

# **GENERAL SERVICES AGREEMENT**

This general services agreement, effective January 27, 2015 (hereinafter referred to as "Agreement") by and between the City of Central Point (hereinafter referred to as "City"), and \_\_\_\_\_, (hereinafter referred to as "'Consultant'"), is established for those services rendered by "Consultant" upon request by City. City and "Consultant" agree to the following:

## **GENERAL TERMS AND CONDITIONS**

**AUTHORIZED REPRESENTATIVES:** For the purposes of this agreement, the City's authorized representatives shall be the City Administrator, or the Public Works Director, or their duly authorized representatives. The authorized representative for "Consultant" shall either be \_\_\_\_\_, or the Consultant's duly authorized representative.

**SCOPE OF WORK, SCHEDULE AND BUDGET:** The following tasks represent the scope of work agreed to by all parties to be completed at a cost not to exceed \$ \_\_\_\_\_. Any changes to the Scope of Work must be approved by the City prior to commencement of the proposed change.

### **Task 1. Data Collection for Project Area**

- a. Conduct a stakeholders meeting of property and business owners within 100-feet of the Project boundaries to introduce this stage of the streetscape project and to gather input and identify stakeholder concerns.
- b. Prepare a base map of the Project Area for review and acceptance by the City. The Base Map will include the outer limits of the Project Area and identification of all rights-of-way and property lines abutting the rights-of-way. Individual properties within the Project Area will be identified by tax assessor number. A draft of the base map shall be submitted to City staff for review and authorization to proceed to Task 1(b).
- c. Identify and map all fixed surface and subsurface public and private improvements within the Project Area, such as but not limited to utility poles, driveway aprons, traffic signals, underground utilities, pavement striping (crosswalks, parking, travel lanes, etc.), curb and gutter, handicap ramps, pedestrian entries, canopies, building facades and entries, parking and traffic control signs, etc.
- d. Identify/discuss planned utility upgrades by location, and timing.
- e. Identify any public/private conflicts (fixed improvements, i.e. buildings, utilities, etc.) within rights-of-way.
- f. Map topographic/elevation data for existing curb and gutter, facade frontages and building entries abutting or near rights-of-way.
- g. Address the use/need for construction easements during construction.

- h. Prepare and submit to the City a digital and hard copy (1) of Tasks 1a through 1f entitled ***Task 1, Background Data for Streetscape Design & Engineering Plans for East Pine Street, Downtown Core Area.***

**Task 2. Preliminary Streetscape Design**

- a. Prepare a Preliminary Streetscape Design Plan based on the streetscape elements identified in the *East Pine Street Corridor Refinement Plan, Alternative B*. The Preliminary Streetscape Design will include signalizations per the *East Pine Street Corridor Refinement Plan*. City staff will provide specs on streetscape components such as tree grates, benches, sidewalk materials/pattern, light poles, trash receptacles, and pavement pattern/material. It will be necessary for the Firm to address street tree species options, street tree irrigation and electrical outlets.
- b. Identify (not resolve) conflicts between existing conditions and proposed streetscape design, i.e. grade differences between existing curb and gutter and extended curb and gutter (sidewalk widening and bulb-outs).
- c. Prepare a preliminary itemized cost estimate for the streetscape improvements.
- d. Conduct a second stakeholders meeting to discuss to the preliminary streetscape design. This task could be combined with Task 2e.
- e. Meet with CPDC to review the preliminary streetscape plan and costs for discussion, modification, and authorization to proceed. Allow two iterations of this task and identify each iteration in RFP cost proposal.
- f. Upon authorization to proceed by CPDC prepare and provide a digital and hard copy (1) of Tasks 2a through 2e entitled ***Task 2, Preliminary Streetscape Design for Streetscape Design & Engineering Plans for East Pine Street, Downtown Core Area.***

**Task 3. Preliminary Engineering Plans**

- a. Upon authorization by CPDC per Tasks 2a and 2b commence preparation of Preliminary Engineering Plans. Based on the findings in Task 1 and 2 identify and address (resolve) any conflicts between the proposed streetscape and existing conditions.
- b. Identify the need and location for construction easements and the timing and use of right-of-way agents where/when necessary. Because of the commercial nature of the Project Area it will be necessary that all properties retain customer access at all times.
- c. Identify necessary utility relocates and upgrades. With this subtask underground utility upgrades/relocation/replacement in East Pine Street shall be identified and addressed (check with Public Works Department).
- d. Prepare a preliminary engineers cost estimate.
- e. Meet with City staff to review Preliminary Engineering Plans and costs.
- f. Meet with CPDC to review and modify/accept Preliminary Engineered Plans.

