



REQUEST FOR PROPOSALS

GOODS AND SERVICES

Water Features Replacement and Maintenance

ADVERTISEMENT DATE: August 16, 2024

PROPOSALS DUE:
Monday, September 16, 2024, by 2:00 PM, Pacific Time

Address Proposals to:

City of Wilsonville
Attn: Dustin Schull, Parks Supervisor
29799 SW Town Center Loop East
Wilsonville, OR 97070

Proposers must submit an electronic Proposal by email to: dschull@ci.wilsonville.or.us, with "Request for Proposals – Water Features Equipment" in the subject line. Faxed or mailed Proposals will not be accepted.

The City of Wilsonville reserves the right to reject any or all Proposals.

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ATTACHMENT A

SAMPLE GOODS AND SERVICES CONTRACTA-1

Request for Proposals

The City of Wilsonville, Oregon (“City”) is requesting Proposals in order to select a qualified contractor to provide replacement and on-call maintenance services for the Water Features Replacement and Maintenance Project (“Project”). Interested contractors (“Proposers”) are invited to demonstrate their experience and qualifications in performing work directly related to the services required by responding to this **Request for Proposals (RFP)**. Proposals will be evaluated in accordance with the qualifications based selection procedures of OAR 137-047-0260. This Project does does not involve federal funds.

I. PROJECT DESCRIPTION

The City of Wilsonville is seeking proposals from qualified contractors to provide comprehensive replacement, maintenance, and repairs to the City of Wilsonville’s three (3) water feature systems over a period of at least five (5) years. This contract is for needed future and ongoing upgrades, maintenance, and repairs related to the City’s three water feature systems located in Murase Plaza (2) and Town Center Park (1). The contract will be a five-year contract with opportunities to extend further if desired by the City.

There will be three identified tasks of work highlighted in the contract. Proposers must identify all subcontractors to be utilized in these work tasks. Proposals must separately identify and explain how the work in each task will be achieved. The City understands and expects that more detailed information will be provided regarding Task 1 and Task 3, since those tasks will commence in the current fiscal year. Work anticipated beyond Fiscal Year 2024-25 (particularly Task 2 and part of Task 3) is subject to future budget appropriations.

Task 1 (Murase Plaza Equipment Replacement):

Fiscal Year 2024-25 – Design, Build, Install, and Test the two water feature systems located in Murase Plaza that operate the runnel and spray deck at Murase Plaza. The City anticipates the schedule for this Task to commence in Fall 2024 and be completed by March 1, 2025.

Task 2 (Town Center Park Equipment Replacement):

Fiscal Year 2025-26 - Design, Build, Install, and Test the one water feature system that operates the runnel at Town Center Park. The City anticipates the schedule for this Task to commence in Fall 2025 and be completed by March 1, 2026.

Task 3 (On-Call Maintenance and Repair):

Fiscal Year 2024-25 through Fiscal Year 2028-29 – On-call repair and maintenance services for the water feature systems in both locations (Murase Plaza and Town Center Park).

The City anticipates that Proposers or their subcontractors will need to have expertise in the following areas: electrical, plumbing, pool equipment and calibration, controls.

II. SCOPE OF WORK

The contractor will be responsible for designing, building, installing, testing, and maintaining the water feature systems in Murase Plaza and Town Center Park (“Scope of Work”).

For more detailed information on the Scope of Work, see **Attachment A – Goods and Services Contract** and **Exhibit A** attached thereto.

The City reserves the right to modify the Scope of Work based on the Proposer’s Proposal.

III. TERM OF PROJECT

The initial contract awarded will be a five (5) year contract. The City will have the option to extend the contract for two (2) two-year periods for continued maintenance and repair work.

IV. RFP DOCUMENTS

Request for Proposal (RFP) documents may be obtained at the Wilsonville Parks Administration Building, located at 29600 SW Park Place, Wilsonville, Oregon 97070, or may be obtained electronically on the City website (www.ci.wilsonville.or.us) under “Business” by clicking on “Bids and RFPs.” The City of Wilsonville shall not be held responsible for the delivery of the documents. Contact Dustin Schull at (503) 570-1544 or dschull@ci.wilsonville.or.us to obtain RFP documents by mail.

V. PROJECT MANAGER

The City’s Project Manager shall be the sole point of contact for all questions, concerns, and protests. The Project Manager for this Project is:

Dustin Schull
Parks Supervisor
(503) 570-1544
dschull@ci.wilsonville.or.us

VI. MINIMUM QUALIFICATIONS

To be considered for award of the contract for this Project, each Proposer shall demonstrate the following minimum criteria as part of the Proposal.

1. Proposer shall demonstrate a minimum of ten (10) years’ experience providing the types of services described within the Scope of Work of this Request for Proposals for public agencies.
2. Proposer must provide examples of work performed in confined space areas, such as underground equipment vaults.
3. Proposer must demonstrate competency in the following:
 - Plumbing Schedule 80 Pipe from ½-inch to 12-inch
 - All valve types from 3/8-inch to 12-inch
 - Filtration loops that apply chemicals through automated systems
 - Meeting Oregon Pool Regulations – Wading pools subsection
 - PH feed utilization of Co2

- UV Systems used in water feature operations
 - Integrating Aquastar automated backwash system with the BecSys controller (these systems and controllers are component parts that are exempt from competitive procurement under City of Wilsonville Resolution no. 3150)
 - Integrated systems using VFD & VFV controls utilizing a Delta spray control system for show times, start, and stop times
4. Proposers with a record of substandard workmanship, as verified by the City by communication with licensing authorities, former clients and references, and other means as the City deems appropriate, will not be considered.

VII. PROPOSAL REQUIREMENTS

Proposers shall prepare and submit Proposals in accordance with the requirements stated within this RFP. Adherence to these requirements will ensure a fair and objective analysis of submitted Proposals. Proposals should provide a clear, concise description of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be placed on completeness, brevity, and clarity of content. Failure to comply with or complete any part of the RFP may result in rejection of the Proposal. The ability to follow these instructions demonstrates attention to detail.

Proposal Format

Proposals shall be prepared with a standard body text font (e.g., Calibri, Times New Roman, Garamond) of at least 12-point. One page is considered to be one side of a single 8½" x 11" sheet.

Project Understanding

Proposals shall demonstrate the contractor's understanding of the Project by providing a clear and concise description of the Project, discussion of the anticipated primary issues and milestones, and identification of key stakeholders, based on the information provided in the RFP.

Project Approach

Proposals shall clearly define the tasks and activities necessary to meet the objectives outlined in the Scope of Work of the RFP. Each Proposer should demonstrate knowledge of the type of work requested, ability to solve the anticipated Project issues, and ability to offer innovative ideas. Proposer's ability to expeditiously complete the work should be made evident. The Proposal should include the following items 1 through 10 for each of Tasks 1 through 3.

