

**CITY OF SPRINGFIELD**  
**INDEPENDENT CONTRACTOR AGREEMENT**  
(Type 5: Public Works Contracts for over \$50,000)  
Contract # **Email [purchasing@springfield-or.gov](mailto:purchasing@springfield-or.gov) for contract #**

Dated:

Parties: City of Springfield (“CITY”)  
A municipal corporation of the State of Oregon  
225 Fifth Street  
Springfield, Oregon 97477

and

(“Independent Contractor”)

**Additional Independent Contractor Information:**

- A. Type of Entity:  Sole Proprietorship  Partnership  Limited Liability Company  Corporation
- B. Address:
- C. Telephone:
- D. Fax No:
- E. SSN or Fed. I.D. No:
- F. Construction Contractor Board No:
- G. Foreign Contractor:  Yes  No  
(Foreign means not domiciled in or registered to do business in Oregon) See Exhibit B (11).

**City Account Number(s) To Be Charged (Include Percentages):**

Account Number	Percentage

In consideration of the mutual covenants contained herein, the parties agree to the following terms, provisions and conditions:

1. **Payment by CITY.** CITY shall pay Independent Contractor according to the sum and schedule described in Attachment “1” attached hereto and incorporated herein by this reference and in an amount not to exceed \$ \_\_\_\_\_.
2. **Services to be Performed by Independent Contractor.** Independent Contractor shall perform the services described in Attachment 1.
3. **Invoice.** Invoice to be sent to: Accounts Payable - City of Springfield, 225 5<sup>th</sup> Street, Springfield, OR 97477 or email to [ap@springfield-or.gov](mailto:ap@springfield-or.gov). Invoice will be paid on net 30 day terms upon City acceptance of goods delivered, work or services performed. The invoice must reference this contract #XXXX and approval code #XXX.

4. **Sourcing.** *[Insert here a description the sourcing activity that was performed.]*
5. **First Point of Contact.**  
**Independent Contractor:** [insert name, ph# and email address]  
**CITY:** [insert name, ph# and email address]
6. **Term.** This Agreement is effective as of the date first set forth above and shall continue until \_\_\_\_\_, unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties.
7. **Independent Contractor Status.** By its execution of this Agreement, Independent Contractor certifies its status as an "Independent Contractor" as that term is used under the laws of the State of Oregon, and that all performance of any labor or services required to be performed by Independent Contractor under the terms of this Agreement shall be performed in accordance with the standards set forth in ORS 670.600, and as more specifically set forth on Exhibit "A" attached hereto and incorporated herein by this reference.
8. **Conformance with Oregon Public Contracts Law (ORS Chapter 279).** Independent Contractor shall comply with all applicable provisions of Oregon law for public contracts, including, but not limited to ORS 279B.110, ORS 279B.220, ORS 279B.225, ORS 279B.230, ORS 279B.235, ORS, 279C.505, ORS 279C.515, ORS 279C.520, ORS 279C.525, ORS 279C.530, ORS 279C.830, and ORS 279C.510, and as more fully set forth on Exhibits "A", "B" and "C" attached hereto and incorporated herein by this reference.
9. **Work Performed.** The work to be performed by Independent Contractor includes services generally performed by Independent Contractor in his/her/its usual line of business.
10. **Tax duties and Liabilities.** Independent Contractor shall be responsible for all federal, state and local taxes, if any, applicable to any payments received pursuant to this Agreement, including but not limited to income tax, payroll tax, social security and self-employment tax. CITY shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Independent Contractor and as more specifically set forth in Exhibit C.
11. **Reimbursement of Expenses.** Independent Contractor shall not be entitled to reimbursement by CITY for any expenses incurred by Independent Contractor unless otherwise agreed in writing.
12. **Materials and Supplies.** Independent Contractor shall supply all materials and supplies needed to perform the services required unless otherwise agreed in writing.
13. **No Authority to Bind CITY.** Independent Contractor shall have no authority to enter into contracts on behalf of CITY, its officers, agents and employees. This Agreement shall not create a partnership or joint venture of any sort between the parties.
14. **Federal Employment Status.** In the event payment made pursuant to this Agreement is to be charged against federal funds, Independent Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Independent Contractor's normal charge for the type of services provided.
15. **Indemnification and Hold Harmless.** The Independent Contractor shall defend, indemnity and hold harmless the City from and against all liability or loss and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with performance if this Contract by the Independent Contractor except, pursuant to ORS 30.140, for losses, claims, or actions resulting from the sole negligence of the City.

