

CITY OF YAKIMA



Request for Qualifications & Proposals No. 11325

To Provide

***Consultant Services to Conduct a Business
Process Analysis (BPA) – Utility Billing Division***

June 25, 2013

**Notice
Request for Qualifications and Proposals No. 11325**

Notice is hereby given by the undersigned that sealed Requests for Qualifications and Proposals will be accepted in the office of the Yakima City Clerk, Yakima City Hall, 129 N. 2nd Street, Yakima, Washington 98901 until the hour of 2:00 PM, July 11, 2013 and Respondents names will be publicly read for:

Consultant Services to Conduct a Business Process Analysis (BPA) of the City's existing Utility Billing Division and Processes.

Request for Qualification and Proposal Packets are available in the office of the Purchasing Manager, City Hall, Yakima, Washington. 509-575-6093 and online at:
www.yakimawa.gov/purchasing/?services.

The City of Yakima reserves the right to reject any and all RFQP's.

Dated this 21st day of June, 2013.

(Seal)

Sue Ownby, CPPO
Purchasing Manager

Publish on June 25th and June 26th, 2013

Acct: 10948

**CITY OF YAKIMA
REQUEST FOR QUALIFICATIONS and PROPOSAL
NO. 11325**

BUSINESS PROCESS ANALYSIS - UTILITY BILLING DIVISION

1. PURPOSE:

This Request for Qualifications (RFQP) invites responses from consultants interested in preparing a Business Process Analysis (BPA) of the City's existing Utility Billing Division and processes.

Over time, changes to business processes, and changes to the environment that these processes operate within, can cause them to become inefficient and costly. Analysis of business processes can identify inefficiencies and their correction can reduce costs and improve the quality of their outputs. In order for cities to identify and recognize areas for possible change, upper management and business analysts will frequently conduct a type of review known as business process analysis (BPA). BPA is the activity of reviewing existing business practices and changing these practices so that they are technologically current, efficient and cost effective as well as having an improved output.

2. RFQP ADMINISTRATION/COORDINATOR:

Upon release of this RFQP, all applicant communication should be directed in writing to the RFQP Coordinator listed below. Any oral communications with other City employees will be considered unofficial and non-binding on the City.

Sue Ownby, CPPO
Purchasing Manager
City of Yakima
129 No. 2nd Street
Yakima, WA 98901
Ph: 509-576-6695 Email: sownby@ci.yakima.wa.us

3. PRELIMINARY RFQP SCHEDULE (may be revised as needed)

	Date
RFQP Released.....	June 25, 2013
Qualification Packets Due	2:00 P.M. July 11, 2013
Interviews.....	week of July 22, 2013
Selection	week of July 29, 2013

Proposed Start Date.....

August, 2013

4. CONTRACT:

The successful applicant will be offered the opportunity to enter into an agreement (ATTACHMENT A) with the City of Yakima to provide consultant services. The applicant shall review the attached agreement and propose any changes they desire to be made to the standard agreement on a separate sheet titled "Proposed Changes to the Agreement". The City may accept or reject proposed changes.

5. A BRIEF HISTORY AND DESCRIPTION OF EXISTING PROCESS:

Utility Services performs a variety of services for various city departments, including; uploading water meter reads into an automated customer billing system to produce 192,000 utility bills and 33,000 past due notices annually for approximately 32,000 utility accounts (Irrigation, Refuse, Water and Wastewater); answer approximately 6,000 customer service phone calls per month; process approximately 5,000 counter payment transactions and 15,000 mailed payment transactions per month; process approximately 3,600 customer billing service orders per month; process written communication with customers on a variety of issues; process approximately 800 service suspension notices per month; process approximately 400 accounts per month for collection services; supply customer service in English and Spanish languages; follow up on approximately 700 delinquent storm water accounts annually; perform research on property transfers for title companies; interface with Nob Hill Water Association for approximately 8,000 shared customer accounts; process outgoing mail for all city departments; count fare boxes for Yakima Transit (daily service for 11 routes); process approximately 1,300 dog licenses for Codes Administration; process approximately 1,500 parking tickets and 100 parking passes annually.