For Tasks 1 and 2, due to the wide array of UV Systems in the market, please provide details of the proposed UV System(s) that will be utilized for the project and why the particular system is Proposer's preferred system.

For Tasks 2 and 3, the City and the successful Proposer will enter into task orders (Exhibit B to the Sample Contract attached hereto) to further detail the specific work to be performed when such work is needed and budgeted. Therefore, the City anticipates that project approach and cost estimating may be different for Tasks 2 and 3. For Tasks 2 and 3, the Proposal should identify the general work approach (how the Proposer will approach project design, material selection, installation/repair work, etc.), hourly rates, and standardized product mark-ups for City evaluation.

1. Describe overall approach to project management.
2. Describe Proposer's approach and methodology for preparing project cost estimates, including the services being solicited by the RFP, as well as the cost of permits, acquisitions, and construction.
3. Describe approach to organize and accomplish each of the tasks and activities of this RFP, including addressing the anticipated primary issues and milestones.
4. Identify Proposer's specific team members, including key subcontractors, and resources assigned to each task and activity of the RFP.
5. Describe Proposer's approach to complete the tasks and activities of this RFP in a timely manner and control costs.
6. Describe Proposer's approach to unanticipated issues that may arise during the Project.
7. Describe Proposer's quality assurance and quality control procedures to be implemented on this Project.
8. Describe Proposer's approach and abilities to interact and engage stakeholders.
9. Identify and describe the deliverables that will result from each task and activity.
10. Identify key points of input and review with City staff.

Contractor Experience

Proposals shall provide a brief work history of Proposer's and any subcontractor's projects entailing the same type of work being requested. Emphasis should be placed on local projects for public agencies where possible. The Proposal should include the following:

1. Describe the Proposer's and key subcontractor's firm size, office locations, and relevant capabilities and resources to be utilized on this Project.
2. Describe Proposer's and any key subcontractors' work experience that corresponds with the Project needs as identified in this RFP.
3. Provide at least three (3) examples of projects completed by Proposer for public agencies within the last five (5) years that best characterize Proposer's experience with the work being requested, work quality, and cost control, describing each by project name, type, location, and date. Such information should identify how the Proposer meets the Minimum Qualifications described above.
 - Include the public agency name and the name, address, telephone number, and email of the current contact person for each project, where possible.
 - Identify what role, if any, each team member who is proposed for this City Project (see Project Team Experience, below) played in each listed project.
 - Identify original and final contract costs for each listed project. Explain any cost overruns and corrective actions taken.

Project Team Experience

Proposals shall identify the team to be assigned to the Project by name, describing each member's qualifications and experience with completed projects relative to the requested services, including

expertise regarding all tasks associated with the Scope of Work. Each Proposal should include the following:

1. Identify by name and title the project principal, project manager, key supporting personnel, and any subcontractors and/or suppliers to be assigned to this Project.
2. Describe education, training, qualifications, registrations, certification, and relevant individual work experience of all key personnel, including subcontractors, to be assigned to this Project.
3. Identify the Project roles and responsibilities of all key personnel.
4. Describe any attributes or expertise of key personnel uniquely situated for the requested services.
5. Describe the extent of principal and project manager involvement.
6. Describe current and anticipated assignments and location of key personnel, including percentage of time devoted to other projects during performance of this Project.
7. Estimate the percentage of time each listed key personnel will be devoted to this Project for the duration of the Project, based on a 40-hour work week.

Project Cost

The Proposal should include a spreadsheet of the estimated number of person-hours associated with each task identified in the Project approach for Tasks 1 and 2. The spreadsheet should specify the billing rate and number of hours each member of the Project team, including subcontractors, will work on each task and all expenses. The Proposal shall provide a not-to-exceed amount for completion of Tasks 1 and 2 based on the Scope of Work of this RFP. For Tasks 2 and 3, the Proposal should identify hourly rates and standardized product mark-up percentage(s).

Project Schedule

Proposals shall include a proposed Project schedule identifying the duration and completion date of all tasks and milestones. The schedule should reflect the anticipated final completion date stated in the Scope of Work. If the schedule extends beyond the final completion date, the Proposal should include an explanation as to why the work cannot be completed within the proposed timeframe stated in the Scope of Work.

Supporting Information

Supporting materials may include graphs, full resumes, other references, charts, sample documents, and photos. However, pertinent information should be covered in the body of the Proposal. Supporting Information will not count toward the page limit, but brevity is encouraged. If there is no additional information to present in the Supporting Information, then state: *“There is no additional information we wish to present.”*

VIII. PROPOSAL SUBMISSION

Proposal Submission Requirements

Proposers must submit an electronic Proposal by email to: dschull@ci.wilsonville.or.us, with “Request for Proposals – Water Features Equipment” in the subject line. Proposals must be addressed and received by **2:00 p.m., Pacific Time, on Monday, September 16, 2024.**

Proposals must arrive in the electronic inbox of the email address identified above on or before the listed time and date due. Late Proposals will be unopened and without review. Faxed or mailed Proposals will not be accepted.

RFP Change Requests/Exceptions

A prospective Proposer may request a change to any provision, specification, or contract term (“Exceptions”) contained in the RFP documents by submitting a written request to:

dschull@ci.wilsonville.or.us

All change requests shall include “RFP Change Request – Water Features Equipment” in the subject line and must be received, in writing, by no later than **5:00 p.m., Pacific Time, on Monday, September 9, 2024**. Change requests must arrive in the electronic inbox of the email address identified above on or before the listed time and date due. Each request for a change must specify the provisions, specifications, or contract terms of the RFP in question and contain reasons for the requested change and any proposed changes.

The City will evaluate and resolve all change requests received before the listed time and date due within a reasonable time following receipt of the change request. Changes that are accepted by the City will be issued in the form of an addendum to the RFP.

IX. Proposal Evaluation and Selection

All written Proposals received in the electronic inbox of the email address identified above by the deadline will be reviewed by a Selection Review Committee. The Selection Review Committee will be comprised of City staff and any other committee or individuals, if any. One or more finalists may be invited to an interview after the written Proposals have been reviewed. Each Selection Review Committee member will independently evaluate each Proposal in accordance with the criteria stated in the Proposal Requirements section of this RFP.

At any point during the evaluation process, the City is permitted to seek clarification of any Proposal. The City retains the right to accept any or no Proposal that is deemed to best fit the needs of the City.

Written Evaluation

Based on their evaluation, each member of the Selection Review Committee will score each Proposal according to the following scoring criteria. Each member will rank, in descending order, each Proposal by total score.