The Independent Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Independent Contractor, the City, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other causes whatsoever. The Independent Contractor shall assume defense of, indemnify and save harmless the City, its officials, agents, and employees from all claims, liability, loss, damage, and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Contract, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Independent Contractor or any Subcontractor under the Contract or any way arising out of the Contract, irrespective of whether an act, omission or conduct of the City connected with the Contract is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Independent Contractor or Subcontractor is merely a condition rather than a cause of a claim, liability, loss damage or injury. The Independent Contractor shall not be liable for, nor be required to defend or indemnify, the City relative to claims for damage or damages resulting solely from acts or omissions of the City, its officials, agents, or employees. The absence of or inadequacy of the liability insurance required in section 16 shall not negate Independent Contractors obligations in this paragraph.

**16. Insurance.**

- 16.1 General Insurance.** The Independent Contractor shall maintain in force for the duration of this Agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate for bodily injury or property damage. The policy will be endorsed with a “per project” aggregate endorsement. Automobile Liability (owned, non-owned, and hired) insurance with limits not less than \$1,000,000 per occurrence shall be maintained. *The City, its employees, officials and agents will be named as Additional Insured’s* where operations are being conducted related to this Contract, on the General Liability policy as respects to work or services performed under this Agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Independent Contractor or the fault of the Independent Contractor’s agents, representatives or subcontractors. The City’s additional insured status for Products and Completed Operations hazards shall extend for at least one year beyond the completion of the project. This insurance will be primary over any insurance the City may carry on its own. If the City requires Professional Liability coverage, the City Risk Manager must approve the terms, conditions and limits prior to commencement of any work. Independent Contractor understands that CITY is a public entity subject to the requirements of the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. In the event that CITY’S financial obligations or liabilities are modified by any amendment to the liability limits imposed by the Oregon Governmental Tort Claims Act, Independent Contractor agrees that the limits regarding liability insurance set forth in this Section 16 will be modified to conform to such limits. Independent Contractor and CITY shall sign an amendment to this Agreement incorporating such modification.
- 16.2 Workers’ Compensation.** Independent Contractor shall provide and maintain workers’ compensation coverage with limits not less than \$500,000 for its employees, officers, agents, or partners, as required by applicable workers’ compensation laws as defined in ORS 656.027 and ORS 701.035(5). If Independent Contractor is exempt from coverage, a written statement signed by Independent Contractor so stating the reason for exemption shall be provided to the City.
- 16.3 Course of Construction and/or Installation Floater.** The Independent Contractor shall maintain an all risk insurance policy covering the replacement cost of the work during the course of construction. The policy shall include the interests of the City and Architect and the first two layers of Subcontractors. The amount of insurance shall equal the completed value of the Contract. The City, at its option, may elect to supply this coverage.