Utility Services is located in the lobby of Yakima City Hall at 129 North Second Street in Yakima, WA. Customer service hours are 8:30 a.m. to 5:00 p.m. for both lobby and telephone customers. Personnel include the division manager, one supervisor and eight Utility Services Representatives. Utility Services reports to the city's Finance Director.

The City of Yakima instituted online payments through US Bank for utility bills in October 2012. The service is being utilized at approximately 1,100 payments per month. Also in October 2012, the city contracted with The Master's Touch in Spokane, WA for mailing services of utility bills.

In 2013 the city will begin the transition to an advanced metering infrastructure for water meters.

In April 2010 the city converted to an Oracle based utility billing platform. The system is much more capable and complex than the prior system (circa 1987). Three years after implementation staff continues to struggle to complete transactions and service customer accounts in a timely and accurate manner.

6. SCOPE OF WORK:

The BPA shall be managed in three (3) phases:

Phase 1: Discovery: Consultants shall begin onsite, holding workshops/ interviews with key staff to gain an understanding of the systems and processes used to manage our Utility Billing Division.

Via extensive sessions with key staff, gather information at each step to understand perceived efficiencies and deficiencies within the processes. Identify processes that may require improvement, modification or elimination.

Phase 2: Process Documentation: The information and knowledge gathered during the discovery phase shall be documented.

Phase 3: Recommendation/Deliverables: Provide the City with business process findings and recommendations to increase efficiencies and help reduce costs. This may include recommendations for new or upgraded systems and/or changes to staffing or reorganization of Divisions. Some specific areas the city would like addressed are:

- Could the entire City have and benefit from a single payment point?
- Could the City have a third party payment process for credit cards, debit cards and EFT?
- Should the current billing system be eliminated and another system implemented?
- Consideration of options for Operating Methodologies.

7. DEADLINE FOR DELIVERY OF QUALIFICATIONS:

One original proposal, with five (5) complete paper copies and one (1) electronic copy (CD or flash drive), shall be sealed and must be delivered no later than 2:00 P.M. PST, July 11 2013 to:

City of Yakima
Clerks Office
129 No. 2nd St.
Yakima, WA 98901

Proposal packages must be marked: **RFQP No. 11323, BPA - Utilities**

QUALIFICATIONS RECEIVED AFTER 2:00 P.M. PST, ON THE DATE LISTED ABOVE WILL NOT BE ELIGIBLE FOR CONSIDERATION. THE DEADLINE WILL BE STRICTLY ADHERED TO. LATE PROPOSALS WILL NOT BE CONSIDERED.

Proposals, which do not include all requested information and required documentation, may be considered non-responsive.

8. QUALIFICATION DOCUMENTS

Qualification Requirements: Qualifications may be in the form of a letter, and should include a copy of the applicants resume.

The submitted Qualifications should be prepared simply, providing a straightforward, concise delineation of the approach and capabilities necessary to satisfy the requirements of the RFQP. Emphasis in the qualification packet should be on completeness, clarity of content and adherence to the presentation structure required by the RFQP.

The successful firm will be expected to sign the Professional Services Agreement (ATTACHMENT A). If there are any changes that the consultant desires to make to the proposed agreement, please attach a sheet titled "Proposed changes to the Professional Services Agreement" and enclose with your Statement of Qualifications/Proposal.

9. QUALIFICATION REQUIREMENT

Applicants should address the following areas in their letter:

Experience:

- (1) Explain the qualifications your firm has to complete the BPA.
- (2) Identify members of your team who will work on the project, along with their resume.
- (3) Describe your experience providing BPA's for similar type studies.

Recent Similar Work References:

List three professional references (with addresses and phone numbers) who are able to provide information regarding your ability to perform this type of study.

10. FEES:

Applicant shall submit a complete schedule of fees and professional rates, as well as a detailed estimate of the total hours to be spent on each of the three (3) phases.

11. EVALUATION BY ANALYSIS COMMITTEE:

All qualification packets will be screened to determine whether the minimum requirements of the RFQP are met. The Selection Committee (SC) will then short-list two or three firms to be invited for interviews.