WRITTEN PROPOSAL EVALUATION CRITERIA

Criteria	Maximum Score
Proposer’s Experience/Demonstrated Results	35
Qualifications of Personnel	30
Proposal Quality	25
Cost	10
<hr/> Total	<hr/> 100 Points

In addition to the above weighted scoring criteria, feedback from provided references will also be considered and may be determinative in the selection process.

Explanation of Evaluation Criteria

Proposer's Experience/Demonstrated Results: Proposal team's experience and success with designing, installing, constructing, repairing, and maintaining water feature projects involving runnels and/or spray decks.

Qualifications of Personnel: Prior experiences and work-products of Proposer's team members and how relevant to this Project.

Proposal Quality: Quality and creativity of the Proposal and points addressed in the Scope of Work, and the likelihood of achieving program objectives.

Cost: The maximum services provided in relation to the fee charged and the value of the overall Project; the budget is reasonable and appropriate.

Interview Evaluation

If determined to be necessary or desirable by the City, finalists from the written evaluation may be invited to participate in an additional interview evaluation process. The number of finalists will be determined by the Selection Review Committee. The interview evaluation process will provide an opportunity for Proposers to make a presentation to clarify their Proposal and for the Selection Review Committee to ask additional questions related to the Proposal and the Scope of Work. The City will notify finalists of the interview evaluation time and location and allow for a reasonable period of time for finalists to prepare presentations.

After the interviews, each member of the Selection Review Committee will re-evaluate and re-score each finalist interviewed according to the Evaluation Criteria. Each member will rank, in descending order, each interviewed finalist by total score.

The City reserves the right to perform additional investigations of any Proposer, including communication with licensing authorities, former clients, and references, and other means as the City deems appropriate, and may reject any Proposal upon finding a record of the Proposer's substandard workmanship.

Successful Proposer Determination

The Proposer with the highest overall ranking, as determined by the Selection Review Committee, based on both the written evaluation and interview evaluation, will be identified as the Successful Proposer.

The Selection Review Committee will determine the final ranking of Proposers, and the Committee's decision is final. Upon determination of the Successful Proposer and performance of additional investigations, the City will issue a Notice of Intent to Award letter notifying all Proposers of the City's selection of a Successful Proposer and protest procedures.

The City reserves the right to negotiate a final contract that is in the best interest of the City. The City will only negotiate those provisions of the contract that were noted as Exceptions in the Proposal. The City will attempt to reach a final agreement with the Successful Proposer. The City may, in its sole discretion, terminate negotiations and reject the Proposal in the event agreement cannot be reached. The City may then attempt to reach final agreement with the next highest ranked Proposer, and so on with the remaining Proposers, until an agreement is reached. In the alternative, the City may at any time elect to reject all Proposals and begin the RFP process over.

After the City has reached final agreement with the Successful Proposer, the Selection Review Committee will make a recommendation to the Wilsonville City Council. The Wilsonville City Council will then make the final contract award decision.

Award Protest

A Proposer believing to have been adversely affected or aggrieved by the selection of the Successful Proposer may submit a protest to the City in accordance with OAR 137-047-0740. The protest must be in writing and submitted to:

City of Wilsonville
Attn: Dustin Schull, Parks Supervisor
29799 SW Town Center Loop East
Wilsonville, OR 97070
OR
dschull@ci.wilsonville.or.us

Award protests shall include “Award Protest – Water Features Equipment” in the subject line of the email or written on the front of the envelope. The written protest must be received by the City no later than **5:00 p.m., Pacific Time, on Friday, September 27, 2024**. The protest should demonstrate that all higher ranked Proposers failed to meet the requirements of the RFP or are not qualified to perform the services described in the RFP. Protests received after the submittal deadline will not be considered.

No contract associated with the RFP will be awarded until any protests have been resolved. The City will evaluate and resolve all award protests submitted before the deadline within a reasonable time following receipt of the protest. The City will promptly issue a written decision on the protest to the Proposer who submitted the protest. If the City’s written decision on the protest results in a change to the RFP, the City will cancel the Notice of Intent to Award, revise the RFP documents accordingly, and solicit for new Proposals. The City’s decision regarding the protest is final and concludes the administrative appeals process.

X. SCHEDULE

The following is the anticipated timeline for receiving and evaluating Proposals and awarding a contract to the most qualified firm or individual. This schedule is subject to change as additional time is needed.

Advertise Request for Proposals	August 16, 2024
RFP Change Request Deadline	September 9, 2024, 5:00 p.m.

RFP Question Submission Deadline	September 9, 2024, 5:00 p.m.
Addenda Issuance Deadline	September 11, 2024
Proposals Due	September 16, 2024, 2:00 p.m.
Interviews Scheduled (<i>if required</i>)	September 19, 2024
Evaluation of Proposals Complete	September 20, 2024
Notice of Intent to Award	September 20, 2024
Award Protest Deadline	September 27, 2024, 5:00 p.m.
City Council Award	October 7, 2024, 7:00 p.m.
Notice of Award	October 8, 2024

XI. RFP QUESTIONS

Proposers shall direct all questions regarding RFP documents in writing by email to:

dschull@ci.wilsonville.or.us

All questions shall include “RFP Questions – Water Features Equipment” in the subject line of the email and must be received in the electronic inbox of the email identified above by **5:00 p.m., Pacific Time, on Monday, September 9, 2024**. Questions and answers will be provided by email to all firms on the RFP holders list. Additionally, responses will be posted on the City’s website by September 11, 2024 to share clarifying information with all potential Proposers.

Access to the City’s Project Manager for telephone calls, emails, or other communication will be unrestricted during the RFP preparation period up until 5:00 p.m., Pacific Time, on Monday, September 9, 2024. During this time, Proposers are encouraged to ask as many questions as needed to prepare a viable Proposal. Questions submitted after 5:00 p.m., Pacific Time, on Monday, September 9, 2024, will not be addressed.

For the sake of fairness, Proposers are not allowed to contact any City staff or official, other than the Project Manager, concerning this RFP. Contact with any other City staff or official concerning this RFP will be grounds for disqualification.

Proposers are hereby notified that verbal communication may not be relied upon as official communication concerning this RFP. Only answers to those questions responded to by the Project Manager via email or by written addendum may be relied upon.

XII. GENERAL RFP INFORMATION

Contract Award

The City may elect to award the contract to the highest ranked Proposer based on successful negotiation of scope, price, and terms. However, the City may, in its sole discretion, terminate negotiations and reject the Proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the next highest scoring Proposer and may continue on, in the same manner, with remaining Proposers until an agreement is reached.

The City will only negotiate those provisions of the contract that were noted as Exceptions in the Proposal.