- 16.4 Evidence of Coverage.** Evidence of the required insurance coverages issued by an insurance company satisfactory to the City shall be provided to the City by way of a City approved certificate of insurance before any work or services commence.
- 16.5 Notice of Cancellation or Material Change in Coverage.** The certificate of insurance shall contain a requirement that the Insurance company notify the City 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30 day notice, the Independent Contractor shall provide written notice to the City contract manager within 2 calendar days after the Independent Contractor becomes aware that their coverage has been canceled or has been materially changed. The Independent Contractor shall either fax 541-726-3782 said notice or email it directly to purchasing@springfield-or.gov. Regardless of what circumstances caused Independent Contractors insurance coverage to cease or be modified, it is the Independent Contractor's responsibility to notify the City. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract. \_\_\_\_\_ **(Independent Contractor initials).**
- 16.6 Equipment and Material.** Independent Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.
- 16.7 Subcontractors.** Independent Contractor shall require all subcontractors to provide and maintain general liability, auto liability, professional liability (as applicable), and workers' compensation insurance with coverages equivalent to those required of the general contractor in this contract. Independent Contractor shall require certificates of insurance from all subcontractors as evidence of coverage.
- 16.8 Exception or Waivers.** Any exception or waiver of these requirements shall be subject to review and approval from the City's Risk Manager.
- 16.9 Asbestos Abatement** (Only applicable to contracts where asbestos maybe present) The commercial General Liability policy shall be written on a form that meets the following criteria and must be ASBESTOS SPECIFIC as follows:
- a. A full occurrence form, or
  - b. A limited occurrence form with at least a three-year (3) tail, or
  - c. A claim made form with a three-year (3) tail.
- 16.10. Railroad Protective Liability Coverage.** If work being performed under this Contract is near railroad tracks or a railroad right of way and the Railroad requires special insurance (for example: Railroad Protective Liability Coverage) Independent Contractor will be responsible for meeting the Railroad insurance requirements before any work commences. Any insurance required to be purchased by the Railroad is in addition to the insurance required by the City.
- 17. Prevailing Wage Rate Provisions.** *Oregon law requires that if prevailing wage rate law applies a public agency must pay the prevailing wage rate for all contracts over \$50,000. The prevailing wage rate requirements, and other requirements associated with the prevailing wage rate, apply to the provisions outlined in this Section 17 and in sections 18 through 21 below.*

#### Notice

In the event that total cost of the contract as specified in Section 1 "Payment by CITY" does not initially exceed \$50,000 but during the scope of work increases through amendments, change orders, additions, supplements, other contracts, or through any other reason or process, formal or informal, planned or unplanned, to an amount greater than \$50,000 then the entire contract is covered under the requirements of the prevailing wage rate law as described below.

#### A. Prevailing Wage Rate

It is agreed that each worker in each trade or occupation employed in the performance of this Contract either by the Independent Contractor, Subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the Contract, must be paid not less than the applicable prevailing wage rate. Prevailing wage rate payments include fringe benefits, for each trade or occupation in the locality where such labor or work is performed, as determined by the commissioner, in which the workers are employed. The existing rate of wage is the rate, in effect at the time the initial specifications were first advertised for bid solicitations as determined by the Commissioner of the Bureau of Labor and Industries under ORS279C.815(2)(b).

The Independent Contractor, Subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the Contract shall give notice to employees working on the contract project in writing, either at the time of hire or before commencement of work on the Contract, and by posting a notice in a conspicuous location which is accessible to and frequented by employees, of the number of hours per day and days per week that the employee may be required to work as specified in ORS 279C.520. The posting must remain in place for the duration of the job.

No person will be employed by the Independent Contractor or Subcontractor for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed shall be paid at least time and one-half the regular rate of pay for all times worked in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on a Saturday, Sunday and on any legal holiday specified in ORS 279C.540.

As specified in ORS 279C.515, if the Independent Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Independent Contractor or a Subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the City of Springfield may pay such claim and charge the amount of the payment against funds due or to become due the Independent Contractor by reason of the Contract. The payment of a claim in this manner shall not relieve the Independent Contractor or the Independent Contractor's surety from obligation with respect to any unpaid claims.

- 18. Submission of Certified Payrolls.** As specified in ORS 279C.845, the Independent Contractor or the Independent Contractor's surety and every Subcontractor or the Subcontractor's surety shall file certified statements with the public agency in writing, on a form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom the Independent Contractor or the Subcontractor has employed upon the public works, and further certifying that no worker employed upon the public works has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract. The certificate and certified statement shall be verified by the oath of the Independent Contractor or the Independent Contractor's surety or Subcontractor or the Subcontractor's surety that the Independent Contractor or Subcontractor has read the certified statement and certificate and knows the contents thereof and that the same is true to the Independent Contractor or Subcontractor's knowledge. Certified statements (also referred to as certified payroll reports) shall be submitted to the City no later than the 5<sup>th</sup> day of the following month for which the certified statement and certificate are being presented. This information must be submitted to the City and also retained by the Independent Contractor and Subcontractor(s) for three years.

