



CITY OF EAGLE POINT

"Gateway to the Lakes"

OREGON

EAGLE POINT CITY COUNCIL

Council Chambers
17 Buchanan Ave. South, Eagle Point, Oregon
August 9, 2016

REGULAR MEETING AGENDA

1. CALL TO ORDER – 7:00 P.M.
2. FLAG SALUTE AND INVOCATION
3. AUDIENCE QUESTIONS OR COMMENTS CONCERNING ITEMS NOT ON THE AGENDA
4. PRESENTATIONS
5. PUBLIC HEARINGS
6. CONSENT CALENDAR
 - 6.1 Presentation of Regular Meeting Minutes of July 26, 2016.
7. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR
8. PRESENTATION OF BILLS TO BE PAID
9. OLD BUSINESS
10. NEW BUSINESS
 - 10.1 Resolution No. 2016-33. A Resolution authorizing a City of Eagle Point Personal/Professional Services Contract for the 2016 Seal Coat Project with National Pavement Maintenance PDX LLC.
11. REPORTS FROM CITY COUNCIL AND CITY COMMITTEE REPRESENTATIVES

If a physical accommodation is needed to participate in this meeting, please contact the City Recorder at 541-826-4212 ext. 106 or TTY/TDD 711 or 800-735-2900. Notification of at least 48 hours prior to the meeting will assist the City in providing reasonable accommodations. (28 CFR 35.102-35.104 ADA Title II).

City Council Agenda

August 9, 2016

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12. STAFF REPORTS
13. INFORMATION
14. EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(d), To conduct deliberations with persons designated by the governing body to carry on labor negotiations.
15. ADJOURN

AGENDA AND COUNCIL PACKETS ALSO AVAILABLE ON WEBSITE
www.cityofeaglepoint.org



CITY OF EAGLE POINT

"Gateway to the Lakes"

OREGON

EAGLE POINT CITY COUNCIL
17 BUCHANAN AVE. SOUTH, EAGLE POINT, OREGON

JULY 26, 2016

REGULAR MEETING MINUTES

1. CALL TO ORDER – 7:00 P.M.

Mayor Russell called the meeting to order at 7:00 p.m.

Council Members Present: Bob Russell, Jonathan Bilden, Wayne Brown, Bill Fierke, Ruth Jenks; Aaron Prunty, and Kathy Sell.

Staff Members Present: Henry Lawrence, City Administrator; Joseph Kellerman, City Attorney; Robert Miller, Public Works Director; Melissa Owens, Finance Officer; Vern Thompson, Police Chief; and Cindy Hughes, City Recorder.

Guests: Colleen Roberts, Jackson County Commissioner; Fire Chief Dan Petersen and Chaplain Lorin Myers, Jackson County Fire District 3; Suzi Collins, Planning Commissioner; Wyn Lewis, Parks and Recreation Commissioner; Millie Wewerka, Budget Committee Member and Planning Commissioner; Jerry Ziemann, Budget Committee Member; and members of the public and press.

2. FLAG SALUTE AND INVOCATION

Mayor Russell led the Pledge of Allegiance; and Chaplain Myers offered an invocation.

3. AUDIENCE QUESTIONS OR COMMENTS CONCERNING ITEMS NOT ON THE AGENDA

Eagle Point Parks and Recreation Commissioner Wyn Lewis presented a proposal (Submission No. 1) on behalf of the Eagle Point Parks Foundation, to sponsor a grand opening celebration at Lucas Park on Saturday, October 1. It is anticipated that the proposed event will include live music, wine tasting, food vendors, and a silent auction table. Potential funds raised will be used toward future Parks projects. Discussion ensued and there was no objection stated to holding the requested event. It was clarified though that appropriate procedures will be taken in order to conduct a wine tasting event.

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4. PRESENTATIONS

- 4.1 Presentation of Service Award to Cordy Johnson for 27 Years of Service with the City of Eagle Point.

On behalf of the City, Mayor Russell presented Cordy Johnson with a service award in recognition of 27 Years of Service with the City of Eagle Point. Henry Lawrence, City Administrator, expressed appreciation to Cordy Johnson and the entire Public Works Department for their hard work and doing a terrific job.