A. **Qualification Evaluation Criteria:** The following are the criteria which will be used in the selection of applicants. A maximum score of 100 points will be used to evaluate applicants. Each of the following elements shall have the stated maximum point value:

	<u>Qualification and Experience</u>	<u>Points</u>
(1)	Innovation/Ideas	30
(2)	Key Personnel Experience	30
(3)	Cost	25
(4)	Relevant Experience	15
	<i>TOTAL</i>	<i>100</i>

The firm scoring the highest overall points shall be recommended for contract negotiations and award. In case of a tied scored, recommendation of award will go to the firm who was favored by the majority of the SC members. The decision of the City Manager to accept the award and approve the resulting contract shall be final.

12. APPLICANTS COST TO DEVELOP QUALIFICATION PACKET:

Costs for developing qualification packets in response to the RFQP are entirely the obligation of the Applicant and shall not be chargeable in any manner to the City.

AGREEMENT
BETWEEN
CITY OF YAKIMA, WASHINGTON
AND

FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on this _____ day of _____, 2013, by and between the City of Yakima, Washington, a municipal corporation with its principal office at 129 North Second Street, Yakima, WA 98901, hereinafter referred to as "CITY", and _____ with its principal office at _____, hereinafter referred to as "CONSULTANT"; said corporation are licensed and registered to do business in the State of Washington, and will provide services under this Agreement for State Legislative and Administrative Advocacy Services, hereinafter referred to as "SERVICES" on behalf of the City of Yakima.

WITNESSETH:

RECITALS

WHEREAS, CITY desires to retain the CONSULTANT to provide services described in this Agreement and subsequent Amendments thereto; and

WHEREAS, CONSULTANT represents that it has available and offers to provide personnel with knowledge and experience necessary to satisfactorily accomplish the work within the required time and that it has no conflicts of interest prohibited by law from entering into this Agreement;

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

SECTION 1 INCORPORATION OF RECITALS

1.1 The above recitals are incorporated into these operative provisions of the Agreement.

SECTION 2 SCOPE OF SERVICES

2.1 CONSULTANT agrees to perform those services described hereafter. Unless modified in writing by both parties, duties of CONSULTANT shall not be construed to exceed those services specifically set forth herein.

2.2 CONSULTANT shall use its best efforts to maintain continuity in personnel and shall assign, _____ as Consultant-in-Charge throughout the term of this Agreement unless other personnel are approved by the CITY.

2.3 Basic Services: CONSULTANT agrees to perform those tasks described in Exhibit A, entitled "_____" (WORK) which is attached hereto and made a part of this Agreement as if fully set forth herein.

2.4 Additional Services: CITY and CONSULTANT agree that not all WORK to be performed by CONSULTANT can be defined in detail at the time this Agreement is executed, and that additional WORK related to the Project and not covered in Exhibit A may be needed during performance of this Agreement. CITY may, at any time, by written order, direct the CONSULTANT to revise portions of the WORK previously completed in a satisfactory manner,

delete portions of the WORK, or request that the CONSULTANT perform additional WORK beyond the scope of the WORK. Such changes hereinafter shall be referred to as "Additional Services."

2.4.1 If such Additional Services cause an increase or decrease in the CONSULTANT'S cost of, or time required for, performance of any services under this Agreement, a contract price and/or completion time adjustment pursuant to this Agreement shall be made and this Agreement shall be modified in writing accordingly.

2.4.2 Compensation for each such request for Additional Services shall be negotiated by the CITY and the CONSULTANT according to the provisions set forth in Exhibit B, attached hereto and incorporated herein by this reference, and if so authorized, shall be considered part of the WORK. The CONSULTANT shall not perform any Additional Services until so authorized by CITY and agreed to by the CONSULTANT in writing.

2.5 The CONSULTANT must assert any claim for adjustment in writing within thirty (30) days from the date of the CONSULTANT's receipt of the written notification of change.

SECTION 3 CITY'S RESPONSIBILITIES

3.1 CITY-FURNISHED DATA: The CITY will provide to the CONSULTANT all technical data in the CITY'S possession relating to the CONSULTANT'S services on the WORK.

3.2 ACCESS TO FACILITIES AND PROPERTY: The CITY will make its facilities reasonably accessible to CONSULTANT as required for CONSULTANT'S performance of its services and will provide labor and equipment as reasonably required by CONSULTANT for such access.