Contracting agencies and general contractors are required to withhold 25% of amounts to Contractors if certified payrolls are not filed by the Contractor as required for work performed on projects subject to the prevailing wage rate law. Failure of Contractors to comply with the certified

payroll filing requirements of the law, therefore, will result in a negative fiscal impact to those Contractors of up to 25% of their amount owed.

19. **Fee to be Paid.** The Independent Contractor shall pay all sums of money withheld from his or her employees and payable to the Department of Revenue pursuant to Oregon Revised Statutes.

The Independent Contractor shall promptly pay all contributions or amounts due the State Industrial Accident Fund, or private carrier of accident insurance, from such Independent Contractor or Subcontractor incurred in the performance of the Contract. If a private carrier is used, the Independent Contractor shall notify the Engineer as to the carrier's name and address before commencement of work.

20. **Bonding.** The Independent Contractor shall file with the CITY at the time of execution of this Agreement, a Performance and Payment Bond issued by a Bonding Company acceptable to the CITY in the amount of 100 % of the cost of the Agreement. These bonds shall be in force for one (1) year after CITY acceptance of the work to cover all guarantees against defective workmanship, materials and execution in accordance with this Agreement, and to guarantee payment to all persons supplying labor and materials for this Agreement.

As specified in ORS chapter 279C.836 Contractors and Subcontractors are required to file with Construction Contractors Board a public works bond with a corporate surety in the amount of \$30,000 before starting work on a Contract or Subcontract for a public works project subject to the provisions of Prevailing Wage Rate Law (ORS 279C.800 to ORS 279C.870). The bond shall be mailed or otherwise delivered to the Construction Contractors Board at the following address:

Construction Contractors Board  
P.O. Box 14140  
Salem, OR 97309-5052

Specific exemptions from this requirement were expanded with House Bill 2776 as follows:

Exemptions from the bond requirement may be granted under specific circumstances as outlined in ORS 279C.836(7) for certified disadvantaged, minority, women or emerging small business enterprises. The Independent Contractor shall contact BOLI regarding qualifications for such exemptions.

If qualified the enterprise must provide the Construction Contractor's Board with written notification of its certification. In addition, the enterprise must notify the City that a public works bond has not been filed and provide proof of qualification prior to commencing work.

By signing this Contract, the Independent Contractor certifies that the Independent Contractor or any Subcontractor who will perform work under this Contract, will file a public works bond with the Construction Contractors Board prior to beginning work on this project.

21. **BOLI Ineligible List.** As specified in ORS 279C.860 no Contractor, Subcontractor, or any firm corporation, partnership, or association in which the Contractor or Subcontractor has a financial interest who appears on the list of Contractors eligible to receive Public Works Contracts, as established by the Bureau of Labor and Industries, shall perform work under this contract. By signing this Contract, the Independent Contractor certifies that neither the Independent Contractor nor any Subcontractor who will perform work under this contract, appears on the most current list of Contractors Ineligible to Receive Public Works Contracts.

22. **Indian Graves.** The Independent Contractor warrants that it will observe all applicable requirements of ORS 97.740 et. seq. regarding Indian Graves and Protected Objects (ORS 358.905-.961 and ORS 390.235-.240).

In the event the Independent Contractor or any of its Subcontractors or agents discover, become aware of, or find any Native Indian Artifacts, sites, human remains, or funerary objects on the real property on which the Independent Contractor is fulfilling this Contract, the Independent Contractor will immediately safeguard the artifacts and site, halt construction activities at the area of the find, and immediately notify City. Such artifacts may include but not be limited to charred and cracked rocks or charcoal layers of soil indicating a hearth or oven, stone chips of obsidian and other colored rocks, stone bowls, arrow and spear points, stone tools, and bone fragments. All artifacts found shall be turned over to the City for appropriate disposition in accordance with applicable law. Upon receipt of notification the City will retain a consultant archeologist to conduct an initial assessment of significance of the find. The Independent Contractor and City will work together to comply with all applicable requirements of ORS 97.740 et. seq. in a manner which has least impact upon the construction schedule. If compliance requires some adjustment of the construction schedule, the Independent Contractor and the City shall make reasonable adjustments.