Cancellation

The City reserves the right to cancel this RFP or the contract award or reject any or all Proposals at any time before execution of the contract by both parties if such cancellation or rejection is deemed to be in the best interest of the City. In no event shall the City have any liability for the cancellation of a contract award.

Changes to the RFP Solicitation by Addenda

The City reserves the right to make changes to the RFP by written addendum, which will be issued by email format only to all those who have obtained the RFP documents by pick-up or standard mail, and will also be made available for download at <http://www.ci.wilsonville.or.us/rfps>.

All addenda shall have the same binding effect as though contained in the main body of the RFP and Scope of Work.

No addenda will be issued later than **Wednesday, September 11, 2024**, except by an addendum, if necessary, postponing the date for receipt of Proposals or withdrawing the RFP altogether.

Each Proposer is responsible for obtaining all addenda prior to submitting a Proposal and shall acknowledge in the Proposal receipt of each addendum as part of the Proposal. Failure to acknowledge receipt of all addenda as part of the Proposal may result in rejection of the Proposal.

Confidentiality

All information submitted by Proposers shall become and remain the property of the City and, as such, is considered public information and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which the Proposer requests exception from disclosure as being proprietary information exempt from disclosure, consistent with Oregon law. If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

“This data constitutes a trade secret and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

Identifying the Proposal in whole as a trade secret is not acceptable. Failure to identify a portion of the Proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret. Nondisclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law.

The City will make available to any person requesting information through the City processes for disclosure of public records, any and all information submitted as a result of this RFP not exempted from disclosure without obtaining permission from any Proposer to do so after the Notice of Intent to Award has been released.

The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted. If a public record request is made for material marked as proprietary, the City will attempt to notify the impacted Proposer prior to the deadline for release of the material but will not defend against any legal challenge for release. Therefore, claims arising out of any public record request for such information shall be at the Proposer's sole expense, if the Proposer wishes to deny or withhold the information.

Late Proposals

All Proposals that are not received by the Proposal Due Date and Time will not be considered and will be unopened by the City. Faxed or mailed Proposals will not be accepted. Delays due to mail and/or delivery handling, including but not limited to delays within the City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the Proposal Due Date.

Disputes

In case of any doubt or differences of opinion as to the items or services to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the City shall be final and binding upon all parties.

Proposer Certifications

By the act of submitting a Proposal in response to this RFP, the Proposer certifies that:

1. The Proposer has carefully examined all RFP documents, including the draft Goods and Services Contract (**attached as Attachment A**), all addenda, and all other attachments, fully understands the RFP intent, is able to perform all tasks as described in the Scope of Work of this RFP, and the Proposal is made in accordance therewith. Except as otherwise noted as part of the Proposal, the Proposer certifies that Proposer is ready, willing, and able to comply with all terms of the attached contract.
2. The Proposer is familiar with the local conditions under which the work will be performed.
3. The Proposal is based upon the requirements described in the RFP, without exception, unless clearly stated in the response.
4. The Proposer accepts all of the terms of the City's Goods and Services Contract and warrants that Proposer will fully meet all of the insurance requirements contained therein. If the Proposer wishes to amend or modify any terms of the Goods and Services Contract, such amendment or modification must be stated in particularity in the Proposal. Proposed changes to the draft Goods and Services Contract not stated at the time of Proposal submission will not be considered. Changes stated will be considered but may not be agreed upon by the City for contract award. If the City does not agree with such noted changes, the Proposer may withdraw the proposed change or the entire Proposal and the City may elect to award the contract to the next highest ranked Proposer.
5. The Proposer certifies, and in the case of sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of Proposer's knowledge and belief, no elected official, employee, or person whose salary is payable, in whole or in part, by the City has a direct or indirect financial interest in the Proposal or in the services to which it relates, or in any of the profits thereof, other than as fully described in the Proposer's response to this solicitation.

6. The Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and if its Proposal is accepted, the Proposer shall accept the contract documents thereto, unless substantive changes are made in same without the approval of the Proposer.
7. The Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.
8. The Proposer has quality experience providing the types of services and duties as described within the Scope of Work of this RFP.

The Proposer shall also certify Proposer's state of residence.

Nondiscrimination

By the act of submitting a Proposal in response to this RFP, the Proposer certifies, under penalty of perjury, that ***the Proposer has not discriminated, and will not discriminate, against minorities, women, emerging small business enterprises, or business enterprises that are owned or controlled by or that employ a disabled veteran, in obtaining any required subcontracts.***

Competition

Prospective Proposers are encouraged to comment, either with their Proposals or at any other time, in writing, on any specification or requirement within this RFP which the Proposer believes will inordinately limit competition.

Proposal Liability

Proposers responding to this RFP do so solely at their expense, and the City is not responsible for any Proposer expenses associated with the RFP. By proposing, Proposers agree that doing so is at their own risk and the City shall have no liability related thereto. Finalists invited to participate in interview evaluations are responsible for scheduling and paying for their own travel arrangements. The City is not liable for any cost incurred by a Proposer in protesting any portion of the RFP documents or the City's selection decision.

City Requests for Clarification, Additional Research, and Revisions

The City reserves the right to obtain clarification of any portion of a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to timely respond to such a request for additional information or clarification may result in a finding that the Proposer is non-responsive and consequent rejection of the Proposal.

The City may obtain information from any legal source for clarification of any Proposal. The City need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole option, investigations of any Proposer. Information may include, but shall not necessarily be limited to, current litigation and contracting references. All such documents, if requested by the City, become part of the public record and may be disclosed accordingly.

The City reserves the right to request revisions of any Proposal after the date and time due and before award for the purpose of obtaining best and final offers.

Rejection of Proposals

The City reserves the right to reject any or all irregularities or omissions in Proposals submitted in response to this RFP to the extent it is determined to be in the best interest of the City to do so. Furthermore, the City reserves the right to reject any or all Proposals or portions thereof submitted in response to this RFP. Proposals may be rejected for one or more of the following reasons, including but not limited to:

1. Failure of the Proposer to adhere to one or more of the provisions established in the RFP.
2. Failure of the Proposer to submit a Proposal in the format specified herein.
3. Failure of the Proposer to submit a Proposal within the time requirements established herein.
4. Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.
5. Failure to provide information that is specifically requested in this RFP.

The City may reject any Proposal not in compliance with all prescribed public procurement procedures and requirements, and may reject for good cause any or all Proposals upon a finding by the City that it is in the public interest to do so.

City's Reservation of Rights

The City reserves the right to waive minor irregularities or omissions in compliance with the requirements of this RFP to the extent the Selection Review Committee and Project Manager determine it is in the best interest of the City to do so. The City also reserves the right to cancel this RFP at any time if it determines it is in the best interest of the City to do so. Therefore, by proposing, Proposers agree that doing so is at their own risk and the City shall have no liability related thereto.

