



# CITY OF TIGARD, OREGON

## REQUEST FOR PROPOSALS

### FINANCIAL CONSULTING SERVICES - WATER RATE STUDY AND WATER SYSTEM DEVELOPMENT CHARGE UPDATE

---

**DATE DUE:** Tuesday, April 6, 2010  
**TIME DUE:** 2:00 p.m. local time

Envelopes must be sealed and marked with Project Title.  
Proposers must submit one (1) original and five (5) complete copies of their proposal.

---

| <b>PROJECT MANAGER</b> | <b>RFP QUESTIONS:</b> |
|------------------------|-----------------------|
|------------------------|-----------------------|

|  |  |
|--|--|
| John Goodrich, Utility Division Manager<br>City of Tigard, Public Works Department<br>Phone: (503) 718-26209<br>Fax: (503) 684-8840<br>Email: <a href="mailto:johng@tigard-or.gov">johng@tigard-or.gov</a> | Joseph Barrett, Senior Management Analyst<br>City of Tigard, Financial & Information Services<br>Phone: (503) 718-2477<br>Fax: (503) 684-7297<br>Email: <a href="mailto:joseph@tigard-or.gov">joseph@tigard-or.gov</a> |
|--|--|

#### SUBMIT PROPOSAL TO:

**Joseph Barrett, Sr. Management Analyst**  
**City of Tigard – Information Desk**  
**13125 SW Hall Blvd.**  
**Tigard, Oregon 97223**

**PUBLIC NOTICE  
REQUEST FOR PROPOSALS  
CITY OF TIGARD, OREGON**

**Financial Consulting Services -  
Water Rate Study and  
Water System Development Charge Update**

The City of Tigard will receive sealed proposals from firms qualified to perform financial consulting services for a water rate study and a water system development charge (SDC) update until 2:00 p.m. local time, Tuesday, April 6, 2010, at Tigard City Hall's Information Desk at 13125 SW Hall Blvd., Tigard, Oregon 97223.

No proposal will be considered unless fully completed in a manner provided in the RFP packet. Facsimile and electronic (email) proposals will not be accepted nor will any proposal be accepted after the stated due date and time. Any proposal received after the closing time will be returned to the submitting firm unopened after a contract has been awarded for the required services.

RFP packets may be downloaded from <http://www.tigard-or.gov> or obtained in person at Tigard City Hall's Information Desk located at 13125 SW Hall Blvd., Tigard, Oregon 97223.

Proposers are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279.029. Pre-qualification of proposers is not required. All proposers are required to comply with the provisions of Oregon Revised Statutes and Local Contract Review Board (LCRB) Policy.

The City may reject any proposal not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all proposals upon a finding of the City if it is in the public interest to do so.

PUBLISHED: Daily Journal of Commerce  
DATE: Thursday, March 18, 2010

## TABLE OF CONTENTS

| <b>TITLE</b>  | <b>PAGE</b> |
|---|-------------|
| Title Page.....   | 1           |
| Public Notice.....  | 2           |
| Table of Contents.....  | 3           |
| <br><b><u>SECTIONS</u></b>  |             |
| <b>Section 1</b> Introduction.....  | 4           |
| <b>Section 2</b> Proposer’s Special Instructions.....                       | 4           |
| <b>Section 3</b> Background.....  | 6           |
| <b>Section 4.1</b> Scope and Schedule of Work – Water Rate Study.....       | 7           |
| <b>Section 4.2</b> Scope and Schedule of Work – Water SDC Update.....       | 10          |
| <b>Section 4.3</b> Scope and Schedule of Work – Additional Information..... | 11          |
| <b>Section 5</b> Proposal Content and Format.....                           | 12          |
| <b>Section 6</b> Proposal Evaluation Procedures.....                        | 14          |
| <b>Section 7</b> Proposal Certification.....                                | 16          |
| <b>Section 8</b> Signature Page.....  | 17          |
| <b>Section 9</b> Fees Schedule.....   | 18          |
| <br><b><u>ATTACHMENTS</u></b>   |             |
| <b>Attachment A</b> Acknowledgement of Addendum.....                        | 19          |
| <b>Attachment B</b> Statement of Proposal.....                              | 20          |
| <b>Attachment C</b> City of Tigard Personal Service Contract.....           | 21          |

**SECTION 1**  
**INTRODUCTION**

The City of Tigard will receive sealed proposals from firms qualified to perform financial consulting services for a water rate study and a water system development charge (SDC) update until 2:00 p.m. local time, Tuesday, April 6, 2010, at Tigard City Hall's Information Desk at 13125 SW Hall Blvd., Tigard, Oregon 97223.

No proposal will be considered unless fully completed in a manner provided in the RFP packet. Facsimile and electronic (email) proposals will not be accepted nor will any proposal be accepted after the stated due date and time. Any proposal received after the closing time will be returned to the submitting firm unopened after a contract has been awarded for the required services.

**SECTION 2**  
**PROPOSER'S SPECIAL INSTRUCTIONS**

**A. PROPOSED TIMELINES**

|   |  |
|---|--|
| <u>Thursday, March 18, 2010</u>           | Advertisement and Release of Proposals |
| <u>Tuesday, April 6, 2010 – 2:00 p.m.</u> | Deadline for Proposal Submission       |
| <u>Week of April 12, 2010</u>             | Interviews (if necessary)              |
| <u>Tuesday, May 11, 2010</u>              | Award of Contract by LCRB              |
| <u>Friday, May 14, 2010</u>               | Commencement of Services               |

**NOTE:** The City reserves the right to modify this schedule at the City's discretion. Proper notification of changes in the will be made to all interested parties.