- 4.2 Presentation of Jackson County Fire District 3 Mid-Year Performance Report – Fire Chief Dan Petersen

Fire Chief Dan Petersen presented the Mid-Year Performance Report (Submission No. 2) and reported that 37 of the 68 action items have been completed with the Pulse Point notification system near completion. Fire Chief Petersen noted that their strategic plan is available on their website. Two highlights of the presentation included drone deployment and a commercial fire. Drone deployment is being implemented which provides a new vantage point in fighting fires, and in rescue operations such as the recent one with a puppy. In June, a commercial fire occurred which required the Southern Oregon Regional HAZMAT Team 8 to be activated. Extensive removal of contaminated products was required and firefighters were decontaminated prior to release from the scene. All response time goals for the Eagle Point area were exceeded or met. Fire Chief Petersen concluded the presentation with an introduction of fire fighting staff at the meeting. A brief discussion followed about chemical lists for businesses.

- 4.3 Presentation regarding a proposal to provide branding services to the City of Eagle Point - Paradux Media Group

Mayor Russell welcomed Mike Frey and Tisha Oehmen of Paradux Media Group. Mr. Frey and Ms. Oehmen, both citizens and business owners in Eagle Point, made a presentation about the benefits of creating a brand for the City of Eagle Point (Submission No. 3). A successful brand establishes a consistent and intentional message to create a solid identity for a business, government, or other entity. Paradux Media Group explained about creating a personality/brand to promote and represent the City in a very positive manner.

Discussion followed about multiple points including:

- Measuring results
- Cost estimate of approximately \$16,000
- Establishing core values for the City
- Local competitors for branding services
- Branding time line of approximately six months
- Recommendation by the Economic Development Commission.

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5. PUBLIC HEARINGS

There were no public hearings.

6. CONSENT CALENDAR

6.1 Presentation of Regular Meeting Minutes of July 12, 2016.

Mayor Russell announced the Consent Calendar. There were no questions or comments. Council President Bilden moved to approve the Consent Calendar as presented and Councilor Fierke seconded the motion. There was no discussion. Roll call: Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; and Bob Russell, aye. The motion passed unanimously.

7. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

There were no items considered for removal from the Consent Calendar.

8. PRESENTATION OF BILLS TO BE PAID

Mayor Russell asked if there were questions about the bills to be paid including the additional bills list. There being no questions, Council President Bilden moved to approve the Bills to be Paid in the amount of \$133,371.76 and the Additional Bills List in the amount of \$24,149.34 (Submission No. 4). Councilor Jenks seconded the motion. There was no discussion. Roll call: Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; and Bob Russell, aye. The motion passed unanimously.

9. OLD BUSINESS

There was no Old Business.

10. NEW BUSINESS

10.1 Resolution No. 2016-32. A Resolution authorizing the City to negotiate with Vitus Construction to value engineer the Mattie Brown Shade Structure.

Robert Miller, Public Works Director, explained that the proposed project matches the style of the nearby Centennial Plaza. The project had been appropriately advertised, and the bidding deadline had also been extended but there was only one bid. Vitus Construction provided a base bid of \$54,000, not including sidewalks and other specification. Staff requested to value engineer the project to bring the project within the budgeted amount of \$60,000. Value Engineering allows the City to legally negotiate aspects of the project that can be reduced, etc. Discussion ensued in support of the design similar to Centennial Plaza. Regardless of negotiation results, staff will make a formal recommendation in the near future.

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Councilor Prunty offered a motion to approve Resolution No. 2016-32, a Resolution authorizing the City to negotiate with Vitus Construction to value engineer the Mattie Brown Shade Structure. Councilor Jenks seconded the motion. There was no discussion. Roll call: Bill Fierke, aye; Ruth Jenks, aye; Aaron Prunty, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; and Bob Russell, aye. The motion passed unanimously.

11. REPORTS FROM CITY COUNCIL AND CITY COMMITTEE REPRESENTATIVES

Councilor Fierke reported on the School District 9 appointment of Dianne Mihocko as Chair and Anita Lundberg as Vice Chair. Additionally, Councilor Fierke reported plans to work on the City Administrator's evaluation. Councilors Fierke, Bilden and Prunty will assist in the process and Mayor Russell suggested using the same format as past years.