Modification or Withdrawal of Proposal by Proposer

A Proposal may not be modified, withdrawn, or canceled by the Proposer following the time and date the Proposals are due. Proposals submitted early may be modified or withdrawn only by notice to the City at the Proposal submittal location prior to the time and date the Proposals are due. Such notice shall be submitted to the Project Manager, in writing, executed and signed by a duly authorized representative of the firm/individual submitting the Proposal. All such communication shall be worded so as not to reveal the contents of the original Proposal.

Withdrawn Proposals may be resubmitted prior to the time and date the Proposals are due, provided that they are then fully in conformance with the RFP.

Duration of Proposal

Proposal prices, terms, and conditions shall be firm for a period of at least ninety (90) days from the time and date Proposals are due. Proposals shall not be subject to future price escalation or changes of terms during the ninety (90) day period.

Local and Federal Requirements

The City of Wilsonville intends to select a contractor in accordance with OAR 137-047-0260 and the City's municipal code. Selection of a contractor under this process is not a guarantee of a contract award, nor is the award of a contract for any portion of the Work a guarantee of award of a contract for any subsequent work. All work is subject to budgetary and funding constraints of the City of Wilsonville.

The selected contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the work under the contract for this Project, including, without limitation, the provisions of: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

The selected contractor will be subject to the Oregon Workers Compensation Law and must comply with ORS 656.017, which requires the provision of Workers Compensation coverage for all employees working under the contract. The City of Wilsonville's programs, services, employment opportunities, and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age, marital status, disability, or political affiliation.

ATTACHMENT A

SAMPLE GOODS AND SERVICES CONTRACT

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CITY OF WILSONVILLE GOODS AND SERVICES CONTRACT

This Goods and Services Contract (“Contract”) for the Water Features Replacement and Maintenance Project (“Project”) is made and entered into on this ____ day of _____ 2024 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and _____, a(n) _____ *[corporation/LLC]* (hereinafter referred to as “Contractor”).

RECITALS

WHEREAS, the City requires services which Contractor is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Contractor is prepared to provide such services, as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Scope of Work

Contractor will perform the replacement and maintenance services, as more particularly described in the Scope of Work for the Project, attached hereto as **Exhibit A** and incorporated by reference herein (the “Work”). Contractor shall diligently perform the Work according to the requirements identified in the Scope of Work.

Section 2. Term

The term of this Contract shall be from the Effective Date until all Work required to be performed hereunder is completed and accepted, or no later than June 30, 2029, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City. The City, in its sole discretion, may exercise its option to extend the contract for two (2) two-year periods for continued maintenance and repair services.

Section 3. Contract Sum/Project Scope

3.1. Except as otherwise set forth in this **Section 3**, the City agrees to pay Contractor, on a time and materials basis, guaranteed not to exceed _____ DOLLARS (\$_____) for performance of the Work described in Task 1 in **Exhibit A** (“Contract Sum”). Any compensation in excess of the Contract Sum will require an express written Change Order between

the City and Contractor. All other Work identified in **Exhibit A** (Tasks 2 and 3) will be documented utilizing the Task Order Form attached hereto and incorporated by reference herein as **Exhibit B**, and such Work will be provided on a time and materials basis, in accordance with the Rate Schedule set forth on **Exhibit C**.

3.2. Contractor's Contract Sum and the rates stated in **Exhibit C** are all-inclusive and include, but are not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits, technology and/or software charges, licensing, trademark, and/or copyright costs, office expenses, travel expenses, mileage, and all other indirect and overhead charges, including, but not limited to, the Oregon Corporate Activity Tax (CAT).

3.3. Contractor will be paid for Work upon completion of the Work and within thirty (30) days of receipt of an itemized invoice, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Contractor as promptly as is reasonably possible.

Section 4. Prevailing Wages

This is a Contract for a Public Works Project, subject to ORS 279C.800 to 279C.870. Therefore, not less than the current applicable state prevailing wage must be paid on this Project. Wage rates for this Project are those published by the Oregon Bureau of Labor and Industries (BOLI), entitled "Prevailing Wage Rates for Public Works Contracts," effective July 5, 2024, and all subsequent amendments. The BOLI prevailing wage rate for public works contracts can be found at the following website: <http://www.oregon.gov/boli/employers/pages/prevailing-wage-rates.aspx>. Because this is a public works contract subject to payment of prevailing wages, each worker in each trade or occupation employed in the performance of the Work, either by Contractor, a subcontractor, or other person doing or contracting to do, or contracting for the whole or any part of the Work, must be paid not less than the applicable state prevailing wage for an hour's work in the same trade or occupation in the locality where such labor is performed, in accordance with ORS 279C.838 and 279C.840, if applicable. Contractor must comply with all public contracting wages required by law. If applicable, Contractor and any subcontractor, or their sureties, shall file a certificate of rate of wage as required by ORS 279C.845. If the City determines at any time that the prevailing rate of wages has not been or is not being paid as required herein, it may retain from the moneys due to Contractor an amount sufficient to make up the difference between the wages actually paid and the prevailing rate of wages, and may also cancel the Contract for breach. Contractor shall be liable to the workers affected for failure to pay the required rate of wage, including all fringe benefits under ORS 279C.840(5). If applicable, Contractor must include a contract provision in compliance with this paragraph in every subcontract and shall require each subcontractor to include it in subcontract(s).

Section 5. City's Rights and Responsibilities

5.1. The City will designate a Project Manager to facilitate day-to-day communication between Contractor and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

5.2. Award of this Contract is subject to budget appropriation. Funds are approved for Fiscal Year 2024-25. If not completed within this fiscal year, funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this Contract early, as described in **Section 16**.

Section 6. City's Project Manager

The City's Project Manager is Dustin Schull. The City shall give Contractor prompt written notice of any re-designation of its Project Manager.

Section 7. Contractor's Project Manager

Contractor's Project Manager is _____. In the event that Contractor's Project Manager is changed, Contractor shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Contractor's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Contractor that is not from Contractor's Project Manager, the City may request verification by Contractor's Project Manager, which verification must be promptly furnished.

Section 8. Subcontractors and Assignments

8.1. Unless expressly authorized in writing by the City, pursuant to **Subsection 10.1**, Contractor shall not subcontract with others for any of the Work prescribed herein. Contractor shall not assign any of Contractor's rights acquired hereunder without obtaining prior written approval from the City. Some Work may be performed by persons other than Contractor, provided Contractor advises the City of the names of such subcontractors and the services which they intend to provide, and the City specifically agrees, in writing, to such subcontracting. Contractor acknowledges such services will be provided to the City pursuant to a subcontract(s) between Contractor and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Contract, the City incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any attempted assignment of this Contract without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for services performed by others on behalf of Contractor shall not be subject to additional reimbursement by the City.