**B. GENERAL**

By submitting a proposal, the proposer certifies that the Proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

**C. PROPOSAL SUBMITTAL**

The Proposal and all amendments must be signed and submitted no later than 2:00 p.m. on Tuesday, April 6, 2010, to the address below. Each proposal must be submitted in a sealed envelope and designated with proposal title. To assure that your proposal receives priority treatment, please mark as follows.

**Request for Proposals**

Financial Consulting Services -  
Water Rate Study and Water System Development Charge Update  
Due: April 6, 2010 – 2:00 p.m.  
City of Tigard – City Hall Information Desk  
Attn: Joseph Barrett, Sr. Management Analyst  
13125 SW Hall Blvd.  
Tigard, Oregon 97223

Proposer shall put their name and address on the outside of the envelope. It is the proposer's responsibility to ensure that proposals are received prior to the stated closing time. The City shall not be responsible for the proper identification and handling of any proposals submitted incorrectly. Late proposals, late modification or late withdrawals shall not be considered accepted after the stated bid opening date and time and shall be returned unopened. Facsimile and electronic (email) proposals will not be accepted.

**D. PROTEST OF SCOPE OF WORK OR TERMS**

A proposer who believes any details in the scope of work or terms detailed in the proposal packet and sample contract are unnecessarily restrictive or limit competition may submit a protest in writing, to the Purchasing Office. A protest may be submitted via facsimile. Any such protest shall include the reasons for the protest and shall detail any proposed changes to the scope of work or terms. The Purchasing Office shall respond to any protest and, if necessary, shall issue any appropriate revisions, substitutions, or clarification via addenda to all interested proposers.

To be considered, protests must be received at least five (5) days before the proposal closing date. The City shall not consider any protest against award due to the content of proposal scope of work or contract terms submitted after the established protest deadline. All protests should be directed to Joseph Barrett, Sr. Management Analyst, and be marked as follows:

**RFP Specification/Term Protest**

City of Tigard  
Attn: Joseph Barrett, Sr. Management Analyst  
13125 SW Hall Blvd.  
Tigard, Oregon 97223

If a protest is received in accordance with section above, the proposal opening date may be extended if necessary to allow consideration of the protest and issuance of any necessary addenda to the proposal documents.

**E. PROPOSAL SUBMISSION AND SIGNING**

All requested forms and attachments (Signature Page, Acknowledgment Addendum, Statement of Proposal, etc.) must be submitted with the Proposal and in the required format. The submission and signing of a proposal shall indicate the intention of the firm to adhere to the provisions described in this RFP.

**F. COST OF PREPARING A PROPOSAL**

The RFP does not commit the City to paying any costs incurred by proposer in the submission or presentation of a proposal, or in making the necessary studies for the preparation thereof.

**G. INTERPRETATIONS AND ADDENDA**

All questions regarding this project proposal shall be directed to John Goodrich, Utility Division Manager. If necessary, interpretations or clarifications in response to such questions will be made by issuance of an “Addendum” to all prospective proposers within a reasonable time prior to proposal closing, but in no case less than 72 hours before the proposal closing. If an addendum is necessary after that time, the City, at its discretion, can extend the closing date.

Any Addendum issued, as a result of any change in the RFP, must be acknowledged by submitting the “Acknowledgment of Addendum” with proposal. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

**H. BUSINESS TAX/FEDERAL TAX ID REQUIRED**

The City of Tigard Business Tax is required. Chapter 5.4 of the Tigard Municipal Code states any business doing business in the City of Tigard shall pay a City of Tigard Business Tax. No contracts shall be signed prior to the payment of the City of Tigard Business Tax. Upon award of proposal, contractor shall provide the City with a completed a W-9 form.

**I. CITY'S PROJECT MANAGER**

The City's Project Manager for this work will be Utility Division Manager John Goodrich who can be reached by phone at (503) 718-2609 or by email at [johnng@tigard-or.gov](mailto:johnng@tigard-or.gov). Contacting any other person or authority for information other than the City Sr. Management Analyst or Project Manager may result in disqualification of bid.

**J. PROPOSAL VALIDITY PERIOD**

Each proposal shall be irrevocable for a period of sixty (60) days from the Proposal Opening Date.

**K. FORM OF CONTRACT**

A copy of the City's standard Personal Services Contract, which the City expects the successful firm or individual to execute, is included as "Attachment C." The contract will incorporate the terms and conditions from this RFP document and the successful proposer's response documents. Firms taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section 2.D. "Protest of Scope of Work or Terms" or their exceptions will be deemed waived.

**L. TERM OF CONTRACT**

The term of the contract shall be a period of one (1) year. The total term of the contract shall not exceed one (1) year.

**M. TERMINATION**

The contract may be terminated by mutual consent of both parties or by the City at its sole discretion with a 30-day written notice. If the contract is so terminated, Contractor shall be paid in accordance with the terms of the contract.

**N. NON-COLLUSION**

Proposer certifies that this proposal had been arrived at independently and has been submitted without collusion designed to limit independent bidding or competition.