Councilor Prunty reported on a recent Parks and Recreation Commission meeting wherein they received an update on Park projects and learned about the Eagle Point Parks Foundation wanting to hold a grand opening for Lucas Park.

Councilor Brown reported on classes to comply with upcoming new regulations for water runoff of new homes which may present major obstacles.

Councilor Sell enthusiastically announced she is going to be grandmother again.

Mayor Russell reported it was nice to see Eagle Point's signs on Interstate 5. Mayor Russell also reported attending the Oregon Mayor's Association meeting in Lincoln City. There were approximately 80 mayors in attendance and 26 state agency directors on hand to talk with mayors about anything they chose. Emergency Preparedness and the Cascadia Fault Line were topics of discussion with several cities reporting on food caches. Mayor Russell reminded the Council about taking Federal Emergency Management Agency (FEMA) classes, and reported learning a lot at the meeting. In addition, Mayor Russell proudly reported receiving the 2nd place essay award for the "If I were Mayor" contest on behalf of Eagle Point's student, Emma Stanek.

There were no other City Council reports.

12. STAFF REPORTS

Melissa Owens, Finance Officer, noted the June 30th finance report in agenda packet and a finalized report is anticipated by the end of next month. Ms. Owens also reported on the selection of a Permit Technician candidate, revenue sharing at 76% with additional funds forthcoming, and approximately 60 single family home permits issued last year.

Robert Miller, Public Works Director, reported on Eagle Point becoming a Stormwater Phase II city within a two to four year compliance period. With regard to Public Works projects, proposals are scheduled soon for the Eagle Point Heated Storage Project; and Mr. Miller extended an invitation to everyone to assist in the assembly of Lucas Park playground equipment. In addition, Mr. Miller announced a change in the Resident Project Representative and other staff changes with Civil West. A brief discussion followed about the area of the Green View Subdivision and Alta Vista.

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Vern Thompson, Chief of Police, extended an invitation to the Council to attend the National Night Out event. With regard to Officer Michael Anselmi, he completed the training and requirements to become an Advanced School Resource Officer. Chief Thompson also reported there were no issues with the OLCC License Renewals shown in Item 13.1.

Joseph Kellerman, City Attorney, briefly discussed a Chemical Fire but did not provide a legal report.

Henry Lawrence, City Administrator, announced upcoming events including Eagle Point's Street Dance and a county-wide Town Hall meeting in the Ashpole Community Center with Senator Ron Wyden. Meetings with the YMCA have continued and it is anticipated they will meet with the Council in mid-October to share information about creating a YMCA Community Center. Upcoming contracts include a precursor contract with the Department of Land Conservation in order to complete a full Urban Growth Boundary analysis, a water purchase contract with the Medford Water Commission, and a franchise agreement with Rogue Valley Sewer Services (RVSS).

Cindy Hughes, City Recorder, reported on preparations for the August visit by Eagle Point's Sister City, Showa Japan.

13. INFORMATION

13.1 OLCC License Renewals.

Vern Thompson, Chief of Police, reported on the OLCC License Renewals earlier in the meeting.

Mayor Russell recessed the meeting at 8:23 p.m.

14. EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(d), To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

At 8:28 p.m., Mayor Russell opened the Executive Session pursuant to 192.660(2)(d). Following discussion, Mayor Russell closed the Executive Session at 9:07 p.m.

15. ADJOURN

There being no further business, Mayor Russell reconvened and closed the meeting at 9:08 p.m.

Respectfully submitted,

Cindy Hughes, City Recorder

ATTEST:

Robert E. Russell, Mayor

Cindy Hyatt 8-5-16

BILL LIST
8/9/2016

<u>CHECK #</u>	<u>VENDOR</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
37436	911 SUPPLY	UNIFORMS	\$ 515.92
37437	ALFRED ARTMAN	TRAVEL/TRAINING	\$ 359.30
37438	ASHLAND MEDFORD PLUMBING, INC.	PARK MAINTENANCE	\$ 180.00
37439	AVISTA	UTILITIES	\$ 100.09
37440	BELAIR CLEANING SERVICES	BLDG MAINT/REPAIR-ASHPOLE	\$ 120.00
37441	BUREAU OF LABOR & INDUSTRIES	BOLI FEE-USDA WATER SYSTEM IMPROVEMENTS	\$ 2,082.40
37442	CENTURY LINK	UTILITIES	\$ 1,183.63
37443	CITY OF EAGLE POINT	UTILITIES	\$ 130.73
37444	COSTCO WHOLESALE	SUPPLIES/SHOWA GIFTS	\$ 120.34
37446	DEPARTMENT OF CONSUMER & BUSINESS	STATE SURCHARGE CORRECTION-JUNE 2016	\$ 8.40
37445	D-N-D PORTA POTTI	2016 BIKE RIDE	\$ 500.00
37447	DONNA OLIVER	TRAVEL/TRAINING	\$ 221.25
37448	ECONOMY PLYWOOD & BLDG SUPPLY	PARK MAINTENANCE	\$ 75.20
37449	HAYS OIL COMPANY	FUEL	\$ 933.16
37450	HORNECKER COWLING, LLP	MUNICIPAL JUDGE-JULY 2016	\$ 800.00
37451	JACKSON COUNTY TREASURER	UNITARY ASSESSMENTS-JULY 2016	\$ 160.00
37452	LAW OFFICES OF BRUCE BISCHOF	CONTRACT NEGOTIATIONS	\$ 171.00
37453	LITHIA DODGE CHRYSLER JEEP	VEHICLE MAINT/REPAIR	\$ 511.89
37454	MICHAEL ANSELMI	TRAVEL/TRAINING	\$ 118.00
37455	MIKE'S COPY AND PRINTING	SUPPLIES	\$ 103.00
37456	NEILSON RESEARCH CORPORATION	WATER TESTING	\$ 84.00
37457	OFFICE MAX CONTRACT	SUPPLIES	\$ 499.19
37458	OREGON DEPT OF REVENUE	UNITARY ASSESSMENTS-JULY 2016	\$ 835.66
37459	OREGON DEPT OF TRANSPORTATION	I-5 SIGN	\$ 13,500.99
37460	OREGON WATER RESOURCES DEPT	WATER RIGHTS MAINTENANCE	\$ 1,150.00
37461	PACIFIC OFFICE AUTOMATION	OFFICE EQUIPMENT	\$ 191.52
37462	PACIFIC PAVING, INC.	ASPHALT PATCHING	\$ 1,752.00
37463	PACIFIC POWER	UTILITIES	\$ 17,375.96
37464	PAULY, ROGERS & CO., PC	15/16 AUDIT	\$ 8,000.00
37465	PERSONNEL SOURCE, INC.	TEMP SRV-HARNISH, MUSEUM, PW-2 WKS	\$ 3,704.02
37466	ROGUE SHRED, LLC	UTILITIES	\$ 70.90
37467	SOS ALARM	SECURITY-HARNISH/MUSEUM	\$ 120.95
37468	SOUTHERN OREGON MEDIA GROUP	PERMIT TECH ADVERTISING	\$ 635.07
37469	SOUTHERN OREGON SANITATION	UTILITIES	\$ 558.00
37470	TENANT DATA	PRE-EMPLOYMENT BACKGROUND CHECKS	\$ 40.00
37471	TYLER TECHNOLOGIES	SOFTWARE MAINTENANCE	\$ 879.10
37472	UPPER ROGUE INDEPENDENT	PERMIT TECH & MEETING ADVERTISING	\$ 297.49
37473	WATER RIGHT SOLUTIONS, LLC	WATER RIGHTS	\$ 350.00
37474	WCP SOLUTIONS	SUPPLIES	\$ 141.00
SUBTOTAL			\$ 58,580.16
 <u>REFUNDS</u>			
37475	GRAY, SHIRLEY		\$ 86.46
37476	MANNENBACH, JAMES		\$ 18.72
37477	OERMAN, PAM		\$ 62.00
37478	OLSON, RON		\$ 5.64
37479	PRIETO, ELIAS		\$ 36.75
37480	SINER, PHYLLIS		\$ 71.82
SUBTOTAL			\$ 281.39
TOTAL			\$ 58,861.55

**BUSINESS OF THE CITY COUNCIL
EAGLE POINT, OREGON**

AGENDA STATEMENT

Item Number: 10.1
Meeting Date: August 9, 2016

ITEM TITLE: Resolution No. 2016-33. A Resolution authorizing a City of Eagle Point Personal/Professional Services Contract for the 2016 Seal Coat Project.