- g. Upon authorization to proceed by CPDC prepare and provide a digital and hardbound copy (1) of Tasks 3a through 3f entitled ***Task 3, Preliminary Engineering Plans for Streetscape Design & Engineering Plans for East Pine Street, Downtown Core Area.***

**Task 4. Phasing Plan**

- a. Meet with City staff to discuss and agree on parameters for phasing. Costs per phase will be a major consideration defining each phase.
- b. Prepare a coordinated Phasing Plan for construction of the streetscape improvements. The Phasing Plan shall be based on the following considerations:
  - i. Visual prominence (Wow! factor);
  - ii. Construction cost
  - iii. Functional relationship
- c. Meet with CPDC to discuss phasing and phasing options. Modify Phasing Plan as authorized by CPDC.

**Task 5. Preliminary Cost Estimate for Each Phase**

- a. Prepare cost estimates for each phase per the authorized Phasing Plan. This task shall include methodology for updating phasing costs over time.
- b. Meet with CPDC to review the cost estimates and adjust phasing as appropriate to address construction cost limitations.
- c. Upon authorization to proceed by CPDC prepare and provide a digital and hardbound copy (1) of Tasks 4a through 4c, and Tasks 5a through 5b entitled ***Task 4 & 5 Phasing Plan for Streetscape Design & Engineering Plans for East Pine Street, Downtown Core Area.***

**Task 6. Final Construction Engineering for Phase 1**

- a. Upon authorization by CPDC commence preparation of Final Engineering Plans and construction documents for Phase 1.
- b. Meet with CPDC for acceptance of the Final Engineering Plans and Construction Documents, Phase 1, including engineers cost estimate.

The above tasks shall be completed for a fee not to exceed \$ \_\_\_\_\_.

**Project Schedule:** The attached Exhibit “A” is the schedule for completion of the project. Changes to the schedule shall be in writing and approved by the by the City and the Consultant.

**Consultant Hourly Rate Schedule:** See attached Exhibit “B”

**TASKS DESCRIPTIONS AND BUDGETS:** The “Consultant” shall not modify the budget or the task descriptions without obtaining written approval from the City’s authorized representative. The total budget is considered a not-to-exceed amount, and shall not be exceeded without obtaining written approval from the City’s authorized representative. If any tasks is completed under budget, then that amount may be transferred to another task(s).

**EXTRA WORK:** The City may request “Consultant” to perform extra work, or may issue a change order regarding the Scope of Service (“Extra Work”). All Extra Work requests and change orders will be made in writing by City's authorized representative. Any Extra Work request issued will have a binding "not to exceed" cost amount that has been negotiated with “Consultant” prior to issuance of the Extra Work request. The aggregate of Extra Work changes shall not exceed a total of \$ \_\_\_\_\_. If “Consultant” feels that any Extra Work will affect any of the pricing for the Scope of Work, then “Consultant” is to supply to City's authorized representative in writing, within 48-hours of issuance of the Extra Work request to “Consultant”, “Consultant’s” requested adjustments to the pricing of items in the task release request, and justification for such adjustment. “Consultant’s” requested adjustments to the pricing of Extra Work shall be as negotiated and approved by City's authorized representative prior to “Consultant” performing the work or services associated with the Extra Work. All definitions, terms, and conditions of this Agreement shall apply to change orders and extra work requests issued by City and performed by “Consultant”.

**“Consultant’s” WARRANTIES:** “Consultant” warrants that:

- (a) It understands the currently known hazards which are presented to persons, property, and the environment in working on, above, in, and in the vicinity of the project site.
- (b) Its personnel have developed requisite expertise to perform the particular work and services of this Agreement, in a safe, workmanlike, professional, and lawful manner;
- (c) All work performed by “Consultant” shall meet the requirements of the various regulatory agencies involved. It shall comply with all applicable statutes, ordinances, rules, laws, orders, and regulations. “Consultant” will provide and maintain a safe work environment for services and work performed under this Agreement, on any premises owned or controlled by City;
- (d) That all vehicles used to perform the work or services stated in this Agreement have all permits, licenses, certificates, or other approvals required under applicable federal, state, and local laws, regulations, statutes, ordinances, rules, policies and orders; and
- (e) It shall comply with all applicable statutes, ordinances, rules, laws, orders, and regulations.