**O. PUBLIC RECORD**

All proposal material submitted by proposer shall become the property of the City and is public record unless otherwise specified. A proposal that contains any information that is considered a trade secret under ORS 192.501(2) should be segregated and clearly identified as such. This information will be kept confidential and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192. The above restrictions may not include cost or price information, which must be open to the public.

**SECTION 3**  
**BACKGROUND**

The City of Tigard's water service area includes approximately two-thirds of the City of Tigard, the Cities of Durham and King City, and unincorporated areas of Washington County represented by the Tigard Water District. This area is identified as the Tigard Water Service Area (TWSA). The City of Tigard serves as the water provider and managing authority for the TWSA through intergovernmental agreements with the Cities of Durham and King City, and the Tigard Water District. All fees and charges and the level of water service are the same for customers within the TWSA, irrelevant of jurisdiction. Areas of Tigard not served by the City receive water service from the Tualatin Valley Water District (TVWD).

The City estimates it provides drinking water to approximately 57,500 people within the TWSA through 17,890 residential, multi-family, irrigation, commercial, and industrial water service connections. Water customers are currently billed once every two months.

The requested financial services will assist the City in developing a water fees and charges schedule by conducting a water rate study, and updating the water system development charge (SDC) methodology. The work shall establish the necessary revenue requirements to implement the 2010 Water System Master Plan which forecasts through 2030. The plan includes the most recent capital maintenance and improvement projects. There will also be funding requirements for the capital improvements related to the Lake Oswego-Tigard Water Partnership. General information regarding the partnership can be found at [www.lotigardwater.org](http://www.lotigardwater.org). Tigard's financial commitment to partnership projects is estimated to be \$118 million dollars.

The City desires review of various rate structures, with a subsequent recommendation of setting the water fees and charges to a schedule that best meet the needs of the City's financial obligations. The City also needs a comprehensive water SDC update that identifies and allocates funding associated with excess capacity and new construction. The current SDC methodology was last updated in 2000.

**SECTION 4.1**  
**SCOPE AND SCHEDULE OF WORK**  
**WATER RATE STUDY**

**A. DATA REQUEST**

The successful proposer will submit, in writing, a data request list in sufficient time for the City to prepare the material for the pre-services meeting.

**B. PRE-SERVICES MEETING/DATA REQUEST**

The successful proposer will arrange for a pre-services meeting with City staff to set a course for the work to be completed and to establish a clear understanding of the water rate study analysis tasks and completion schedule. This meeting may be conducted in conjunction with the pre-services meeting for the water SDC update. This meeting will also serve as an information exchange, with the successful proposer collecting all necessary data.

**C. WATER RATE STUDY PROJECT SCOPE**

The successful proposer will recommend a water fees and charges schedule and a test period. This recommendation will be considered by the Intergovernmental Water Board (IWB) and Tigard City Council. The schedule shall establish the projected revenue requirements necessary to ensure an adequate cash flow in a stable and predictable manner. This proposal should use the following assumptions regarding appropriate financial policy and project scope of work requirements.

1. A fair and equitable fees and charges schedule that ensures water services are provided on a self-supporting basis.
2. Adequate funding for capital projects as identified in the 2010 Water System Master Plan.
3. Encourage water conservation consistent with Oregon Water Resources Department requirements.
4. Identify and develop the strategies and schedule necessary to acquire bond financing to fund future projects from the City's water capital improvement plan and the Lake Oswego-Tigard Water Partnership.
5. Analyze and develop a cost-benefit analysis of utility billing frequency to adequately meet cash flow requirements.

6. Review and update all current and recommended non-commodity fees and charges associated with water service.
7. Analyze and develop recommendations regarding what level of adequate fund reserves would be necessary to meet the City's needs.
8. Compare any proposed new water fees and charges to other utilities providing water services in the county and region.
9. The recommended rate structures shall be consistent with industry practice for utility rate making in Oregon.
10. The benefits of any proposed modifications shall be weighed against the financial impacts on ratepayers, and separated by rate classifications such as residential, multi-family, commercial, industrial, and irrigation, etc.
11. Justifications for any special classes of customers under the recommended water fees and charges schedule shall be demonstrated.
12. Any recommended rate structure or rate model should take into consideration the ease of administration and understanding by the rate payers.
13. Any proposed water fees and charges schedule must integrate with the City's utility billing system.
14. Analyze and develop the appropriate test period for the recommended water fees and charges schedule.
15. The rate study shall include a user-friendly electronic rate model, in either Microsoft Excel or Access, which enables the City to calculate future water fees and charges.

