel, roles, level of commitment, and responsibilities. Any proposed sub-consultants shall be identified, including sub-consultants specialties and key personnel and assigned task(s).
2. Bios for “Key Personnel”. Bios should include a description of experience and qualifications and a brief resume. Confirm the availability and commitment of named key personnel. Full resumes may be included in the proposal appendix.
3. Three references for the Project Manager. Please include the client’s name, address, email, and telephone number.

#### **5. Sample Projects (15 points)**

Describe up to five recent projects similar to the proposed project completed by the Project Manager and/or firm. Include completion date, client name and contact, and measures that indicate quality and successful project completion. Provide the involvement of proposed key personnel on the listed projects.

#### **6. References (15 points)**

Provide a minimum of three (3) references from previous clients on similar projects completed within the past five (5) years. Please include the client’s name, address, email, and telephone number.

#### **7. Signature Page**

(1-page maximum) The proposal shall be signed by a representative authorized to bind the team and shall expressly state the proposal is valid for 90 days. The signature page must also include a statement that the firm is licensed to perform engineering services in the State of Oregon and a certified statement that the firm is not disbarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency.

#### **Proposal Limitations**

- Sections 2-6 are limited to a total of 15 pages of text. Concise proposals are preferred.
- The limitation does not apply to covers or dividers unless they are used to convey project information. Any 11x17 pages will be counted as two pages. A two-sided page counts as two pages.
- Pages beyond these page limitations will not be evaluated.



## Section 7 – Proposal Review and Selection

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### Selection Criteria

The City will evaluate responses per ORS 279C.110(5). The selection of the engineering firm for this project will be accomplished through a process with an optional interview, as follows:

1. An Evaluation Committee (Committee) will be appointed to evaluate the proposals received. For the purpose of scoring proposals, each Committee member will evaluate each proposal in accordance with the requested information listed in Section 6.

The Committee will require a minimum of ten (10) working days to evaluate and score the proposals. At any point during the evaluation process, the City is permitted to, but is not required to, seek clarification of a proposal. However, a request for clarification does not permit changes to a proposal.

Evaluation will be based on the criterion given in Table 1.

Table 1. Written Proposal Scoring Criteria

<b>Criterion</b>	<b>Maximum Points</b>
Cover Letter	0
Project Understanding and Approach	30
Firm profile	10
Project Team Qualifications and Experience	30
Sample Projects	15
References	15
Signature Page	0
<b>Total Possible Points</b>	<b>100</b>

2. Optionally and at the discretion of the selection committee, the City will invite up to three of the top-ranked Respondents for an interview. The interview will be for the purposes of distinguishing teams with close total scores from the project proposals and price proposals. Evaluation will be based on the criterion given in Table 3.

Table 3. Interview (optional) Scoring Criteria

<b>Criterion</b>	<b>Maximum Possible Points</b>
Project Team and Approach	100
<b>Total Maximum Points Available for Interview and/or Presentation</b>	<b>100</b>

The City will award the Project contract to the Respondent with the highest total sum of points

awarded for project proposal and interview (if conducted) (200 points maximum).

Unsuccessful firms will be notified as soon as possible. The City has the right to reject any or all proposals for good cause in the public interest, and the Procurement Officer may waive any evaluation irregularities that have no material effect on upholding a fair and impartial evaluation and selection process.

### **Point of Contact**

Point of Contact: All communications shall be through the contact(s) referenced in Section 2 of the RFP. At the City's sole discretion, communications with members of the evaluation committee, other City staff, or elected City officials for the purpose of unfairly influencing the outcome of this RFP may be cause for the Proposer's proposal to be rejected and disqualified from further consideration.

Questions on this Request for Proposal must be submitted by email to the contact(s) referenced in Section 2 by Monday, May 26, 2021.

The City has the right to reject any or all proposals for good cause in the public interest, and the Procurement Officer may waive any evaluation irregularities that have no material effect on upholding a fair and impartial evaluation and selection process.

### **Cost of Submittal**

Consultants responding to this solicitation do so at their own sole expense. The City is not responsible for any costs associated with submitting responses to this solicitation.

### **Submittal of Proposals**

To be considered, the applicant must submit four (4) identical copies and one (1) digital (Adobe pdf file) copy of the proposal must be received by Mike Walker, Director of Public Works at 39250 Pioneer Blvd, Sandy, OR 97055 by the date and time of Friday, **May 28, 2021, at 4:00 pm**. Please mark the submittal on the outside of the sealed envelope with the following: "Professional Consulting Services for the Sandy Wastewater Program NPDES Permitting Support".