23. **Liquidated Damages.** It is agreed by the CITY and the Independent Contractor that prior to the execution of this Agreement, discussion and negotiation has occurred concerning the need for a damage provision in the event the Independent Contractor fails to complete the work within the contract time specified, or extension thereof by the CITY. CITY and the Independent Contractor further agree that the Independent Contractor shall be liable to the CITY for fixed, agreed and liquidated damages for each and every calendar day in the amount of \_\_\_\_\_ per day. CITY and Independent Contractor agree that: (a) the amount so fixed is reasonable forecast of just compensation for the harm that is caused by the breach; (b) the harm that is caused by the breach is one that incapable or very difficult or accurate estimation; and (c) the amount so fixed is not fixed as a penalty to coerce performance of the Agreement but is rather intended to be a genuine pre-estimation of injury to the CITY in lieu of performance within the contract time by the Independent Contractor.

24. **Employee Drug Testing.** By signing this Agreement, Independent Contractor certifies that it has in place and will maintain in place over the life of this Agreement an employee drug testing program pursuant to ORS 279C.505.

25. **Termination.** The performance of work under this Agreement may be terminated by CITY, in whole or in part, whenever for any reason CITY shall determine that such termination is in the best interest of CITY. Any such termination shall be effected by delivery to the Independent Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective. Upon delivery to the Independent Contractor of a Notice of Termination under this paragraph, the Independent Contractor and CITY shall, by agreement, make an appropriate written modification to this Agreement governing completion of portions of the independent Contractor's work and payment therefore by CITY.

26. **Rights in Data.** All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for CITY pursuant to this Agreement, shall become exclusively the property of CITY. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Independent Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Independent Contractor's possession, independently developed by Independent Contractor outside the scope of this Agreement, or rightfully obtained by Independent Contractor from third parties, shall belong to Independent Contractor. This agreement shall not preclude Independent Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to CITY

pursuant to this Agreement. Independent Contractor shall not, however, use any written materials developed under this Agreement in developing materials for others, except as provided in this section.

27. **Confidentiality.** During the course of performance hereunder, Independent Contractor or its agent, employees, or contractors, may receive confidential information. Independent Contractor agrees to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information.
28. **Assignment/Subcontract.** Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
26. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
27. **Compliance with All Government Regulations.** Independent Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Independent Contractor.
28. **Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal.
29. **Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CITY may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
30. **Assistance Regarding Patent and Copyright Infringement.** In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
31. **Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
32. **Access to Records.** CITY and its duly authorized representatives shall have access to books, documents, papers and records of Independent Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.
33. **Waiver.** Failure of CITY to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by CITY of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.



- 34. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of CITY. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.
  
- 35. **Nondiscrimination.** Independent Contractor shall comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.
  
- 36. **Americans with Disabilities Act Compliance.** Independent Contractor will comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et seq. and Section 504 of the Rehabilitation Act of 1973.
  
- 37. **Dual Payment.** Independent Contractor shall not be compensated for work performed under this contract from any CITY agency other than the agency which is a party to this contract.
  
- 38. **Choice of Law, Forum, Construction of Agreement.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, apart from choice of law provisions. The parties agree that the Circuit Court for the County of Lane, State of Oregon, or the Federal District Court of the State of Oregon (Eugene) is the sole and proper forum for resolving any disputes involving this Agreement, any breach of this Agreement, or relating to its subject matter. The Parties agree to submit themselves to the jurisdiction of such courts without challenge to the jurisdiction of these courts. This Agreement shall not be construed more favorably to CITY due to the preparation of this Agreement by CITY. The headings and subheadings in this Agreement are for convenience, do not form a part of this Agreement, and shall not be used in construing this Agreement.
  
- 39. **Entire Agreement.** This Agreement signed by both parties is the parties' final and entire Agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents and representatives. There are no representations, promises, terms, conditions or obligations other than those contained herein.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective the date first set forth above.