#### **D. WATER RATE ANALYSIS AND REPORT**

With regard to water fees and charges recommendations, the water rate study shall include a final report that explicitly includes the following elements and analysis:

1. **Current Rate Structure:** Assess the current water fees and charges performance as a baseline for comparing recommended changes.
2. **Equity:** Assess the equity of recommended water fees and charges for all types of property ownership to include multi-family units.
3. **Conservation Impacts:** Assess the interaction between the water conservation elements of the recommended water fees and charges, and their impacts on the ability to fund water operations and capital projects including those associated with the Lake Oswego-Tigard Water Partnership.
4. **Other Service Charges:** Assess existing customer service fees and charges and identify other potential areas for service and system charges (service activities, back-flow devices, plan reviews, water service shut-offs, delinquent payment, reconnection fees, etc.) and recommend changes, if appropriate. Assessment is to note any resulting increase in liability the City may incur as a result of approving and assessing these fees and charges.
5. **Annual Operating Fund Balance Targets:** Recommend adequate reserve levels for operating cash flow, capital replacement, bond requirements, and unforeseen events.
6. **Electronic Rate Model:** Provide a user-friendly electronic rate model, in either Microsoft Excel or Access, which enables the City to calculate future water fees and charges.
7. **Rate Sensitivity Analysis and Affordability Index:** Provide a rate sensitivity analysis and affordability index ratio regarding the recommended water fees and charges schedule. This analysis should consider TWSA demographics relating to the household income level, and the types of residential, multi-family, commercial, and industrial accounts. This shall include impacts to public authorities such as schools, parks, etc.
8. **Rate Payer Education/Communications:** Recommend methods for communicating utility costs to customers, including changes in the utility billing structure and identifying the actual

costs of providing water under the recommended fees and charges schedule. Assess ease of communication associated with each recommended type of water fee and charge.

9. **Cost Analysis of Tigard Expansion:** Provide a cost-benefit analysis on the expansion of the City's water services into developed and undeveloped areas adjacent to the current service area.

#### **E. WATER RATE STUDY SUMMARY OF SERVICES**

At the conclusion of the project, the successful proposer shall provide a draft report for the City's review. The report shall summarize the methodology and analysis undertaken in completing the water rate study findings, including the results, conclusions, and recommendations. The report shall be detailed and shall include a proposed water commodity structure, rates, user fees, user charges, etc. The report shall provide implementation recommendations in a "ready to adopt" format including calculation tables. The bidder shall propose the number of hours and fee estimate based on the following assumptions:

1. Conduct a detailed review of the existing water rates and status of the Water Fund. Develop a general familiarity with the City's utility billing system.
2. Meet with City's financial advisor to confer and discuss recommendations addressing financial and future bond issuance requirements.
3. Supply a time schedule for developing the preliminary and final reports. The final report shall be delivered to the City within 90 days from contract date.
4. Prepare for and attend five (5) evening meetings:
  - a. **Fees and Charges Options** presentation to obtain preferred option(s) for further evaluation based on findings. Presentation will be given to the Intergovernmental Water Board (IWB) and, separately, to the City Council.
  - b. **Preliminary Report** presentation based on final recommendations. This presentation will be given to the IWB and, separately, to the City Council.
  - c. **Final Report** presentation detailing, and considering for adoption, the water rate schedule of fees and charges. This presentation will take place at a City Council meeting and will include a public hearing.
5. Meet with City staff to review findings.
6. Draft Final Report requirements:
  - a. Incorporate changes pursuant to comments received by staff and City Council.
  - b. Submit 15 copies.
  - c. Provide an electronic storage disc with final report in MS Word format, with spreadsheets in Excel format.
7. Final Report and presentation requirements:
  - a. City staff shall review and approve all work prior to final acceptance and provide direction concerning specific recommendations.
  - b. Prepare public notice schedule and text for public notification(s) summarizing analyses and recommendations. Notices will be distributed by the City.
  - c. Incorporate changes pursuant to comments received City Council. This final report shall be submitted for adoption at formal public hearing.
  - d. Submit 15 copies, plus one reproducible copy, and an electronic storage disc with final report in MS Word format, with spreadsheets in Excel format.
8. Provide a user-friendly electronic rate model, in either Microsoft Excel or Access, which enables the City to re-calculate future water fees and charges.

**SECTION 4.2**  
**SCOPE AND SCHEDULE OF WORK**  
**WATER SYSTEM DEVELOPMENT CHARGE (SDC) UPDATE**

**A. DATA REQUEST**

The successful proposer will submit, in writing, a data request list in sufficient time for the City to prepare the material for the pre-services meeting.

**B. PRE-SERVICES MEETING/DATA REQUEST**

The successful proposer will arrange for a pre-services meeting with City staff to collect and discuss initial data, review the work plan and schedule, discuss policy and technical issues, and initiate the study. This meeting may be conducted in conjunction with the water rate study pre-services meeting.

**C. SDC UPDATE PROJECT SCOPE**

The successful proposer shall provide financial consulting services including:

1. Review of City's financial data and 2010 Water System Master Plan.
2. Preparation of the SDC methodology evaluation and analysis.
3. Calculation of revised fees and charges for the water utility.

The successful proposer shall include recommendations regarding aspects beneficial to the City pertaining to SDC update methods.

Proposals should address how you or your firm would approach the following six (6) assumptions to develop your analysis and calculations regarding SDC methods.

- Discuss how you would ensure that new development pays its own way.
- Discuss how to fund major system expansion using SDC fees.
- Discuss what approach would be used to generate sufficient revenue to fund portions of capital improvements related to growth.
- Discuss equity vs. debt balance to minimize rates by prudent use of debt.
- Discuss how to equitably recover capital costs from current and future customers.
- Discuss how to maintain the appropriate level of retained earnings and cash reserves to meet capital needs of the water system.

