

GENERAL SERVICES AGREEMENT (NON-PUBLIC WORKS)

PROJECT TITLE AND IDENTIFICATION NUMBER	WORK DESCRIPTION
CONTRACTOR	CITY PROJECT ADMINISTRATOR <i>(Name, address, phone #)</i>
CONTRACTOR CONTACT <i>(Name, address, phone #)</i>	BUDGET OR FUNDING SOURCE
FEDERAL ID #	MAXIMUM AMOUNT PAYABLE, IF ANY
SUPPLIER/CONTRACTOR'S REDMOND BUSINESS LICENSE #	COMPLETION DATE

THIS AGREEMENT is entered into on _____, 20__ between the City of Redmond, Washington, hereinafter called "the CITY", and the above-referenced person, firm or organization, hereinafter called "the CONTRACTOR."

WHEREAS, the CITY has a need to have the above-referenced project performed;
and

WHEREAS, the CITY does not have sufficient staff or expertise to complete the project and therefore deems it advisable and desirable to engage the assistance of a CONTRACTOR to provide the necessary services for the project review; and

WHEREAS, the CONTRACTOR has represented to the CITY that the CONTRACTOR is in compliance with the professional registration statutes of the State of Washington, if applicable, and has signified a willingness to furnish goods and/or services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. **Retention of Contractor - Scope of Work.** The CITY hereby retains the CONTRACTOR to provide services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONTRACTOR shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. **Completion of Work.** The CONTRACTOR shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONTRACTOR shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONTRACTOR, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONTRACTOR, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONTRACTOR. All such extensions shall be in writing and shall be executed by both parties.

3. **Payment.** The CONTRACTOR shall be paid for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONTRACTOR shall be entitled submit invoices to the CITY no more frequently than once per month during the course of the completion of work and services by the CONTRACTOR. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 30 days of submittal, unless the CITY gives notice to the CONTRACTOR that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONTRACTOR agrees to perform all services contemplated by this agreement for no more than said maximum amount.

4. **Changes in Work.** The CONTRACTOR shall make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONTRACTOR and appearing therein when required to do so by the

CITY. The CONTRACTOR shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONTRACTOR shall make such revisions as directed by the CITY. This work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONTRACTOR must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute under the Disputes clause of this agreement, as provided in Section 12. Notwithstanding any such dispute, the CONTRACTOR shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Independent Contractor. The CONTRACTOR is an independent contractor for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONTRACTOR, or any employee of the CONTRACTOR, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONTRACTOR which may arise as an incident of the CONTRACTOR performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONTRACTOR.

7. Indemnity. The CONTRACTOR agrees to hold harmless, indemnify and defend the CITY, its officers, agents, and employees, from and against any and all claims, losses, or liability, for injuries, sickness or death of persons, including employees of the CONTRACTOR, or damage to property, arising out of any willful misconduct or negligent act, error, or omission of the CONTRACTOR, its officers, agents, subcontractors or

employees, in connection with the services required by this agreement, provided, however, that:

A. The CONTRACTOR's obligations to indemnify, defend and hold harmless shall not extend to injuries, sickness, death or damage caused by or resulting from the sole willful misconduct or sole negligence of the CITY, its officers, agents or employees; and

B. The CONTRACTOR's obligations to indemnify, defend and hold harmless for injuries, sickness, death or damage caused by or resulting from the concurrent negligence or willful misconduct of the CONTRACTOR and the CITY, or of the CONTRACTOR and a third party other than an officer, agent, subcontractor or employee of the CONTRACTOR, shall apply only to the extent of the negligence or willful misconduct of the CONTRACTOR.

8. Insurance. The CONTRACTOR shall provide the following minimum insurance coverages:

A. Worker's compensation and employer's liability insurance as required by the State of Washington;

B. General public liability and property damage insurance in an amount not less than a combined single limit of one million dollars (\$1,000,000) for bodily injury, including death, and property damage per occurrence.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONTRACTOR as to the insurance necessary to protect the CONTRACTOR'S interests and any decision by the CONTRACTOR to carry or not carry insurance amounts in excess of the above is solely that of the CONTRACTOR.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CITY will be named on all insurance as an additional insured. The CONTRACTOR shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement. The additional insured endorsement shall provide that to the extent of the CONTRACTOR's negligence, the CONTRACTOR's insurance shall be primary and non-contributing as to the CITY, and any other insurance maintained by the CITY shall be excess and not contributing insurance with respect to the CONTRACTOR's insurance. The certificate of insurance shall cover the work specified in or performed under this agreement. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

9. **Records.** The CONTRACTOR shall keep all records related to this agreement for a period of three years following completion of the work for which the CONTRACTOR is retained. The CONTRACTOR shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONTRACTOR. Upon request, the CONTRACTOR will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONTRACTOR, but the CONTRACTOR may charge the CITY for copies requested for any other purpose.

10. **Notices.** All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this Agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

11. **Project Administrator.** The Project Administrator shall be responsible for coordinating the work of the CONTRACTOR, for providing any necessary information for and direction of the CONTRACTOR's work in order to ensure that it meets the requirements of this Agreement, and for reviewing, monitoring and approving the quality and quantity of such work. The CONTRACTOR shall report to and take any necessary direction from the Project Administrator.

12. **Disputes.** Any dispute concerning questions of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the CITY shall be referred for resolution to a mutually acceptable mediator. The parties shall each be responsible for one-half of the mediator's fees and costs.

13. **Termination.** The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONTRACTOR. Any such notice shall be given to the address specified above. In the event that this agreement is terminated by the City other than for fault on the part of the CONTRACTOR, a final payment shall be made to the CONTRACTOR for all services performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONTRACTOR of the notice to terminate. In the event that services of the CONTRACTOR are terminated by the CITY for fault on part of the CONTRACTOR, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONTRACTOR in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

14. **Non-Discrimination.** The CONTRACTOR agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or

{JEH563890.DOC;1/00020.030014/}

materialman, because of race, color, creed, religion, national origin, marital status, sex, age or handicap, except for a bona fide occupational qualification. The CONTRACTOR understands that if it violates this provision, this agreement may be terminated by the CITY and that the CONTRACTOR may be barred from performing any services for the CITY now or in the future.

15. **Compliance and Governing Law.** The CONTRACTOR shall at all times comply with all applicable federal, state, and local laws, rules, ordinances, and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

16.. **Subcontracting or Assignment.** The CONTRACTOR may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any subcontractors approved by the CITY at the outset of this agreement are named on Exhibit D attached hereto and incorporated herein by this reference as if set forth in full.

17. **Non-Waiver.** Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONTRACTOR for any breach of the agreement by the CONTRACTOR, or for failure of the CONTRACTOR to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

18. **Litigation.** In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington, in and for King County. The parties agree that all questions shall be resolved by application of Washington law and that parties to such actions shall have the right of appeal from such decisions of the Superior Court in accordance with the law of the State of Washington. The CONTRACTOR hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, in and for King County. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

19. **Taxes.** The CONTRACTOR will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONTRACTOR.

20. **City Business License.** The CONTRACTOR has obtained, or agrees to obtain, a business license from the CITY prior to commencing to perform any services under this agreement. The CONTRACTOR will maintain the business license in good standing throughout the term of this Agreement.

21. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONTRACTOR, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONTRACTOR:

CITY OF REDMOND:

By: _____
Title: _____

John Marchione, Mayor
DATED: _____

ATTEST/AUTHENTICATED:

City Clerk, City of Redmond

APPROVED AS TO FORM:

Office of the City Attorney