Any addenda to this RFP will be in writing and will be issued to all persons or businesses that have indicated an interest in this project. No proposal will be considered if it is not responsive to any issued amendments.

The City reserves the right to negotiate an agreement with the selected firm based on fair and reasonable compensation for the scope of work and services proposed as well as the right to reject any and all responses deemed unqualified, unsatisfactory, or inappropriate, to waive defects or informalities and to offer contact with any firm in response to this RFP. The City will not pay any costs incurred by the firm in preparing or submitting the proposal. This RFP does not constitute any form of an offer to contract.

## Selection Schedule

The following dates are proposed as a timeline for this project:

Event	Date and Time
RFP questions must be submitted by	Monday, May 26, 2021
<b>Written proposals due</b>	<b>Friday, May 28, 2021, at 4:00 PM</b>
Notice of Short-Listed Firms	Thursday, June 3, 2021
Interviews (if necessary)	Tuesday, June 10, 2021
Intent to Award issued	Wednesday, June 11, 2021
Notice to Proceed	Tuesday, June 22, 2021

The City reserves the right to make adjustments to the above-noted schedule as necessary. Pursuant to ORS 279C.337(2)(i)(D), any Proposer who is not selected may request a meeting with the City within seven days after the date of the Notice of Intent to Award. The City will respond to any timely submitted meeting request with a date and time for the meeting.

## Section 8 – Contract Award

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### Sample Form of Contract

A sample Professional Services Agreement is attached to this document. This is intended to demonstrate the basic framework of the Agreement between the City and the selected firm and not the final form of Agreement between the parties.

### Protest Procedures

A Proposer who objects to the terms and conditions of this RFP may submit a written solicitation protest to the City in accordance with OAR 137-049-0260 no later than seven (7) days prior to the date proposals are due. Thereafter, the City will not accept any solicitation protests and will not entertain changes or challenges to the terms and conditions of the RFP.

Following the Notice of Intent to Negotiate and Award, the public may view proposal documents. However, any proprietary information so designated by the Proposer as a trade secret or confidential and meeting the requirements of ORS 192.501, 192.502, and/or ORS 646.461 et seq., will not be disclosed unless the City of Sandy determines that disclosure is required. At this time, Proposers 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.

Proposers who are eliminated at any stage of the evaluation process will be notified of their elimination. At that time, Proposers who wish to protest their elimination shall file a protest within seven (7) calendar days of the notice. Protests submitted to the City may only originate from those Proposers who would receive the contract if their protest was successful. Protests must be in writing and received by the City within seven (7) calendar days, unless otherwise noted, following the date of the City's Notice of Intent to Negotiate and Award. The protest must specifically state the reason for the protest and show how its proposal or the successful proposal

was mis-scored, or show how the selection process deviated from that described in the solicitation document. No contract will be awarded until the protest has been resolved. Protests must be timely and must include all legal and factual information regarding the protest, and a statement of the form of relief requested. Protests received later than specified or from other than the Proposer who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the written proposals and interviews, including the use of outside expertise, is not grounds for appeal.

The City may waive any procedural irregularities that had no material effect on the selection of the proposed consultant, invalidate the proposed award, amend the award decision, request the evaluation committee re-evaluate any proposal, or require the City to cancel the solicitation.

**Attachment A – Sample Contract**

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# PROFESSIONAL SERVICES AGREEMENT

## PREAMBLE

This Contract, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between \_\_\_\_\_ hereinafter called "Contractor", and the CITY OF SANDY, a municipal corporation of the State of Oregon, hereinafter called "City".

WHEREAS, City has need for the services of a party with the particular training, ability, knowledge and experience possessed by Contractor.

## WITNESSETH:

The parties hereto mutually covenant and agree to and with each other as follows:

### 1. SCOPE OF WORK

The scope of work, is contained in Exhibit A attached hereto and by this reference made a part hereof.

This contract shall supersede any prior representation or contract, written or oral. This contract shall not be subject to modification or amendment except in writing, executed by both parties.

### 2. DURATION OF CONTRACT

Unless earlier terminated or extended, this contract shall remain in force and effect from the date in the preamble above through December 1, 2021.

### 3. PAYMENT

City agrees to pay, and Contractor agrees to accept, in full payment for the performance of this contract, according to the fee schedule in Exhibit A attached hereto and by this reference made a part hereof. The fee schedule in Exhibit A may be adjusted annually upon mutual agreement of the parties to reflect inflation and changes in labor and materials costs.