**D. SDC UPDATE SUMMARY OF SERVICES**

At the conclusion of the project, the successful proposer shall provide a draft report for the City's review. The report shall summarize the methodology and analysis undertaken in completing the water SDC update findings including the results, conclusions, and recommendations. The report shall provide implementation recommendations in a "ready to adopt" format including calculation tables.

The proposer shall propose the number of hours and fee estimate based on the following assumptions:

1. Develop and complete the technical analyses with City staff and other engineering consultants:
  - a. Use the SDC project list supplied in the 2010 Water System Master Plan. Review the list of projects and costs and use as the initial improvements fees and charges basis.

- b. The proposer will be provided information regarding allocation of project costs to growth. Using information provided in the 2010 Water System Master Plan and the input of City staff, the proposer will include the capacity-increasing portion of each project for the improvement fee. This shall serve as the improvement fee cost basis.
  - c. Determine the reimbursement fee cost basis (if applicable). Using the City's asset information and the policy input from the pre-services meeting, the proposer will establish the amount of eligible unused capacity in the existing water system for use in the calculation of the SDC reimbursement fees.
  - d. Determine appropriate SDC allocation to any portion of the capital construction necessary for the Lake Oswego-Tigard Water Partnership.
  - e. Calculate the improvement fee from information on the eligible cost of planned future facilities. Calculate the reimbursement fee, as applicable, from information on the cost of unused capacity in existing infrastructure.
2. Supply a time schedule for developing the preliminary and final reports. The final report shall be delivered to the City within 90 days from contract date.
  3. Prepare for and attend up to five (5) evening meetings with the Intergovernmental Water Board (IWB) and/or the City Council to solicit input, describe proposer recommendations, and participate in a public hearing on the adoption of updated SDC methodology. These meetings shall be scheduled in conjunction with the water rate study meetings described in section 4.1 E.4.
  4. Meet with City staff to review findings.
  5. Draft Final Report requirements:
    - a. Incorporate changes pursuant to comments received by staff and City Council.
    - b. Submit 15 copies.
    - c. Provide an electronic storage disc with final report in MS Word format, with spreadsheets in Excel format.
  6. Final Report and presentation requirements:
    - a. City staff shall review and approve all work prior to final acceptance and provide direction concerning specific recommendations.
    - b. Prepare public notice schedule and text for public notification(s) summarizing analyses and recommended changes. Notices will be distributed by the City.
    - c. Incorporate changes pursuant to comments received by staff and City Council. This final report shall be submitted for adoption at formal public hearing.
    - d. Submit 15 hard copies, one reproducible copy, and an electronic storage disc with final report in MS Word format, with spreadsheets in Excel format.
  7. Provide a user-friendly electronic SDC methodology, in either Microsoft Excel or Access, which enables the City to re-calculate future SDCs.

**SECTION 4.3**  
**SCOPE AND SCHEDULE OF WORK**  
**ADDITIONAL INFORMATION**

**A. SERVICES PROVIDED BY THE CITY**

The information to be provided by the City shall include, but is not necessarily limited to the following:

1. SDC-related documents and information as available.
2. Existing water rate fees and charges
3. The 2010 Water System Master Plan and adopted SDC project list.
4. Current development status and projected build out figures.
5. Financial information regarding balance of water utility SDC accounts and status of outstanding SDC credits, if any.

6. Other information, as available, regarding water usage, water production, billing data, annual budget requirements, wholesale water purchase agreements, and information specified by the proposer relating to data required to conduct adequate analysis of the financial revenue requirements.

## **SECTION 5**

### **PROPOSAL CONTENT AND FORMAT**

#### **A. FORMAT**

To provide a degree of consistency in review of the written proposals, firms are requested to prepare their proposals in the standard format specified below.

##### **1. Title Page**

Proposer should identify the RFP subject, name and title of contact person, address, telephone number, fax number, email address and date of submission.

##### **2. Transmittal Letter**

The transmittal letter should be not more than two (2) pages long and should include as a minimum the following:

- a. A brief statement of the proposer's understanding of the project and services to be performed.
- b. A positive commitment to perform the services within the time period specified, starting and completing the project within the deadlines stated in this RFP, and the names of persons authorized to represent the proposer, their title, address and telephone number (if different from the individual who signs the transmittal letter).

##### **3. Table of Contents**

The table of contents should include a clear and complete identification by section and page number of the materials submitted.

##### **4. Firm Qualifications**

- a. Background of the firm. This should include a brief history of the firm and types of services the firm is qualified to perform.
- b. Qualifications of the firm in performing this type of work. This should include examples of related experience and references for similar studies and projects.

##### **5. Team Member Qualifications**

Identify individuals and sub-consultants who will complete this work, their experience, and their individual qualifications. Pertinent resumes of assigned personnel should be included.

##### **6. Project Approach**

- a. Submit a work plan to accomplish the work defined in the sections entitled "Water Rate Study Project Scope," "Water Rate Study Summary of Services," "SDC Update Project Scope," and "SDC Update Summary of Services" in this RFP. The work plan should include time estimates (in hours) for each significant segment of the project and the staff level to be assigned. Where possible, individual staff members should be named and their titles provided. The planned use of specialists (if any) should be described.