**CITY’S WARRANTIES:** City warrants that:

- (a) It will make available to “Consultant” all information it has in regards to the project site and the work required to be performed.
- (b) Its personnel have developed requisite expertise and training to perform City's portion of the work and services of this Agreement, in a safe, workmanlike, professional, and lawful manner; and
- (c) It shall comply with all applicable statutes, ordinances, rules, laws, orders, and regulations.

**EXCUSE OF PERFORMANCE:** The performance of this Agreement may be suspended by either party in the event such performance is prevented, impaired, or delayed by any cause beyond the reasonable control of such party. The party whose performance is suspended, shall use all reasonable efforts to resume performance promptly.

**CITY INDEMNIFICATION:** City agrees to indemnify and save harmless “Consultant” and its officers, employees, agents, and their subcontractors, from and against any and all liabilities, losses penalties, fines,

claims, costs, and expenses incidental thereto (including costs of defense, settlement, and reasonable attorneys' fees), which any or all of them may hereafter suffer, incur, be responsible for, or pay out as a result of bodily injury (including death), property damage, contamination of or adverse effects on the environment, or any violation or alleged violation of statutes, ordinances, laws, orders, rules, or regulations, to the extent caused by City's breach of this Agreement or by any sole negligent act, negligent omission, or willful misconduct of City or its employees, agents, or City's other contractors or consultants in the performance of this Agreement.

**“Consultant” INDEMNIFICATION:** “Consultant” agrees to indemnify and save harmless City and their officers, employees, agents, and City's other contractors or consultants from and against any and all liabilities, losses, penalties, fines, claims, costs, and expenses incidental thereto (including costs of defense, settlement, and reasonable attorneys' fees), which any or all of them may hereafter suffer, incur, be responsible for, or pay out as a result of bodily injury (including death), property damage, contamination of or adverse effects on the environment, or any violation or alleged violation of statutes, ordinances, laws, orders, rules, or regulations, (a) to the extent caused by “Consultant’s” breach of this Agreement or by any negligent act, negligent error or omission, or willful misconduct of “Consultant” or its employees, agents, or “Consultant’s” subcontractors in the performance of this Agreement, and/or (b) arising out of the performance of work and services with respect to this Agreement.

**INSURANCE:** “Consultant” shall procure and maintain, and list City as the Certificate Holder and as an additional insured, throughout the term of this Agreement covering “Consultant’s” activities performed under, and contractual obligations underwritten in, this Agreement, the following minimum amounts of insurance coverage:

<u>Coverage</u>	<u>Limits</u>
Workers Compensation	Statutory
Employers Liability	\$100,000
General Liability	\$500,000 per Occurrence, \$1,000,000 Aggregate
Auto and Truck Liability	\$500,000 per Occurrence
Combined bodily injury and property damage liability	\$500,000 per Occurrence, \$1,000,000 Aggregate

“Consultant” shall also procure and maintain professional liability insurance coverage (including, but not limited to, “errors” and “omissions” coverage) in the amounts of \$500,000 for each loss, and \$1,000,000 total all losses throughout the term of this Agreement covering “Consultant’s” activities performed under, and contractual obligations underwritten in, this Agreement, again listing City as the Certificate Holder and as an additional insured. A certificate of insurance shall be provided to the City, on an approved form, and be renewed as appropriate, prior to the commencement of any work under this agreement, and for the duration of this agreement.

**TERM:** This Agreement shall commence on the date set forth above and shall continue in effect indefinitely unless sooner terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Termination as herein provided shall be in addition to, and not in lieu of, a party's right to terminate for breach. Termination shall operate to discharge all obligations that are executory by either party on or after the effective date of termination, but any right of a party based on performance or breach of this Agreement prior to the effective date of termination shall survive.

City may terminate this Agreement in whole or in part upon written notice in the event “Consultant” breaches

any duty, obligation, or service pursuant to this Agreement. If City terminates this Agreement pursuant to this paragraph of this section, "Consultant" shall be liable for damages, including any additional costs of procurement of similar work and services from another source.