**4. CHANGES**

This contract and any substantive changes to the scope of work or changes to the contract costs will not be effective until approved in writing by the City.

**5. INDEPENDENT CONTRACTOR STATUS**

Contractor agrees and certifies that:

- A. Contractor is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to payment under this contract;
- B. Contractor will not, on account of any payments made under this contract, be eligible for any benefit from federal social security, workers' compensation, unemployment insurance, or the Public Employee's Retirement System, except as a self-employed individual;
- C. Contractor is not currently an employee of the federal government or the state of Oregon;
- D. Contractor is not a contributing member of the Public Employees' Retirement System;
- E. Contractor certifies it meets the specific Independent Contractor Standards of ORS 670.600;
- F. Contractor is not an "officer, employee or agent" of City as those terms are used in ORS 30.265.

**6. SUBCONTRACTS AND ASSIGNMENT; SUCCESSORS IN INTEREST**

Contractor shall not enter into any subcontracts for any of the work required by this contract, excepting those portions of the work specifically described in Exhibit A or assign or transfer any of its interest in this contract without the prior written consent of City. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

**7. PAYMENT OF LABORERS**

A. Contractor shall:

(1) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the prosecution of the work provided for in this contract;

(2) Pay all contributions or amounts due the Industrial Accident Fund incurred in the performance of this contract;

(3) Not permit any lien or claim to be filed or prosecuted against City on account of any labor or material furnished; and

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

B. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to it by any person in connection with this contract as such claim becomes due, 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 to Contractor by reason of such contract.

C. The payment of a claim in this manner shall not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims.

**8. PAYMENT FOR MEDICAL CARE AND PROVIDING WORKERS' COMPENSATION**

Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care 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.

Contractor, its subcontractors, if any, and all employers working under this contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.



**9. OVERTIME AND HOLIDAYS**

Persons employed by Contractor under this Personal Services Contract shall receive at least time and a half pay for work performed on the following legal holidays:

- A. New Year's Day on January 1
- B. Memorial Day on the last Monday in May
- C. Independence Day on July 4
- D. Labor Day on the first Monday in September
- E. Thanksgiving Day on the fourth Thursday in November
- F. Christmas Day on December 25

and for all overtime worked in excess of forty [40] hours in any one week, except for individuals who are excluded under ORS 653.101 to 653.261 or under 29 U.S.C., Sections 201 to 209, from receiving overtime.

**10. TIME LIMITATION ON CLAIM FOR OVERTIME**

Any worker employed by Contractor shall be foreclosed from the right to collect for any overtime under this contract unless a claim for payment is filed with Contractor within ninety [90] days from the completion of the contract, providing Contractor has:

A. Caused a circular clearly printed in blackface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the work; and

B. Maintained such circular continuously posted from the inception to the completion of the contract on which workers are or have been employed.

**11. ERRORS**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

**12. DEFAULT**

City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of the contract:

A. If Contractor fails to provide services called for by this contract within the time or in the manner specified herein, or any extension thereof; or

B. If Contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten [10] days or such longer period as City may authorize.

Upon termination, City will pay Contractor for only the value to City of work actually performed. The rights and remedies of City provided in the above clause related to defaults (including breach of contracts) by Contractor shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

### **13. OWNERSHIP OF WORK**

All work products of Contractor, including background data, documentation and staff work that is preliminary to final reports, which result from this contract are the exclusive property of City. If this contract is terminated by either party or by default, City, in addition to any other rights provided by this contract, may require Contractor to transfer and deliver such partially completed reports or other documentation that Contractor has specifically developed or specifically acquired for the performance of this contract.

### **14. INDEMNITY AND HOLD HARMLESS**

Contractor shall defend, indemnify and hold City, its officers, agents and employees, harmless against all liability, loss or expenses, including attorney's fees, and against all claims, actions or judgments based upon or arising out of damage or injury (including death) to persons or property caused by Contractor's negligent act or omission of an act sustained in connection with the performance of this contract or by conditions created thereby, or based upon violation of any statute, ordinance or regulation.