- b. Proposals shall also include you or your firms project approach to these specific questions:
  - i. What approach would be used to develop a comprehensive, long-term financial plan for the City’s water utility over the next 20 years?
  - ii. What approach should be used to manage a revenue bond strategy for scheduling an estimated project cost of \$118 million dollars within a 5 year period? Discuss how the debt service reserve requirements would be managed and any impacts regarding the actual dollars needed.
  - iii. What approach would be used in determining what revenue streams can be used to pay back debt, including a discussion of SDC, fixed, and variable allocations? Discuss if water SDC fees can be used and why.
  - iv. What approach would be used to determine the test period to meet the City’s revenue requirements?
- c. Indicate the extent to which City personnel would be expected to contribute to the project work effort.

**7. Project Timeframe**

Prepare a timeframe that demonstrates a practical approach to meeting the City’s specific deadlines by providing detailed information as to how the firm proposes to meet the timelines and reporting deadline requirements of the project. The successful bidder shall complete the project within 90 days of the date the contract is initiated. A detailed project design schedule shall be submitted to the City initially for review and approval in the pre-services meeting.

Monthly progress reports including the planned project schedule versus the actual progress shall accompany billings submitted to the City. These reports and schedules shall be approved by the City as a condition of payment.

**8. Compensation**

The proposer’s fee structure should include the total hours and dollar amounts, including out-of-pocket costs for the total project. **The water rate study and the water system development charge update must be billed separately.** Therefore a time and materials “Not to Exceed” fee for each proposed scope should also be provided with hourly rates for assigned staff including travel/transportation costs.

**B. ADDITIONAL SERVICES**

Provide a brief description of any other services that your firm could provide the City and an approximation of the hourly charge for each service of this type. Such services would be contracted on an “as needed” basis, to be provided and billed for separately.

**C. ADDITIONAL INFORMATION**

Please provide any other information you feel would help the selection committee evaluate your firm for this project.

**D. REFERENCES**

Please list three (3) references with, at the minimum, the follow information:

- 1. Company Name
- 2. Contact Individual Name
- 3. Contact Individual Title

4. Contact Phone

**E. DISPUTES**

Should any doubt or difference of opinion arise between the City and a proposer as to the items to be furnished hereunder or the interpretation of the provisions of this RFP, the decision of the City shall be final and binding upon all parties.

**F. CITY PERSONNEL**

No officer, agent, consultant or employee of the City shall be permitted any interest in the contract.

**SECTION 6  
PROPOSAL EVALUATION PROCEDURES**

**A. SELECTION AND EVALUATION PROCESS**

A selection committee assembled by the City will review the written proposals. Proposals will be evaluated to determine which ones best meet the needs of the City. After meeting the mandatory requirements, the proposals will be evaluated on both their technical and fee aspects. The selection committee will select the proposer which best meets the City's needs based upon an evaluation of a firm's proposal. Proposals will be evaluated in accordance with the following:

|                                |  |                   |
|--------------------------------|--|-------------------|
| 1.                             | <u>Completed proposal submitted on time</u>                      | <u>Pass/Fail</u>  |
| 2.                             | <u>An original plus five (5) copies of the complete proposal</u> | <u>Pass/Fail</u>  |
| 3.                             | <u>Transmittal letter</u>  | <u>Pass/Fail</u>  |
| 4.                             | <u>Firm qualifications</u>                                       | <u>10 points</u>  |
| 5.                             | <u>Project team member qualifications</u>                        | <u>30 points</u>  |
| 6.                             | <u>Project understanding and approach</u>                        | <u>20 points</u>  |
| 7.                             | <u>Project timeframe</u>   | <u>10 points</u>  |
| 8.                             | <u>Compensation</u>  | <u>30 points</u>  |
| <u>TOTAL EVALUATION POINTS</u> |  | <u>100 POINTS</u> |

**B. PRESENTATION/INTERVIEW**

At the option of the City, the top scoring proposers (based on the criteria points) may be asked to make a presentation of their proposal. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way provide an opportunity to change any fee amount originally proposed. The City's Project Manager will schedule the time and location of these presentations and notify the selected firms. If the City elects to conduct a presentation/interview process, 10 criteria points will be assigned to the process and will be added to the participating proposers' total points.

**C. INVESTIGATION OF REFERENCES**

The City reserves the right to investigate references and the past performance of any proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

**D. CLARIFICATION OF PROPOSALS**

The City reserves the right to obtain clarification of any point in regards to a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a proposer to respond to such a request for additional information or clarification could result in rejection of their proposal.

**E. RESERVATION IN EVALUATION**

The selection committee reserves the right to either: (a) request “Best and Final Offers” from the two finalist firms and award to the lowest priced or (b) to reassess the proposals and award to the vendor determined to best meet the overall needs of the City.

**F. INTENT OF AWARD**

Upon review of the proposals submitted, the City may negotiate a scope of work and a Personal Service Contract with one firm, or may select one or more firms for further consideration.

**G. PROTEST OF AWARD**

In accordance with Tigard Public Contracting Rule 30.135, any adversely affected proposer has seven (7) calendar days from the date of the written notice of award to file a written protest.

**H. PROPOSAL REJECTION**

The City reserves the right to:

1. Reject any or all proposals not in compliance with all public procedures and requirements;
2. Reject any proposal not meeting the specifications set forth herein;
3. Waive any or all irregularities in proposals submitted;
4. In the event two or more proposals shall be for the same amount for the same work, the City shall follow the provisions of LCRB 30.095 and Section 137-095 of the Oregon Attorney General’s Model Public Contract Manual;
5. Reject all proposals;
6. Award any or all parts of any proposal; and
7. Request references and other data to determine responsiveness.