Section 9. Contractor Is Independent Contractor

Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor's sole risk. All damages or loss to Work, equipment, or materials incurred during the

performance of the Work shall be at Contractor's sole risk. Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 3** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor's Work. The City does not have the right to control or interfere with the manner or method of accomplishing said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project.

Section 10. Contractor's Responsibilities

10.1. The City understands and agrees that Contractor may request that some Work be performed on the Project by persons or firms other than Contractor, through a subcontract with Contractor. Contractor acknowledges that if such Work is provided to the City pursuant to a subcontract(s) between Contractor and those who provide such services, Contractor may not utilize any subcontractor(s), or in any way assign its responsibility under this Contract, without first obtaining the express written consent of the City. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Contractor. References to "subcontractor" in this Contract mean a subcontractor at any tier.

10.2. Contractor must comply with all applicable Oregon and federal wage and hour laws. Contractor shall make all required workers compensation and medical care payments on time. Contractor shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Contractor shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

10.3. Contractor must maintain a City of Wilsonville or Metro business license at all times while performing Work under this Contract.

10.4. No person shall be discriminated against by Contractor or any subcontractor in the performance of this Contract on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Contract, in whole or in part, by the City. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the implementation of the Project. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Contract or the implementation of the Project: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules, and regulations; (b) Titles VI and VII of the Civil Rights Act of 1964, as amended; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (e) Executive Order 11246, as amended; (f) the Health Insurance Portability and Accountability Act of 1996; (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (i) all regulations and

administrative rules established pursuant to the foregoing laws; and (j) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations.

10.5. Contractor shall make payment promptly, as due, to all parties supplying to such Contractor labor or material for the prosecution of the Work provided for in the Contract.

10.6. Contractor shall make payment promptly, as due, to any party furnishing medical, surgical, hospital, or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which Contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing payment for such service.

10.7. With certain exceptions listed below, Contractor shall not require or permit any person to work more than ten (10) hours in any one (1) day, or forty (40) hours in any one (1) week, except in case of necessity, emergency, or where public policy requires it, and in such cases the person shall be paid at least time and a half for:

10.7.1. All overtime in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is five (5) consecutive days, Monday through Friday; or

10.7.2. All overtime in excess of ten (10) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is four (4) consecutive days, Monday through Friday; and

10.7.3. All work performed on the days specified in ORS 279B.020(1)(b) for public contracts.

10.8. Contractor must give notice to employees who work on a public contract, in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

10.9. The hourly rate of wage to be paid by any Contractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by a public contract shall be not less than the applicable wage required by law.

10.10. Contractor, and all employers working under the Contract, are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017 unless otherwise exempt under ORS 656.126.

10.11. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources (and avoidance of natural resource damages) in the performance of the Contract, including but not limited to ORS 279C.525. If new or amended statutes, ordinances, or regulations are adopted, or Contractor

encounters a condition not referred to in this Contract, not caused by Contractor, and that was not discoverable by reasonable site inspection, which requires compliance with federal, state, or local laws or regulations dealing with the preservation of the environment, both the City and Contractor shall have all the rights and obligations set forth in ORS 279C.525.

10.12. Contractor shall be liable for any fine imposed against Contractor, the City, or the 'Project' as a result of a violation of any laws or permitting requirements by Contractor or any suppliers.

10.13. Contractor must maintain and provide proof of a statutory public works bond throughout the term of this Contract.

Section 11. Indemnity

11.1. Indemnification. Contractor acknowledges responsibility for liability arising out of the performance of this Contract, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Contractor's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Contract, or from Contractor's failure to perform its responsibilities as set forth in this Contract. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Contractor shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Contractor of its responsibility to perform in full conformity with the City's requirements, as set forth in this Contract, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Contractor's negligent performance of this Contract, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 11.2.** For those claims based on professional liability (as opposed to general liability or automobile liability), Contractor shall not be required to provide the City's defense but will be required to reimburse the City for the City's defense costs incurred in any litigation resulting from the negligent acts, omissions, errors, or willful or reckless misconduct by Contractor.

11.2. Standard of Care. In the performance of the Work, Contractor agrees to use at least that degree of care and skill exercised under similar circumstances by reputable members of Contractor's profession practicing in the Portland metropolitan area. Contractor will re-perform any Work not meeting this standard without additional compensation. Contractor's re-performance of any Work, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Contractor's failure to perform in accordance with the applicable standard of care of this Contract and within the prescribed timeframe.

Section 12. Insurance

12.1. Insurance Requirements. Contractor must maintain insurance coverage acceptable to the 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. Any and all agents or subcontractors with which Contractor contracts for any portion of the Work must have insurance

that conforms to the insurance requirements in this Contract. Additionally, if a subcontractor is an engineer, architect, or other professional, Contractor must require the subcontractor to carry Professional Errors and Omissions insurance and must provide to the City proof of such coverage. The amount of insurance carried is in no way a limitation on Contractor's liability hereunder. The policy or policies maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

12.1.1. Commercial General Liability Insurance. Contractor and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

12.1.2. Business Automobile Liability Insurance. If Contractor or any subcontractors will be using a motor vehicle in the performance of the Work herein, Contractor shall provide the City a certificate indicating that Contractor and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

12.1.3. Workers Compensation Insurance. Contractor, its subcontractors, 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 under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

12.1.4. Insurance Carrier Rating. Coverages provided by Contractor and its subcontractors must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

12.1.5. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Contractor's liabilities hereunder in insurance coverages. Additional Insured coverage under Contractor's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via

ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: “The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers.” An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days’ written notification of any termination or major modification of the insurance policies required hereunder. Contractor must be an additional insured on the insurance policies obtained by its subcontractors performing any of the Work contemplated under this Contract.

12.1.6. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Contractor shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Contractor agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days’ prior advance notice and Contractor will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

12.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Contractor shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are “Claims Made” policies, Contractor will be required to maintain such policies in full force and effect throughout any warranty period.

Section 13. Bonding Requirements

13.1. Payment and Performance Bonds. Contractor shall obtain a Payment Bond and a Performance Bond, each in a form acceptable to the City and from a surety acceptable to the City, and each in the full amount of the Contract Sum.

13.2. Public Works Bond. Pursuant to ORS 279C.830(2), in addition to the Payment and Performance bonds, before starting work on this Contract or any subcontract hereunder, Contractor and all subcontractors, unless exempt under ORS 279C.836(4), (7), (8), or (9), must have on file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in the State of Oregon in the minimum amount of **\$30,000**. The bond must provide that the Contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. The bond must be a continuing obligation, and the surety’s liability for the aggregate of claims that may be payable from the bond may not exceed the penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid under ORS 279C.836, unless the surety sooner cancels the bond. Contractor further certifies that Contractor will include in every subcontract a provision requiring a subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836(4), (7), (8), or (9).