### **15. INSURANCE**

Contractor shall obtain, prior to the commencement of the contract, and shall maintain in full force and effect for the term of this contract, at Contractor's expense, an automobile liability insurance policy for the protection of Contractor and City, its officers, boards, commissions and employees. This policy shall be issued by a company authorized to do business in the state of Oregon, protecting Contractor or subcontractors or anyone directly or indirectly employed by either of them against liability for the loss or damage of personal and

bodily injury, contractual liability, death and property damage, and any other losses or damages above mentioned in the combined single limit of \$1,000,000 or the limit of public liability contained in ORS 30.260 to 30.300, whichever is greater. The insurance company shall provide City with an endorsement thereto naming City as an additional insured, providing that no acts on the part of the insured shall affect the coverage afforded to the above policy, and providing City will receive thirty [30] days' written notice of cancellation or material modification of the insurance contract.

Contractor will not perform any work under this contract until City has received copies of applicable insurance policies or acceptable evidence that appropriate insurance heretofore mentioned is in force.

**16. STANDARD OF WORK**

Contractor will accomplish the work using a standard of performance and care that is currently accepted by other professionals engaged in similar work in the Portland metropolitan area.

**17. TERMINATION**

This contract may be terminated by mutual consent of the parties, or by City at any time by giving written notice to Contractor no later than fifteen [15] days before the termination date. Contractor shall be entitled to compensation for services performed up to the date of termination.

**18. CONFIDENTIALITY**

No reports, information and/or data given to or prepared or assembled by Contractor under this contract shall be made available to any individual or organization by Contractor without the prior written approval of City. This section shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the Contractor from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the Contractor to defend itself from any suit or claim.

**19. PUBLICATION RIGHTS / RIGHTS IN DATA**

All publication rights in the product produced by Contractor in connection with the work provided for under this contract, whether in preliminary draft or final form, shall be vested in

City.

Contractor shall not publish any of the results of the work without the prior written permission of City.

All original written material and other documentation, including background data, documentation and staff work that is preliminary to final reports, originated and prepared for City pursuant to this contract, shall become exclusively the property of City. The ideas, concepts, know-how or techniques relating to data processing development during the course of this contract by Contractor or City personnel, or jointly by Contractor and City personnel, can be used by either party in any way it may deem appropriate.

Material already in Contractor's possession, independently developed by Contractor outside the scope of this contract or rightfully obtained by Contractor from third parties, shall belong to Contractor. However, Contractor grants to City a non-exclusive, irrevocable and royalty-free license to use such material as it sees fit.

This contract shall not preclude Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to City pursuant to this contract in developing materials for others, except as provided in this section.

## **20. ACCESS TO RECORDS**

Contractor agrees that City and its authorized representatives shall have access to the books, documents, papers and records of Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcripts.

## **21. ATTORNEY'S FEES**

If a suit or action is filed to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees.

## **22. COMPLIANCE WITH APPLICABLE LAW**

Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this contract, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320 and 279.555. Without limiting the generality of the foregoing,

Contractor expressly agrees to comply with:

- A. Title VI of the Civil Rights Act of 1964;
- B. Section V of the Rehabilitation Act of 1973;
- C. The Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and
- D. All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**23. FOREIGN CONTRACTOR**

If Contractor is not domiciled in or registered to do business in the state of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract. Contractor shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this contract.

**24. GOVERNING LAW; JURISDICTION; VENUE**

This contract shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit or proceeding (collectively, "the claim") between City (and/or any other agency or department of the state of Oregon) and Contractor that arises from or relates to this contract shall be brought and conducted solely and exclusive within the Circuit Court of Clackamas County for the state of Oregon. Provided, however, if the 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. Contractor, by the signature below of its authorized representative, hereby consents to the *in personam* jurisdiction of said courts.

**25. FORCE MAJEURE**

Neither City nor Contractor shall be held responsible for delay or default caused by fire, riot, epidemics, pandemics, declared states of emergency, acts of God, or war where such cause was beyond, respectively, the reasonable control of City or Contractor. Contractor 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 this contract.

**26. MERGER CLAUSE**

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**27. EXECUTION AND COUNTERPARTS**

This contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**CONTRACTOR**

\_\_\_\_\_

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

\_\_\_\_\_  
Printed Name

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

Individual S.S.N. or  
Employer ID #: \_\_\_\_\_

\_\_\_\_\_, 2021  
Date

- Check one:
- Sole Proprietor
  - Partnership
  - Corporation
  - Governmental
  - Non-Profit

\_\_\_\_\_  
Firm Name

Business Address

\_\_\_\_\_  
City/State/Zip

**CITY OF SANDY**

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

Jordan Wheeler  
City Manager  
City of Sandy  
39250 Pioneer Blvd.  
Sandy, OR 97055

\_\_\_\_\_, 2021  
Date