**CITY OF SPRINGFIELD:**

**INDEPENDENT CONTRACTOR:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

## EXHIBIT "A"

### INDEPENDENT CONTRACTOR STATUS

Independent contractor states and represents that contractor is an independent contractor as that term is defined in Oregon Revised Statute 670.600 and more specifically represents, states and agrees that in providing the services and scope of work specified in this contract:

1. Independent contractor provides services for remuneration; and
2. Independent contractor is free from direction and control over the means and manner of providing the services and scope of work subject only to the right of City to specify the desired results; and
3. Independent contractor is customarily engaged in an independently established business; and
4. Independent contractor is licensed within the state of Oregon to provide any services for which a license is required under ORS Chapter 671 or 701 and is responsible for obtaining other licenses or certificates necessary to provide the service or scope of work; and
5. Independent contractor complies with at least three of the following requirements:
  - (a) A business location is maintained that is separate from the business or work location of City; or is in a portion of the independent contractor's residence and that portion is used primarily for the business.
  - (b) The independent contractor bears the risk of loss related to the provision of services or scope of work such as entering into a fixed price contract, defective work is required to be corrected, the services provided are warranted or indemnification agreements, liability insurance and performance bonds and errors and omissions insurance are provided.
  - (c) Contracted services for two or more different persons or entities within a twelve month period have been obtained, or routinely engaged in business advertising, solicitation, or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
  - (d) Significant investment in the business has been made such as purchasing tools or equipment, paying for premises or facilities where services are provided, paying for licenses, certificates or specialized training.
  - (e) Possesses authority to hire other persons to assist in providing their services and has the authority to fire those persons.
6. Independent contractor will immediately inform City in the event that it fails to conduct its services in one or more particulars as represented in 1 through 5 above.

**EXHIBIT "B"**

**City of Springfield  
Public Contracts  
Conformance with Oregon Public Contractors Laws**

**Pursuant to Oregon law, every public contract shall contain the following conditions:**

- 1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279B.220(1)
- 2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279B.220(2).
- 3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279B.220(3).
- 4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279B.220(4).
- 5) If the agreement is for lawn and landscape maintenance, it shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279B.225.
- 6) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279B.230.
- 7) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
  - a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or
  - b) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.235(1)-(2).

- 8) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279B.235(3).
- 9) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number hours per day and days per week that the employees may be required to work. ORS 279B.235(5).

**If this agreement is for a public improvement, the contract shall contain the following conditions:**

- 10) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279C.505(1)(a).
- 11) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279C.505(1)(b).
- 12) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279C.505(1)(c).
- 13) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279C.505(1)(d).
- 14) The contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505(2).

- 15) If the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or subcontractor by any person in connection with the public improvement contract as the claim becomes due, the proper officer or officers representing the state or a county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing labor or services and charge the amount of the payment against the funds due or to become due the contract by reason of the contract. If the contractor or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and is subject to a good faith dispute as defined in ORS 279C.580. If the contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. ORS 279C.515.
- 16) The payment of a claim does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims. ORS 279C.515(4).
- 17) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279C.100, the employee shall be paid at least time and a half pay:
- a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or,
  - b) For all overtime in excess of 10 hours in anyone day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and,
  - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020. ORS 279C.520(1).

An employer shall give notice in writing to employees who work on a public contract either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.520(2).

- 18) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279C.520(3).
- 19) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279C.520(5)
- 20) ENVIRONMENTAL MATTERS: In compliance with ORS 279C.525, the Contractor is made aware that the following federal, state, and local agencies have enacted ordinances or regulations relating to the prevention of environmental pollution or the preservation of natural resources which may affect performance of SUB contracts. This is not intended to be a complete listing of agencies. Other agencies may have enacted ordinances or regulations that may apply.  
If the Contractor is delayed or must undertake additional work by reason of existing ordinances, rules or regulations of agencies not cited in the Contract or due to enactment of new or the amendment of existing statutes, ordinances, rules or regulations relating to the prevention of natural resources occurring after the submission of the successful quote, the contracting agency may, at its discretion, terminate the Contract, complete the work itself; use non-agency forces already under contract with the City, require that the underlying property owner be responsible for cleanup, solicit quotes for a new contractor to provide the necessary services or issue the Contractor a change order setting forth the additional work that must be undertaken.