13.3. Bond Claims. Any notice of claim on a payment or performance bond or public works bond shall comply with the requirements of ORS 279C.605.

Section 14. Warranty

14.1. In addition to, and not in lieu of, any other warranties provided by various manufacturers and suppliers, Contractor fully warrants all Work and materials for a period of one (1) year from the date of Final Acceptance of the Work and shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the City's Project Manager and at no cost to the City, any and all defects, breaks, or failures of the Work or materials occurring within one (1) year following the date of completion due to faulty or inadequate materials or workmanship. Repair of damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of Contractor in performing Contractor's duties and obligations under this Contract, is also covered by the warranty when such defects or damage occur within the warranty period. The one (1) year warranty period shall, with relation to such required repair, be extended one (1) year from the date of completion of such repair.

14.2. Contractor warrants to the City that any materials and equipment furnished under this Contract will be new and of good quality, unless otherwise required or permitted by this Contract, that the Work will be free from defects, and that the Work will conform to the requirements of this Contract. Work not conforming to these requirements, including substitutions not properly approved and authorized in writing by the City, may be considered defective.

Section 15. Suspension

The City may suspend, delay, or interrupt all or any part of the Work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Contractor. An adjustment in the time of performance or method of compensation shall be negotiated as a result of such delay or suspension, unless the reason for the delay was within Contractor's control. The City shall not be responsible for Work performed by any subcontractors after notice of suspension is given by the City to Contractor.

Section 16. Early Termination; Default

16.1. This Contract may be terminated prior to the expiration of the agreed upon terms:

16.1.1. By mutual written consent of the parties;

16.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Contractor by mail or in person; or

16.1.3. By Contractor, effective upon seven (7) days' prior written notice, in the event of substantial failure by the City to perform in accordance with the terms through no fault of Contractor, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

16.2. If the City terminates this Contract in whole or in part, due to default or failure of Contractor to perform Work in accordance with the Contract, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Contractor shall be liable for all costs and damages incurred by the City as a result of the default by Contractor, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Contract. This Contract shall be in full force to the extent not terminated by written notice from the City to Contractor. In the event of a default, the City will provide Contractor with written notice of the default and a period of three (3) days to cure the default. If Contractor notifies the City that it cannot, in good faith, do so within the three (3) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, which agreed upon extension must be in writing and signed by the parties prior to the expiration of the cure period. Unless a written, signed extension has been fully executed by the parties, if Contractor fails to cure prior to expiration of the cure period, the Contract is automatically terminated.

16.3. If the City terminates this Contract for its own convenience not due to any default by Contractor, payment of Contractor shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Contractor against the City under this Contract.

16.4. Termination under any provision of this **Section 16** shall not affect any right, obligation, or liability of Contractor or the City that accrued prior to such termination. Contractor shall surrender to the City items of work or portions thereof, for which Contractor has received payment or the City has made payment.

Section 17. Contract Modification; Change Orders

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Contractor.

Section 18. Notices

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville
Attn: Dustin Schull, Parks Maintenance Supervisor
29799 SW Town Center Loop East
Wilsonville, OR 97070

To Contractor: _____
Attn: _____

Section 19. Miscellaneous Provisions

19.1. Integration. This Contract, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these or any other documents, the provisions of this Contract shall control, and the terms most favorable to the City, within the City's sole discretion, will apply.

19.2. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

19.3. No Assignment. Contractor may not assign this Contract, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

19.4. Adherence to Law. This Contract shall be subject to, and Contractor shall adhere to, all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Contractor is required by law to obtain or maintain in order to perform the Work described in this Contract shall be obtained and maintained throughout the term of the Contract.

19.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

19.6. Jurisdiction. Jurisdiction and venue for any dispute will be in Clackamas County Circuit Court.

19.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Contract or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Contract, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

19.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Contract shall in no way affect the party's rights hereunder to

enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

19.9. Severability. If any provision of this Contract is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Contract shall remain in full force and effect, to the greatest extent allowed by law.

19.10. Modification. This Contract may not be modified except by written instrument executed by Contractor and the City.

19.11. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

19.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Contract, the first day from which the designated period of time begins to run shall not be included.

19.13. Headings. Any titles of the sections of this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

19.14. Number, Gender and Captions. In construing this Contract, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Contract.

19.15. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Contract generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Contract. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Contract gives the City “sole discretion” or the City is allowed to make a decision in its “sole judgment.”

19.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Contract in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

19.17. Interpretation. As a further condition of this Contract, the City and Contractor acknowledge that this Contract shall be deemed and construed to have been prepared mutually by

each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

19.18. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein represent the entire agreement between the parties.

19.19. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

19.20. Authority. Each party signing on behalf of Contractor and the City hereby warrants actual authority to bind their respective party.

The Contractor and the City hereby agree to all provisions of this Contract.

CONTRACTOR:

CITY:

CITY OF WILSONVILLE

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

EIN/Tax I.D. No. _____

APPROVED AS TO FORM:

Amanda Guile-Hinman, City Attorney
City of Wilsonville, Oregon

Exhibit A

Scope of Work

Project Scopes

This Scope of Work consists of three identified tasks: (1) Replacement of the two Murase Plaza Water Feature systems; (2) Replacement of the one Town Center Park Water Feature system; and (3) on-call maintenance and repair of the three water feature systems. Each task may include sub-tasks. Work anticipated beyond Fiscal Year 2024-25 is subject to future budget appropriations and may require a Task Order (Exhibit B).

Task 1: Murase Plaza Water Feature Replacement (FY 2024-25)

Design, build and install a modern and updated water feature operating system for both systems in the Murase Plaza water feature vault.

Existing Conditions.

The work is to take place in a 10' x 20' underground equipment vault that is approximately 11' feet in depth. The vault is a permit-required confined space that may be deemed an alternate entry if all hazards can be mitigated. Forced air, lighting and continuous gas monitoring will still be required when working in the space.

The existing vault equipment will be removed by City staff, leaving in place a mostly stripped-down vault apart from some electrical conduit, electrical gear, five elevated concrete pump bases, and two wall mounted manifolds.

The existing vault is configured to have two separate water feature systems within the same vault. The first is the spray deck feature, consisting of one 20 hp jet pump that feeds the spray deck manifold, and one 3 hp variable speed filter pump. The second is the runnel feature consisting of two 30 hp weir pumps that feed the runnel manifold and one 3 hp variable speed filter pump. The contractor will have the existing schedule 80 pipe stubs that penetrate the vault wall to plumb from in order to recreate the two water feature systems.