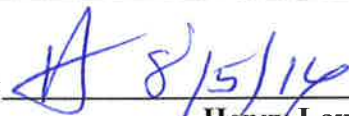
SUBMITTED BY: Robert Miller, Public Works Director (541) 826-4212 ext. 105

SUMMARY EXPLANATION: The City of Eagle Point is continuing the Pavement Management Program this summer with the 2016 Seal Coat project. The 2016 Seal Coat Project proposes 64,000 square yards of seal coating on residential streets, including the Alta Vista Path, and an additional 5,000 linear feet of crack seal as needed. The material specified is a Federal Aviation Administration (FAA) grade tire rubber modified surface sealer (TRMSS), and has been recommended and used in the past three years of the City's pavement maintenance program. The project was advertised in the Daily Journal of Commerce on July 13, 2016, in the Medford Mail Tribune, and statewide plan centers. The original bid opening was August 2, 2016, with only one bid received; however, the First Tier Subcontractor Form was not turned in by the required time (two hours after bid opening).

The bid opening was extended to August 4, 2016 (through Addendum No. 2), with only one responsive bid received by the deadline from National Pavement Maintenance PDX LLC for \$82,200. A bid from Quality One Maintenance proposed a different material that did not meet the specifications included in the bid packet, and the company is not pre-qualified for work on City streets. This bid was deemed non-responsive.

Staff proposes awarding a contract to National Pavement Maintenance PDX LLC in the amount of \$82,200 for the streets and Alta Vista path.

APPROVED FOR SUBMITTAL:



Henry Lawrence, City Administrator

STAFF RECOMMENDATION: Staff recommends approval of this item.

ATTACHMENT NO. 1 – Bid Results

Attachment No. 1

City of Eagle Point
2016 Seal Coat Bid Results
August 4, 2016

				National Pavement Maintenance PDX LLC	
Bid Item	Item Description	Unit	Estimated Quantity	Unit Price	Total Estimated Price
1	Mobilization	1	LS	\$5,000.00	\$5,000.00
2	Temporary Traffic Control/Signage	1	LS	\$5,000.00	\$5,000.00
3	Crack Sealing Material	5,000	LF	\$1.00	\$5,000.00
3	Tire Rubber Modified Surface Seal	64,000	LF	\$1.05	\$67,200.00
Total Proposal					\$82,200.00

RESOLUTION NO. 2016-33

A RESOLUTION AUTHORIZING A CITY OF EAGLE POINT PERSONAL/ PROFESSIONAL SERVICES CONTRACT FOR THE 2016 SEAL COAT PROJECT WITH NATIONAL PAVEMENT MAINTENANCE PDX LLC.

WHEREAS, the City completed a pavement management system evaluation in 2012 to identify and prioritize preventative and major maintenance; and

WHEREAS, the Pavement Management Program Budget Options Report recommended seal coating with the tire rubber modified surface sealer (TRMSS) as a way to preserve and extend the pavement life for pavement rated in good condition for an estimated five years; and

WHEREAS, the City is in the fourth year of the planned pavement management program; and

WHEREAS, the 2016 Seal Coat project was advertised the Daily Journal of Commerce on July 13, 2016, the Medford Builder's Exchange, and plan centers statewide; and

WHEREAS, one bid was received by the August 2, 2016 deadline, but was deemed non-responsive; and

WHEREAS, the bid opening was extended to August 4, 2016, with one responsive bid received by National Pavement Maintenance PDX LLC in the amount of \$82,200, and a non-responsive bid by Quality One Maintenance; and

WHEREAS, budgeted funds are available in the 2016-2017 budget from the Street Fund - Pavement Management Program.

Now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAGLE POINT, OREGON, THAT:

1. The City Administrator is authorized to execute a City of Eagle Point Personal/ Professional Services Contract for the 2016 Seal Coat Project with National Pavement Maintenance PDX LLC in the amount of \$82,200.

Passed in open session on the 9th day of August, 2016.