If the Contractor encounters a condition not referred to in the Invitation to Bid documents, not caused by the Contractor or any subcontractor employed on the project and not discoverable pre-bid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations referred to under this regulation, the contractor shall immediately notify SUB of the condition.

FEDERAL AGENCIES

Department of Agriculture  
Forest Service  
Soil Conservation Service  
Department of the Army Corps of Engineers  
Coast Guard  
Department of Health and Human Services  
Department of the Interior  
Bureau of Indian Affairs  
Bureau of Land Management  
Bureau of Outdoor Recreation  
Department of Commerce

Fish and Wildlife Services  
Office of Surface Mining  
Reclamation and Enforcement  
Bureau of Reclamation  
Department of Labor  
Occupational Safety and Health Administration  
Mine Safety and Health Administration  
Department of Transportation  
Federal Highway Administration  
Environmental Protection Agency

STATE AGENCIES

Department of Agriculture

Department of Human Services

Department of Energy  
Department of Environmental Quality  
Department of Fish and Wildlife  
Department of Forestry  
Department of Geology and Minerals

Land Conservation and Development Commission  
Division of State Lands  
State Soil and Water Conservation Commission  
Water Resources Department  
Oregon Department of Transportation

LOCAL AGENCIES

Common Council, City of Springfield  
Environmental Services, City of Springfield  
Board of Commissioners, Lane County  
Lane Regional Air Protection Agency  
Willamalane Park & Recreation District  
Rainbow Water District

Planning Commission, City of Springfield  
Development Services Department, City of Springfield  
Planning Commission, Lane County  
Springfield Utility Board  
Springfield Downtown & Glenwood Urban Renewal Districts

- 21) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279C.530.
- 22) A contract for public works shall contain a provision stating the existing state prevailing rate and wage and, if applicable, the federal prevailing rate of wage required. Every contract and subcontract shall contain a provision that workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838. ORS 279C.830(1).

**If this agreement is for demolition, the contract shall also contain the following conditions:**

- 23) Contractor must salvage or recycle construction and demolition debris, if feasible and cost-effective. ORS 279C.510(1)

**EXHIBIT C**  
**OREGON TAX LAWS COMPLIANCE AND CERTIFICATION**

**A. Independent Contractor's Compliance with Tax Laws.**

1. Independent Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes all the provisions described in Subsection B. 1. (i) through (iv) of this Contract.

2. Any violation of Subsection 1 of this Section A shall constitute a material breach of this Contract. Further, any violation of Independent Contractor's warranty, in Subsection B.1. of this Contract, that Independent Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle City to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Independent Contractor, in an amount equal to State's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. City shall be entitled to recover any and all damages suffered as the result of Independent Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing [replacement Services/replacement Goods/ a replacement Independent Contractor].

These remedies are cumulative to the extent the remedies are not inconsistent, and City may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**B. Independent Contractor's Representations and Warranties.**

Independent Contractor represents and warrants to City that:

1. Independent Contractor (to the best of Independent Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the [date of Closing of {bids/proposals}for/effective date of] this Contract, faithfully has complied with:

- (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- (ii) Any tax provisions imposed by a political subdivision of this state that applied to Independent Contractor, to Independent Contractor's property, operations, receipts, or income, or to Independent Contractor's performance of or compensation for any work performed by Independent Contractor;
- (iii) Any tax provisions imposed by a political subdivision of this state that applied to Independent Contractor, or to goods, services, or property, whether tangible or intangible, provided by Independent Contractor; and
- (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any [Goods/Items/Equipment/Components/Hardware/Software/Intellectual Property Rights, etc.] [delivered to/granted to] City under this Contract, and Independent Contractor's Services rendered in the performance of Independent Contractor's obligations under this Contract, shall be provided to City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.