Each water feature has a separate underground surge tank located in close proximity of the equipment vault. The spray surge tank is approximately 8 feet by 8 feet, and the runnel is approximately 8 feet by 16 feet.

Sub-Task 1.1. Design.

Each water feature system in Murase Plaza should be designed to have a workstation with the pool controller, probes, test pit cocks, and worktable adequate to perform required testing. The design and placement of the new equipment should be constructed in a manner to allow pool operators as much unimpeded access to the equipment and allow for as much operating room as possible.

All penetrations will need to have a flanged fitting just inside the surface of the vault wall followed by an isolation valve. The jet and weir penetrations will need to be metal butterfly valves whereas the other penetrations need to be schedule 80 PVC IPEX true union ball valves.

Each surge tank will need to be designed with a screen wall constructed across the entire run, in front of the intake pipes. The walls need to be of fiberglass grating with 1 inch by 1 inch spacing. It must connect to the walls and run from the floor of the vault to 3" above the overflow level. There is to be no spaces greater than the 1 inch by 1 inch over the entire wall assembly. Connection points will need to be of corrosive resistant material and allow for easy removal for periodic maintenance.

Contractor will meet with City staff on-site to review existing conditions prior to beginning its design for new installation. Contractor will provide at least two (2) rounds of draft designs of the new water feature systems installation in Murase Plaza for City staff review and comment prior to beginning installation. Design must note any demolition/removal of current components and procurement of needed components, both of which Contractor will undertake upon City approval of the design.

**Concrete pump blocks may need to be removed and repoured in order to accommodate the new pump design. If warranted, Contractor should explicitly note such need in its design.

Sub-task 1.2. Installation

Each of the replacement water feature systems in Murase Plaza must be installed according to Contractor's design. Any changes from the approved design must be approved in writing by the City prior to performing the changed work. Contractor is responsible for coordinating work with all needed subcontractors. Contractor must account for confined space entries and alternate entries into confined spaces for all contractors and subcontractors involved in the Project. Contractor must perform dry fit installation of all components and must install all components following City written approval on dry fit installation. In addition, the following equipment and items must be replaced in the water features:

- Six butterfly valves
- Weir pump #1- 30 hp Badu Block Multi Series with 10" coated cast iron strainer (replace with same or equivalent)
- Weir pump #2 - 30 hp Badu Block Multi Series with 10" coated cast iron strainer (replace with same or equivalent)
- Jet pump - 20 hp Normblock Multi with 6" x 8" FRP basket strainer (replace with same or equivalent)
- Runnel filter pump - Intelliflo 3 variable speed pump with i/o board and keypad (replace with same or equivalent)
- Spray deck filter pump - Intelliflo 3 variable speed pump with i/o board and keypad (replace with same or equivalent)
- Spray deck sand filter – Triton II
- Runnel sand filter baffles and median
- All gaskets, gauges and ball valves
- Blower Fan
- All check valves
- UV systems

- Accu-Tab chlorination systems with booster pumps
- BECSys 5 controllers
- Flow cells with ORP, PH, and PPM probes compatible with BECSys 5 controllers
- All tubing

Existing items to be reinstalled:

- Co2 Tank
- Co2 Feeders
- Runnel Sand Filter
- Bilge pumps (2)
- Aqua Star valves (2)

Contractor will also need to reconnect all electrical and controls.

The City, or its authorized representative(s), will inspect the installation for conformance with the design prior to performance of any system testing.

Sub-task 1.3. Testing and Acceptance.

Contractor will perform all testing necessary to ensure that the newly installed water feature systems are functioning properly. Contractor will provide the City will at least five (5) days' prior written notice of its intention to test the systems. City staff must be present for any and all testing of the systems. Any issues identified during testing must be resolved by Contractor at no additional cost to the City. Once the City is satisfied that the water feature systems are operating properly, it will provide Contractor with written acceptance of Contractor's installation work, which will trigger the commencement of the warranty period stated in the contract.

Sub-task 1.4. Operations and Maintenance Manual

Contractor will document, in writing, all equipment installed and will draft an Operations and Maintenance Manual for use by the City. City staff will be provided at least two (2) rounds of reviewing a draft Operations and Maintenance Manual for feedback to Contractor. The Operations and Maintenance Manual must provide details of equipment used, products needed for maintenance, and procedures to continually maintain the water features. Contractor must also provide relevant personnel contact information for any installation, maintenance, or repair issues.

Phase 2: Town Center Park Water Feature (FY 2025-26)

Design, build and install a modern and updated water feature operating system for a single system in the Town Center Park water feature vault similar to Task 1. The specifications for Task 2 will be documented in a Task Order utilizing the Task Order Form attached hereto as Exhibit B.

General work associated with Task 2 may include but is not limited to:

- Demolition and removal of all current components
- Design new modern system components
- Procurement of needed components following review by city team
- Coordination of all needed subcontractors

- Confined space entries and alternate entries into confined spaces for all contractors involved in the project
- Dry fit installation of all components
- Installation of all components following city sign off on dry fit
- Test run and confirmation of all components in the system
- Additional or updated Operations and Maintenance Manual

Task 3: Ongoing on Call Service and Maintenance (FY 2024-25 through FY 2028-29)

- Trouble shoot and diagnose technical issues over the phone or in person
- Respond onsite within 24 hours during peak season (May-September)
- Respond onsite within 72 hours during non-peak season (October- April)
- Procure needed components and install
- Make suggestions for areas of improvement as applicable.

For work conducted under this task, the parties will enter into task orders utilizing the form attached hereto as Exhibit B.

DRAFT

Exhibit B

TASK ORDER # _____

Water Feature Replacement and Maintenance

DATE: _____

City Reference #: _____

This Task Order is executed pursuant to a Goods and Services Contract for **Water Features Replacement and Maintenance** ("Contract"), by and between XXXXXXX (Contractor) and the City of Wilsonville (City), dated _____, 2024. All Terms and Conditions of the Contract shall remain in full force and effect during performance of this Task Order, except as otherwise specifically identified below:

(Describe any exception, if any, or indicate Not Applicable)

Scope of Services

Contractor shall perform all of the Tasks as attached hereto as Exhibit 1 on a time and materials not-to-exceed basis, according to Contractor's Rate Schedule attached to the Contract and the Task-Specific cost proposal, attached hereto. The total Task Order not-to-exceed price is \$_____.

Term

This Task Order commences on the date shown above, and must be completed on or before _____, 20___. All Services shall be completed by said date, unless extended by the parties, in writing.

Contractor

City of Wilsonville

Signature

Signature

Printed Name and Title

Printed Name and Title

GSK Task Order # _____

Exhibit C

Rate Schedule

[PLACEHOLDER]