**INDEPENDENT CONTRACTOR:** "Consultant" is and shall perform this Agreement as an Independent Contractor, and as such, shall have and maintain complete control over all of its employees, agents, operations, and subcontractors. Neither "Consultant" nor anyone employed by it or its delegates shall be or be deemed to be, or act or purport to act as, the agent, representative, employee or servant of City, without the separate expressed written authorization from City.

**INSPECTION:** City shall have the right to inspect and obtain copies of all written licenses, permits, or approvals issued by any governmental entity or agency to "Consultant" or its delegates which are applicable to the performance of this Agreement; to inspect and obtain copies of all "Consultant's" (or its delegate's) employee training and certification documentation that is required by federal, state, or local statutes, ordinances, laws, orders, rules, or regulations for performing work or services under this Agreement

**NO WAIVER:** Any failure of a party to enforce any provision of this Agreement will not constitute a waiver of such provision or prejudice the right of that party to enforce such provision at any subsequent time.

**RECORDS:** During the term of this Agreement and any such longer period as is required by law or as specified herein, "Consultant" shall maintain records pertaining to the work and services it provides under this Agreement. Original (if applicable) records (i.e. reports, designs, plans, drawings, displays, specifications, calculations, models, model results, photographs, videos, maps, etc.; in either, or both, a printed or electronic form) or copies of such records shall be submitted to City within thirty (30) days of the work occurrence, unless otherwise specified herein or as later specified by City. "Consultant's" records regarding the work shall be available for inspection by or forwarding to City or its delegate at such reasonable time and place as City may request in writing.

**REIMBURSEMENT:** "Consultant" shall be reimbursed on a time and materials basis, in accordance with "Consultant's" current Schedule of Charges, a copy of which is attached and which, hereafter, is incorporated into this agreement. This Schedule of Charges may be periodically updated by "Consultant", but the updated Schedule of Charges will not be incorporated into this Agreement, unless approved in writing by City.

**TAXES, TARIFFS, FEES, AND SURCHARGES:** The prices set forth in "Consultant's" Schedule of Charges shall include any tax, tariff, fee, or surcharge assessed on any of the work described in any given task release request.

**PROFESSIONAL RESPONSIBILITY:** "Consultant" or their subcontractors shall perform services consistent with skill and care ordinarily exercised by other professional consultants/contractors under similar circumstances at the time services are performed, subject to any limitations established jointly by City and "Consultant" as to the degree of care, time, or expense to be incurred by "Consultant" for services, proposals, agreements, reports, designs, specifications, and bid documents.

**RELATIONSHIP OF PARTIES:** Nothing shall be construed or interpreted as requiring "Consultant" to assume the status of owner, operator, generator, person who arranges for disposal, transporter, or store, as those terms or any other similar terms are used in any federal, state, or local statute, regulation, ordinance, or order governing the treatment, handling, storage, or disposal of any toxic or hazardous substance or waste.

**BILLING AND PAYMENT:** Invoices will be submitted by "Consultant" on a monthly basis, and shall be due

and payable on receipt. Interest at the rate of one and one-half percent (1.5%) per calendar month, but not exceeding the maximum rate allowable by law, shall be payable on any amounts that are due and unpaid within forty-five (45) days from the date of the City's receipt of the invoice, with payments to be applied first to accrued late payment charges and then to the principal unpaid amount.

**TIME OF PERFORMANCE:** "Consultant" makes no warranties regarding the time of completion of services and shall not be in default of performance under this Agreement where such performance is prevented, suspended, or delayed by any cause beyond "Consultant's" control. Neither party will hold the other responsible for damages for delays in performance caused by Acts of God or other events beyond the control of the other party and which could not have been reasonably foreseen or prevented. Such delays will extend completion dates commensurately.

**CHANGED CONDITIONS:** If, during the course of the performance of services under a task release request, conditions or circumstances develop or are discovered which were not contemplated by "Consultant" and which materially affect "Consultant's" ability to perform or which would materially decrease or increase the costs to "Consultant" of performing, then "Consultant" will notify City in writing, and "Consultant" and City shall renegotiate in good faith the terms of this Agreement or the conditions and budgets of the task release requests within thirty (30) days. Alternatively, either party shall thereupon have the right to terminate the task release request; provided, however, that upon any such termination, "Consultant" shall be compensated for services rendered to the date of termination.

**RIGHT OF ENTRY:** City agrees to grant or arrange for right of entry at the project site, whether or not the project site is owned by City.

**REPORTING AND DISPOSAL:** City shall be solely responsible for notifying all appropriate federal, state, local, or other governmental agencies of the existence of any hazardous, toxic, or dangerous materials on or in the project site or discovered during performance of this Agreement. "Consultant" may, in its sole discretion, agree to notify such agencies on behalf of City, as City's agent, as requested by City. City shall be solely responsible for arranging and paying the costs to lawfully transport, store, treat, recycle, dispose of, or otherwise handle, hazardous or toxic substances, or wastes and samples. "Consultant" may assist the City in these matters, but does not inherit any of the responsibilities associated.

**ATTORNEYS' FEES AND COSTS:** The prevailing party in any action to enforce or interpret provisions of this Agreement shall be entitled to recover all reasonable attorney fees and costs incurred in such action. If "Consultant" is requested to respond to any mandatory orders for the production of documents or witnesses on City's behalf regarding work performed by "Consultant", City agrees to pay all costs and expenses incurred by "Consultant" not reimbursed by others in responding to such order, including staff time at current billing rates, and reproduction expenses. However, the City reserves the right to recover these costs from "Consultant" if the City does not prevail in the litigation, and it was determined that the losses incurred by the prevailing party were as the result of work performed by "Consultant".

**WAIVER:** Any failure of a party to enforce any provision of this Agreement will not constitute a waiver of such provision or prejudice the right of that party to enforce such provision at any subsequent time. Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of a subsequent breach of the same provision or condition, unless the party sought to have waived has expressly so stated in writing, and is so approved in writing by the other party.

**LAW TO APPLY:** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, and applicable Federal laws and regulations. It is agreed by each party that any action of law, suit in

equity, or judicial proceeding for the endorsement of this Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Jackson County, Oregon. If any portion of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the same shall not affect the legality, validity, or enforceability of the Agreement as a whole or of any portion thereof, not so adjudged. Any provisions of this Agreement held in violation of any law shall be deemed stricken and all remaining provisions will remain binding on all parties.

**MISCELLANEOUS:** Any notice to be given hereunder shall be in writing (including, without limitation, by facsimile transmission) and sent to the address of the other party, as set forth herein or to an address subsequently designated by the receiving party.

This Agreement, consisting of all documents attached hereto, constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all previous agreements, discussions, representations, proposals, and correspondence between the parties. It is understood and agreed that no agreement, guarantee, warranty, or duty, expressed or implied, not expressed herein shall limit or qualify the terms of this Agreement. This Agreement may only be amended in writing, as approved and signed by both parties.

**PARTIES BOUND:** The parties acknowledge that they may conduct their respective business operations through entities which they directly or indirectly, through one or more intermediaries and agreements, control and therefore agree to cause such other entities to abide by the terms and conditions of this Agreement, as if they were parties hereto to the extent necessary to carry out the purposes of this Agreement. Further, the parties shall be entitled to their respective obligations hereunder to be satisfied and to cause their respective benefits hereunder to be received, by such other entities. Subject to the foregoing, neither party shall assign this Agreement without the prior written consent of the other party.

**CONFLICT IN FORMS:** In the event of a conflict between the terms set forth herein and any supplemental contract documents herein contemplated, the terms set forth herein shall govern. The preprinted terms and conditions appearing on any of "Consultant's" or City's purchase orders or other forms or documents, that conflict with the terms and conditions of this Agreement, shall be considered null and void.

IN WITNESS WHEREOF, AND BEING AN AUTHORIZED REPRESENTATIVE OF THE PARTY FOR WHICH I SIGN, I HEREBY EXECUTE THIS AGREEMENT, EFFECTIVE ON THE DATE STATED ABOVE, AND ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE AGREEMENT IN ITS ENTIRETY, INCLUDING THE DEFINITIONS, TERMS, AND CONDITIONS STATED ABOVE, AND I HAVE RECEIVED A TRUE COPY THEREOF.

**City of Central Point**

**"Consultant"**

By: \_\_\_\_\_  
*Authorized Signatory*

By: \_\_\_\_\_  
*Authorized Signatory*

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

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

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

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

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

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