**SECTION 7  
PROPOSAL CERTIFICATIONS**

\*\*\*\*\*

**Non-discrimination Clause**

The proposer agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any proposer who is in violation of this clause shall be barred from receiving awards of any purchase order from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by: \_\_\_\_\_

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

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

\*\*\*\*\*

**Resident Certificate**

Please Check One:

**Resident Vendor:** Vendor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

**Or**

**Non-resident Vendor:** Vendor does not qualify under requirement stated above.  
(Please specify your state of residence: \_\_\_\_\_)

Officer's signature: \_\_\_\_\_

Type or print officer's name: \_\_\_\_\_

**SECTION 8  
SIGNATURE PAGE**

The undersigned proposes to perform all work as listed in sections 4.1, 4.2, and 4.3 of this Request for Proposal, for the price(s) stated, and all articles supplied under any resultant contract will conform to the specifications herein.

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications and by City policies and regulations.

The undersigned, by submitting a proposal, represents that:

- A) The proposer has read and understands the specifications.
- B) Failure to comply with the specifications or any terms of the Request for Proposal may disqualify the proposer as being non-responsive.

The undersigned certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this proposal:

Addenda: No. \_\_\_\_\_ through No. \_\_\_\_\_ inclusive.

We therefore offer and make this proposal to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the City.

Name of firm: \_\_\_\_\_

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

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

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

(Signature of Authorized Official. If partnership, signature of one partner.)

Typed Name/Title: \_\_\_\_\_

If corporation, attest: \_\_\_\_\_  
(Corporate Officer)

Corporation                       Partnership                       Individual

Federal Tax Identification Number (TIN): \_\_\_\_\_

**SECTION 9  
FEES SCHEDULE  
Request for Proposal  
Financial Consulting Services  
Water Rate Study and Water System Development Charge Update**

**A. Proposed Fees – Water Rate Study**

Complete all tasks as described in scope of work and summary of services:

Principal Consultant                      project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Financial Consultant                      project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Administrative                              project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Travel Expenses                            project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Additional Services, if required:

Additional Public Hearings/Meetings                      \$\_\_\_\_\_ per hour  
*(Include travel and administrative expenses)*

**Total Water Rate Study                      \$\_\_\_\_\_**

**B. Proposed Fees – Water System Development Charge Update**

Complete all tasks as described in scope of work and summary of services:

Principal Consultant                      project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Financial Consultant                      project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Administrative                              project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Travel Expenses                            project hours \_\_\_\_\_ x \$\_\_\_\_\_ per hour

Additional Services, if required:

Additional Public Hearings/Meetings                      \$\_\_\_\_\_ per hour  
*(Include travel and administrative expenses)*

**Total Water System Development Charge Update                      \$\_\_\_\_\_**

**Total Financial Services Cost (*Water Study + Water SDC*)                      \$\_\_\_\_\_**

**ATTACHMENT A  
ACKNOWLEDGMENT OF ADDENDA  
CITY OF TIGARD, OREGON  
Request for Proposal  
Financial Consulting Services  
Water Rate Study and Water System Development Charge Update**

**Close: Tuesday, April 6, 2010- 02:00 p.m. local time** \_\_\_\_\_

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA (*If none received, write "None Received"*):

- |          |          |
|----------|----------|
| 1. _____ | 3. _____ |
| 2. _____ | 4. _____ |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Proposer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Corporate Name

**ATTACHMENT B  
STATEMENT OF PROPOSAL**

Name of Consultant: \_\_\_\_\_

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

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

accepts all the terms and conditions contained in the City of Tigard Request for Proposal for Financial Consulting Services – Water Rate Study and Update of Water System Development Charges and the attached Personal Services Contract (Attachment C):

\_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type or print name of authorized representative

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

\_\_\_\_\_  
Type or print name of person(s) authorized to negotiate contracts

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

**REFERENCES**

\_\_\_\_\_  
Reference #1

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

\_\_\_\_\_  
Project Title

\_\_\_\_\_  
Contact Individual

\_\_\_\_\_  
Reference #2

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

\_\_\_\_\_  
Project Title

\_\_\_\_\_  
Contact Individual

\_\_\_\_\_  
Reference #3

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

\_\_\_\_\_  
Project Title

\_\_\_\_\_  
Contact Individual



**ATTACHMENT C**  
**CITY OF TIGARD, OREGON**  
**PERSONAL SERVICES CONTRACT (*SAMPLE TEMPLATE*)**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of Tigard, a municipal corporation of the State of Oregon, hereinafter called City, and \_\_\_\_\_, hereinafter called Contractor.

**RECITALS**

WHREAS, the City's 20\_\_\_\_ -20\_\_\_\_ Fiscal Year budget provides for services related to \_\_\_\_\_; and

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

WHEREAS City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

**1. SERVICES TO BE PROVIDED**

Contractor shall initiate services immediately upon receipt of City's notice to proceed together with an executed copy of this Agreement. Contractor agrees to complete work that is detailed in Exhibit A and by this reference made a part hereof. Any and all work assigned by the City will be contained in subsequent scope of work as needed

**2. EFFECTIVE DATE AND DURATION**

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, on \_\_\_\_\_, 20\_\_\_\_. All work under this Agreement shall be completed prior to the expiration of this Agreement.