Robert E. Russell, Mayor

ATTEST:

Cindy Hughes, City Recorder

CITY OF EAGLE POINT PERSONAL/PROFESSIONAL SERVICES CONTRACT

Project: 2016 Seal Coat
Amount: \$ 82,200.00

Project No.: 2016/17-5b

This CITY OF EAGLE POINT PERSONAL/PROFESSIONAL SERVICES CONTRACT (Contract) is between the City of Eagle Point, hereafter called CITY and National Pavement Maintenance PDX, LLC, hereafter called CONTRACTOR. City's supervising representative for this Contract is Henry Lawrence, City Administrator.

1. Effective Date and Duration. This Contract shall become effective on the date on which it has been signed by every party hereto. Unless earlier terminated or extended, this Contract shall expire when CONTRACTOR's completed performance has been accepted by the CITY or one year from the effective date of this Contract. However, such expiration shall not extinguish or prejudice CITY's right to enforce this Contract with respect to: (i) any breach of a CONTRACTOR warranty; or (ii) any default or defect in CONTRACTOR performance that has not been cured.

2. Statement of Work. CONTRACTOR will provide: See Attached or CONTRACTOR's statement of work, including the delivery schedule for the work, is contained in Exhibit A, attached hereto and by this reference made a part hereof.

3. Consideration. (a) CITY agrees to pay CONTRACTOR, from available and authorized funds, a sum set forth in Exhibit A for accomplishing the work required by this contract. (b) Such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Terms and Conditions. The terms and conditions of this Contract are contained on the following page titled, "City of Eagle Point Personal/Professional Contract Provisions".

5. Travel and Other Expenses. Reimbursement of travel and other expenses is allowed only as provided in Exhibit A.

6. Contract Documents. This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference: this Personal/Professional Services Contract including Contract provisions, Exhibit A - Statement of Work, Consideration, and Travel and other Expenses; and B - Insurance. Exhibit C - Prevailing Wage Rate Requirements - Applicable or Not Applicable (Exhibit C attached only if applicable).

CONTRACTOR DATA AND CERTIFICATION

Name (tax filing): National Pavement Maintenance PDX LLC Phone (503) 989-8218

Address: 33002 SE Ryder Lane, Boring, OR 97009 Fax No. (503) 912-1353

Citizenship, if applicable: Non-resident alien YES NO

Business Designation: (Check one):

Corporation Partnership Limited Partnership Limited Liability Partnership Sole Proprietorship
 Governmental/Non-Profit Limited Liability Company

Federal Tax ID#: _____ or SSN#: _____ CCB#: 155923 Electrical#: _____

Above payment information must be provided prior to Contract approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer ID number submitted. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject CONTRACTOR to 31% backup withholding.

Certification: I, under penalties of perjury, do hereby certify that (a) the number shown on this form is my correct taxpayer ID (or I am waiting for the number to be issued to me), and (b) I am not subject to backup withholding because (i) I am exempt from backup withholding or (ii) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified me that I am no longer subject to backup withholding.

I, the undersigned also (a) agree to perform the work required by Exhibit A in accordance with the terms and conditions (as listed on the attached Exhibit B); (b) certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; (c) certify that I am an independent contractor as defined in ORS 670.600; and (d) certify that I am authorized to act on behalf of CONTRACTOR.

CONTRACTOR

Signature/Title

Date

CITY OF EAGLE POINT

Henry Lawrence, City Administrator

Date

1. ACCESS TO RECORDS. CONTRACTOR shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this contract. The CITY and its duly authorized representatives shall have access to the books, documents, papers, and records of CONTRACTOR which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by CONTRACTOR for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. AVAILABILITY OF FUNDS. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current fiscal year appropriation or expenditure limitation, provided, however, that continuation of the contract, or any extension, after the end of the fiscal period in which it is written, is contingent upon a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the CITY's reasonable administrative discretion, to continue to make payments under this Contract.

3. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this contract.