3.3 TIMELY REVIEW: The CITY will examine the CONSULTANT'S studies, reports, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner. Such examinations and decisions, however, shall not relieve the CONSULTANT of any contractual obligations nor of its duty to render professional services meeting the standards of care for its profession.

3.4 CITY shall appoint a CITY'S Representative with respect to WORK to be performed under this Agreement. CITY'S Representative shall have complete authority to transmit instructions and receive information. CONSULTANT shall be entitled to reasonably rely on such instructions made by the CITY'S Representative unless otherwise directed in writing by the CITY, but CONSULTANT shall be responsible for bringing to the attention of the CITY'S Representative any instructions which the CONSULTANT believes are inadequate, incomplete, or inaccurate based upon the CONSULTANT'S knowledge.

3.5 Any documents, services, and reports provided by the CITY to the CONSULTANT are available solely as additional information to the CONSULTANT and will not relieve the CONSULTANT of its duties and obligations under this Agreement or at law. The CONSULTANT shall be entitled to reasonably rely upon the accuracy and the completeness of such documents, services and reports, but shall be responsible for exercising customary professional care in using and reviewing such documents, services, and reports and drawing conclusions there from.

SECTION 4 AUTHORIZATION, PROGRESS, AND COMPLETION

4.1 In signing this Agreement, CITY grants CONSULTANT specific authorization to proceed with WORK described in Exhibit A. The time for completion is defined in Exhibit A, or as amended.

SECTION 5 COMPENSATION

5.1 COMPENSATION ON A TIME SPENT BASIS AT SPECIFIC HOURLY RATES: For the services described in Exhibit A, compensation shall be according to Exhibit C - Schedule of Specific Hourly Rates, attached hereto and incorporated herein by this reference, on a time spent basis plus reimbursement for direct non-salary expenses.

5.1.1 DIRECT NON-SALARY EXPENSES: Direct Non-Salary Expenses are those costs incurred on or directly for the PROJECT including, but not limited to, necessary transportation costs, including current rates for CONSULTANT'S vehicles; meals and lodging; laboratory tests and analyses; printing, binding and reproduction charges; all costs associated with other outside nonprofessional services and facilities; special CITY-requested and PROJECT-related insurance and performance warranty costs; and other similar costs. Reimbursement for Direct Non-Salary Expenses will be on the basis of actual charges plus ten percent (10%) and on the basis of current rates when furnished by CONSULTANT. Estimated Direct Non-Salary Expenses are shown in Exhibit B.

5.1.1.1 Travel costs, including transportation, lodging, subsistence, and incidental expenses incurred by employees of the CONSULTANT and each of the Subconsultants in connection with PROJECT WORK; provided, as follows:

- ◆ That a maximum of U.S. INTERNAL REVENUE SERVICE allowed cents per mile will be paid for the operation, maintenance, and depreciation costs of company or individually owned vehicles for that portion of time they are used for WORK. CONSULTANT, whenever possible, will use the least expensive form of ground transportation.
- ◆ That reimbursement for meals inclusive of tips shall not exceed a maximum of forty dollars (\$40) per day per person. This rate may be adjusted on a yearly basis.
- ◆ That accommodation shall be at a reasonably priced hotel/motel.
- ◆ That air travel shall be by coach class, and shall be used only when absolutely necessary.

5.1.2 Telephone charges, computer charges, in-house reproduction charges, first class postage, and FAX charges are not included in the direct expense costs, but are considered included in the Schedule of Specific Hourly Billing Rates.

5.2 Unless specifically authorized in writing by the CITY, the total budgetary amount for this PROJECT shall not exceed _____ Dollars (\$_____). The CONSULTANT will make reasonable efforts to complete the WORK within the budget and will keep CITY informed of progress toward that end so that the budget or WORK effort can be adjusted if found necessary. The CONSULTANT is not obligated to incur costs beyond the indicated budget, as may be adjusted, nor is the CITY obligated to pay the CONSULTANT beyond these limits. When any budget has been increased, the CONSULTANT'S excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase, and provided that the City was informed in writing at the time such costs were incurred.

5.3 The CONSULTANT shall submit to the City's Representative an invoice each month for payment for services completed through the accounting cut-off day of the previous month. Such invoices shall be for services and WORK performed and costs incurred prior to the date of the invoice and not covered by previously submitted invoices. The CONSULTANT shall submit with each invoice a summary of time expended on the PROJECT for the current billing period, and any other supporting materials determined by the City necessary to substantiate the costs incurred. CITY will use its best efforts to pay such invoices within thirty (30) days of receipt and upon approval of the WORK done and amount billed. CITY will notify the CONSULTANT promptly if any problems are noted with the invoice. CITY may question any item in an invoice, noting to

CONSULTANT the questionable item(s) and withholding payment for such item(s). The CONSULTANT may resubmit such item(s) in a subsequent invoice together with additional supporting information required.

5.4 Payment terms are net 30 after receipt of approved invoice(s).

SECTION 6 RESPONSIBILITY OF CONSULTANT

6.1 INDEMNIFICATION:

- (a) CONSULTANT agrees to defend, indemnify, and hold harmless the CITY, its elected officials, agents, officers, employees, agents and volunteers (hereinafter "parties protected") from (1) claims, demands, liens, lawsuits, administrative and other proceedings,(including reasonable costs and attorneys fees) and (2) judgments, awards, losses, liabilities, damages, penalties, fines, costs and expenses of any kind claimed by third parties arising out of, or related to any death, injury, damage or destruction to any person or any property to the extent caused by any negligent act, action, default, error or omission or willful misconduct arising out of the CONSULTANT's performance under this Agreement. In the event that any lien is placed upon the City's property or any of the City's officers, employees or agents as a result of the negligence or willful misconduct of the CONSULTANT, the CONSULTANT shall at once cause the same to be dissolved and discharged by giving bond or otherwise.
- (b) CITY agrees to indemnify and hold the CONSULTANT harmless from loss, cost, or expense of any kind claimed by third parties, including without limitation such loss, cost, or expense resulting from injuries to persons or damages to property, caused solely by the negligence or willful misconduct of the CITY, its employees, or agents in connection with the service.
- (c) If the negligence or willful misconduct of both the CONSULTANT and the CITY (or a person identified above for whom each is liable) is a cause of such third party claim, the loss, cost, or expense shall be shared between the CONSULTANT and the CITY in proportion to their relative degrees of negligence or willful misconduct and the right of indemnity will apply for such proportion.
- (d) Nothing contained in this Section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.

6.2 In any and all claims by an employee of the CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or types of damages, compensation, or benefits payable by or for the CONSULTANT or a subcontractor under workers' or workmens' compensation acts, disability benefit acts, or other employee benefit acts.

CONSULTANT'S INITIALS _____ CITY'S INITIALS _____

SECTION 7 AUDIT AND ACCESS TO RECORDS

7.1 The CONSULTANT, including its subconsultants, shall maintain books, records, documents and other evidence directly pertinent to performance of the WORK under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The CITY, or the CITY'S duly authorized representative, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying for a period of three years after

completion of the WORK. The CITY shall also have access to such books, records, and documents during the performance of the WORK, if deemed necessary by the CITY, to verify the CONSULTANT'S WORK and invoices.

- 7.2 Audits conducted pursuant to this section shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or auditing agency.
- 7.3 The CONSULTANT agrees to the disclosure of all information and reports resulting from access to records pursuant to this section provided that the CONSULTANT is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include written comments, if any, of the CONSULTANT.
- 7.4 The CONSULTANT shall ensure that the foregoing paragraphs are included in each subcontract for WORK.
- 7.5 Any charges of the CONSULTANT paid by the CITY which are found by an audit to be inadequately substantiated shall be reimbursed to the CITY.

SECTION 8 INSURANCE

- 8.1 At all times during performance of the Services, CONSULTANT shall secure and maintain in effect insurance to protect the City and the CONSULTANT from and against all claims, damages, losses, and expenses arising out of or resulting from the performance of this Contract. CONSULTANT shall provide and maintain in force insurance in limits no less than that stated below, as applicable. The City reserves the rights to require higher limits should it deem it necessary in the best interest of the public.

8.1.1 **Commercial General Liability Insurance.** Before this Contract is fully executed by the parties, CONSULTANT shall provide the City with a certificate of insurance as proof of commercial liability insurance and commercial umbrella liability insurance with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The policy shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

8.1.2. Commercial Automobile Liability Insurance.

a. If CONSULTANT owns any vehicles, before this Contract is fully executed by the parties, OIC shall provide the City with a certificate of insurance as proof of commercial automobile liability insurance and commercial umbrella liability insurance with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage. Automobile liability will apply to "Any Auto" and be shown on the certificate.

b. If CONSULTANT does not own any vehicles, only "Non-owned and Hired Automobile Liability" will be required and may be added to the commercial liability coverage at the same limits as required in that section of this Contract, which is Section 12.2 entitled "Commercial Liability Insurance".

c. Under either situation described above in Section 3.a and Section 13.b, the required certificate of insurance shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The policy shall name the City, its elected officials, officers, agents, employees, and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of “but failure to mail such notice shall impose no obligation or liability of any kind upon the company” shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best’s Guide and admitted in the State of Washington.

8.1.3. Statutory workers' compensation and employer's liability insurance as required by state law.

8.1.4. **Professional Liability Coverage.** Before this Contract is fully executed by the parties, CONSULTANT shall provide the City with a certificate of insurance as proof of professional liability coverage with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per claim combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The policy shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice (any language in the clause to the effect of “but failure to mail such notice shall impose no obligation or liability of any kind upon the company” shall be crossed out and initialed by the insurance agent). The insurance shall be with an insurance company or companies rated A-VII or higher in Best’s Guide. If the policy is written on a claims made basis the coverage will continue in force for an additional two years after the completion of this contract.

Failure of either or all of the additional insureds to report a claim under such insurance shall not prejudice the rights of the CITY, its officers, employees, agents, and representatives there under. The CITY and the CITY'S elected officials, officers, principals, employees, representatives, and agents shall have no obligation for payment of premiums because of being named as additional insureds under such insurance. None of the policies issued pursuant to the requirements contained herein shall be canceled, allowed to expire, or changed in any manner that affects the rights of the City until thirty (30) days after written notice to the CITY of such intended cancellation, expiration or change.

SECTION 9 SUBCONTRACTS

9.1 CONSULTANT shall be entitled, to the extent determined appropriate by CONSULTANT, to subcontract any portion of the WORK to be performed under this Agreement.

SECTION 10 ASSIGNMENT

10.1 This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be assigned by CITY or CONSULTANT without prior written consent of the other, which consent will not be unreasonably withheld. It is expressly intended and agreed that no third party beneficiaries are created by this Agreement, and that the rights and remedies provided herein shall inure only to the benefit of the parties to this Agreement.

SECTION 11 INTEGRATION

- 11.1 This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

SECTION 12 JURISDICTION AND VENUE

- 12.1 This Agreement shall be administered and interpreted under the laws of the State of Washington. Jurisdiction of litigation arising from this Agreement shall be in Washington State. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect. Venue of all disputes arising under this Agreement shall be Yakima County, State of Washington.

SECTION 13 EQUAL EMPLOYMENT and NONDISCRIMINATION

- 13.1 During the performance of this Agreement, CONSULTANT and CONSULTANT's subconsultants shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, and any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement. CONSULTANT agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity and Nondiscrimination statutes and regulations.

SECTION 14 SUSPENSION OF WORK

- 14.1 CITY may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond CITY'S control are interfering with normal progress of the WORK. CONSULTANT may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond CONSULTANT's control are interfering with normal progress of the WORK. CONSULTANT may suspend WORK on PROJECT in the event CITY does not pay invoices when due, except where otherwise provided by this Agreement. The time for completion of the WORK shall be extended by the number of days WORK is suspended. If the period of suspension exceeds ninety (90) days, the terms of this Agreement are subject to renegotiation, and both parties are granted the option to terminate WORK on the suspended portion of Project in accordance with SECTION 15.

SECTION 15 TERMINATION OF WORK

- 15.1 Either party may terminate this Agreement, in whole or in part, if the other party materially breaches its obligations under this Agreement and is in default through no fault of the terminating party. However, no such termination may be effected unless the other party is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation and for cure with the terminating party before termination. Notice shall be considered issued within seventy-two (72) hours of mailing by certified mail to the place of business of either party as set forth in this Agreement.
- 15.2 In addition to termination under subsection 15.1 of this Section, CITY may terminate this Agreement for its convenience, in whole or in part, provided the CONSULTANT is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt

requested, of intent to terminate; and (2) an opportunity for consultation with CITY before termination.

- 15.3 If CITY terminates for default on the part of the CONSULTANT, an adjustment in the contract price pursuant to the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other WORK, and (2) any payment due to the CONSULTANT at the time of termination may be adjusted to the extent of any additional costs or damages CITY has incurred, or is likely to incur, because of the CONSULTANT'S breach. In such event, CITY shall consider the amount of WORK originally required which was satisfactorily completed to date of termination, whether that WORK is in a form or of a type which is usable and suitable to CITY at the date of termination and the cost to CITY of completing the WORK itself or of employing another firm to complete it. Under no circumstances shall payments made under this provision exceed the contract price. In the event of default, the CONSULTANT agrees to pay CITY for any and all damages, costs, and expenses whether directly, indirectly, or consequentially caused by said default. This provision shall not preclude CITY from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by contract retainage or other withheld payments.
- 15.4 If the CONSULTANT terminates for default on the part of CITY or if CITY terminates for convenience, the adjustment pursuant to the Agreement shall include payment for services satisfactorily performed to the date of termination, in addition to termination settlement costs the CONSULTANT reasonably incurs relating to commitments which had become firm before the termination, unless CITY determines to assume said commitments.
- 15.5 Upon receipt of a termination notice under subsections 15.1 or 15.2 above, the CONSULTANT shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to CITY all originals of data, drawings, specifications, calculations, reports, estimates, summaries, and such other information, documents, and materials as the CONSULTANT or its subconsultants may have accumulated or prepared in performing this Agreement, whether completed or in progress, with the CONSULTANT retaining copies of the same.
- 15.6 Upon termination under any subparagraph above, CITY reserves the right to prosecute the WORK to completion utilizing other qualified firms or individuals; provided, the CONSULTANT shall have no responsibility to prosecute further WORK thereon.
- 15.7 If, after termination for failure of the CONSULTANT to fulfill contractual obligations, it is determined that the CONSULTANT has not so failed, the termination shall be deemed to have been effected for the convenience of CITY. In such event, the adjustment pursuant to the Agreement shall be determined as set forth in subparagraph 15.4 of this Section.
- 15.8 If, because of death, unavailability or any other occurrence, it becomes impossible for any key personnel employed by the CONSULTANT in PROJECT WORK or for any corporate officer of the CONSULTANT to render his services to the PROJECT, the CONSULTANT shall not be relieved of its obligations to complete performance under this Agreement without the concurrence and written approval of CITY. If CITY agrees to termination of this Agreement under this provision, payment shall be made as set forth in subparagraph 15.3 of this Section.

SECTION 16 DISPUTE RESOLUTION

- 16.1 In the event that any dispute shall arise as to the interpretation of this agreement, or in the event of a notice of default as to whether such default does constitute a breach of the contract, and if the parties hereto cannot mutually settle such differences, then the parties shall first pursue mediation as a means to resolve the dispute. If the afore mentioned methods are either not successful then any dispute relating to this Agreement shall be decided in the courts of Yakima County, in

accordance with the laws of Washington. If both parties consent in writing, other available means of dispute resolution may be implemented.

SECTION 17 NOTICE

17.1 Any notice required to be given under the terms of this Agreement shall be directed to the party at the address set forth below. Notice shall be considered issued and effective upon receipt thereof by the addressee-party, or seventy-two (72) hours after mailing by certified mail to the place of business set forth below, whichever is earlier.

CITY: City of Yakima
Tony O'Rourke, City Manager
129 North 2nd Street
Yakima, WA 98901

CONSULTANT: _____

Attn:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective authorized officers or representatives as of the day and year first above written.

CITY OF YAKIMA

Tony O'Rourke

Signature

Printed Name: _____

Printed Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

Attest _____
City Clerk

City Contract No. 2013-

Resolution No. R-2013-

EXHIBIT A (to be added)

SCOPE OF SERVICES

The Scope of Services shall include, but may not be limited to:

EXHIBIT B (to be added)

Professional Fees

EXHIBIT C (to be added)

SCHEDULE OF RATES