**3. COMPENSATION**

The City agrees to pay Contractor in accordance with the fee schedule outlined in Exhibit A for performance of those services described herein and in any subsequent agreements that arise from the work under this Agreement. The total amount paid to the Contractor by the City shall not exceed \_\_\_\_\_ and \_\_\_\_\_/100 Dollars (\$) if all task are completed. Any and all payments made to the Contractor shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

- D. Contractor shall make payments promptly, as due, to all persons supplying labor or materials for the prosecution of this work.
- E. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on any account of any labor or material furnished.
- F. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- G. 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 as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- H. Contractor shall pay employees at least time and a half pay for all overtime worked in excess of 40 hours in any one week except for individuals under the contract who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 209 from receiving overtime.
- I. 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 or 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.
- J. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

**4. OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

**5. ASSIGNMENT/DELEGATION**

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

**6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event

that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

## **7. INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal worker's compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

## **8. INSURANCE**

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor’s expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an “occurrence” form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

| <u>Coverage</u>                         | <u>Limit</u> |
|---|--------------|
| General Aggregate                       | 2,000,000    |
| Products-Completed Operations Aggregate | 1,000,000    |
| Personal & Advertising Injury           | 1,000,000    |
| Each Occurrence                         | 1,000,000    |
| Fire Damage (Any one fire)              | 50,000       |
| Medical Expense (Any one person)        | 5,000        |

B. Commercial Automobile Insurance

Contractor shall also obtain, at contractor’s expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

C. Workers’ Compensation Insurance

The contractor, its Subcontractors, if any, and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain workers’ compensation coverage. All non-exempt employers shall provide Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

D. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, and employees as additional insureds with respect to this contract.

E. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The 30 days notice of cancellation provision shall be physically endorsed on to the policy.

F. Insurance Carrier Rating

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

G. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

H. Independent Contractor Status

The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.

I. Primary Coverage Clarification

The parties agree that Contractor’s coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

J. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this contract.

Contractor’s insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Tigard  
Attn: Joseph Barrett, Sr. Management Analyst  
13125 SW Hall Blvd.  
Tigard, Oregon 97223

Such policies or certificates must be delivered prior to commencement of the work. The procuring of such required insurance shall not be construed to limit contractor’s liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**9. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

| CITY OF TIGARD  |                |
|---|----------------|
| Attn:   | Attn:          |
| Address: 13125 SW Hall Blvd.,<br>Tigard, Oregon 97223               | Address:       |
| Phone: (503) 718-   | Phone: ( )     |
| Fax: (503)  | Fax: ( )       |
| Email Address: <a href="mailto: @tigard-or.gov"> @tigard-or.gov</a> | Email Address: |

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

**10. MERGER**

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

**11. PROFESSIONAL SERVICES**

The City requires that services provided pursuant to this agreement shall be provided to the City by a Contractor that does not represent clients on matters contrary to City interests. Further, Contractor shall not engage services of an attorney and/or other professional who individually, or through members of his/her same firm, represents clients on matters contrary to City interests.

Should the Contractor represent clients on matters contrary to City interests or engage the services on an attorney and/or other professional who individually, or through members of his/her same firm, represents clients on matters contrary to City interests, Contractor shall consult with the appropriate City representative regarding the conflict.

After such consultation, the Contractor shall have seven (7) days to eliminate the conflict to the satisfaction of the City. If such conflict is not eliminated within the specified time period, the agreement may be terminated pursuant to Section 13 (B) (3) of this agreement.

**12. TERMINATION WITHOUT CAUSE**

At any time and without cause, City shall have the right in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

**13. TERMINATION WITH CAUSE**

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

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

- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
- 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.
- 3) If Contractor fails to eliminate a conflict as described in Section 11 of this agreement.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (b), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

#### **14. ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

#### **15. FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

#### **16. NON-WAIVER**

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

**17. NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

**18. ERRORS**

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

**19. EXTRA (CHANGES) WORK**

Only the City's Project Manager for this Agreement, John Goodrich, Utility Division Manager, may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

**20. WARRANTIES**

All work shall be guaranteed by Contractor for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this Agreement.

**21. ATTORNEY'S FEES**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

**22. GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

**23. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES**

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this agreement.

**24. CONFLICT BETWEEN TERMS**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**25. AUDIT**

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period.

Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

**26. SEVERABILITY**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

**27. CONDITIONS OF SUPPLYING A PUBLIC AGENCY**

Where applicable, seller must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against Buyer or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

**28. HOURS OF LABOR**

If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279C.540. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.

**29. MEDICAL CARE AND 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 such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the employees pursuant to any law, contractor agreement for the purpose of providing or paying for such service.

**30. COMPLETE AGREEMENT**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement 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 specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

Authorized by Tigard's Local Contract Review Board: \_\_\_\_\_

**City of Tigard**

\_\_\_\_\_  
By: Craig Prosser, City Manager

\_\_\_\_\_  
By: Authorized Agent of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A**  
**SERVICES TO BE PROVIDED (*TEMPLATE AGREEMENT SAMPLE*)**

**INTRODUCTION**

**SCOPE OF WORK**

**SCHEDULE**

**COST/RATE ESTIMATES**