4. COMPLIANCE WITH APPLICABLE LAW. CONTRACTOR shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this contract. CONTRACTOR specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. CONTRACTOR also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659.425, and all regulations and administrative rules established pursuant to those laws. CONTRACTOR further agrees to make payments promptly when due, to all persons supplying to such CONTRACTOR, labor or materials for the prosecution of the work provided in this contract; pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR incurred in the performance of this contract; not permit any lien or claim to be filed or prosecuted against the CITY on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If CONTRACTOR fails or refuses to make any such payments required herein, the appropriate CITY official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the CONTRACTOR or CONTRACTOR's surety from obligation with respect to any unpaid claims. CONTRACTOR shall promptly pay any person or entity that furnishes medical care to CONTRACTOR's employees those sums which CONTRACTOR agreed to pay for such services and all money CONTRACTOR collected or deducted from employee's wages to provide such services of the CONTRACTOR.

5. CONTRACTOR'S COMPLIANCE WITH TAX LAWS. 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. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of CONTRACTOR'S warranty of this CONTRACT, that 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 CONTRACTOR, in an amount equal to State's setoff right, without penalty. (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 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 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.

6. DISCLOSURE OF SOCIAL SECURITY NUMBER. CONTRACTOR must provide CONTRACTOR's Social Security number unless CONTRACTOR provides a federal tax ID number. This number is requested pursuant to ORS 305.385 and OAR 150-305.100. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

7. EXECUTION AND COUNTERPARTS. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

8. GOVERNING LAW. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between CITY and CONTRACTOR that arises out of or relates to performance of this Contract shall be brought and conducted solely and exclusively within the

Circuit Court for Jackson County, Oregon. Provided, however, that if any such claim, action, or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

9. HAZARD COMMUNICATION. CONTRACTOR shall notify CITY prior to using products containing hazardous chemicals to which CITY employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon CITY's request, CONTRACTOR shall immediately provide Material Safety Data Sheets, as required by OAR 437-155-025, for the products subject to this provision.

10. INDEMNITY, RESPONSIBILITY FOR DAMAGES. CONTRACTOR shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work under this contract, or from any act, omission, or neglect of CONTRACTOR, its subcontractors, or employees. CONTRACTOR shall save, defend, indemnify, and hold harmless the CITY, and their officers, agents, employees, and members from all claims, suits, and actions of any nature resulting from or arising out of the activities or omissions of CONTRACTOR or its subcontractors, officers, agents, or employees acting under this contract.

11. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the CITY reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, CITY cannot and will not control the means or manner of CONTRACTOR's performance. CONTRACTOR is responsible for determining the appropriate means and manner of performing the Work. CONTRACTOR is not to be considered an agent or employee of CITY for any purpose, and neither CONTRACTOR nor any of CONTRACTOR's agents or employees is entitled to any of the benefits that CITY provides for its employees. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents or employees during the performance of this contract. If CONTRACTOR is providing personal services as an **individual**, CONTRACTOR: (1) Is engaged as an independent contractor and will be responsible for any Federal or State taxes applicable to this payment; (2) Will not be eligible for any Federal Social Security, State Workers' Compensation, unemployment insurance, or Public Employees Retirement System benefits or other retirement benefits from this Contract payment; (3) Is not an officer, employee, or agent of the State as these terms are used in ORS 30.265 and will not be under the direction and control of Board; (4) Is not currently employed by the Federal Government and the amount charged does not exceed the normal charge for the type of service provided if payment is to be charged against Federal funds; and (5) Must furnish Form 8233 in duplicate with this Contract if CONTRACTOR is a non-resident alien and claims exemption from Federal Withholding tax. (b) The CITY, will report the total amount of all payments to CONTRACTOR, including any expenses, in accordance with Federal Internal Revenue Service and State of Oregon Department of Revenue regulations.

12. INSURANCE. CONTRACTOR shall provide insurance as indicated on Exhibit B, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. The CITY, their officers and employees shall be included as an additional insured in said insurance policy. If any of the liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of 24 months.

13. LIMITATION OF LIABILITIES. EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTIONS 15(a) or 23(b), NEITHER PARTY SHALL BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THIS CONTRACT OR (ii) ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS.

14. NOTICES. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to CONTRACTOR or CITY at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against the CITY, such facsimile transmission must be confirmed by telephone notice to CITY's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

15. OWNERSHIP OF WORK PRODUCT. All work product of CONTRACTOR that results from this Contract (the "Work Product") is the exclusive property of CITY. CITY and CONTRACTOR intend that such Work Product be deemed "work made for hire" of which CITY shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," CONTRACTOR hereby irrevocably assigns to CITY all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal