



REQUEST FOR COUNCIL ACTION

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| DATE ACTION REQUESTED: February 13, 2024 | | | |
| Ordinance <input type="checkbox"/> | Resolution <input type="checkbox"/> | Motion X | Information <input type="checkbox"/> |
| Date Prepared: 2/1/2024 | | Dept.: City Manager's Office | |
| SUBJECT: RFP for Audit Services | | Contact Person for this Item: Melissa Bethel, City Manager, bethelm@grantcounty-org.gov 541 575 0028 ex 4224 | |

SUBJECT: Request for proposals for qualified municipal auditors

BACKGROUND: The City and URA are required to have an annual audit performed by a CPA licensed in the State of Oregon to perform municipal audits. The URA is what is called a blended component unit and may or may not require a separate audit report, but in any event must be included in the City's audit report. The City last had its financial statements audited for the year ended June 30, 2022. This audit proposal is for three years beginning with June 30, 2023.

FINANCIAL IMPACT: The three prior years' audit fees have been between \$20,000 and \$30,000. Given where the market is for municipal auditors at this point in time, proposals may include higher fees.

ATTACHMENTS:

Draft RFP for approval

City of John Day
Request for Proposals – Audit Services
February 15, 2024

City of John Day (“City”) is soliciting proposals from qualified, independent, Oregon licensed municipal auditors (“Auditor(s)”) having sufficient governmental and auditing experience to provide certain audit services for and on behalf of City.

BACKGROUND

City is located in Grant County and contains a population of approximately 1,680. City operates under a council-city manager form of government. The city council is composed of a mayor and six councilors elected from City at large. The city council appoints the city manager who is responsible for City functions. City currently employs nine full-time employees and three part-time employees. Using resources appropriated by the city council, the city manager ensures city council policies are implemented to achieve desired service results in the community. Services provided by City to the community include, without limitation, planning services, road and street maintenance, water, wastewater and storm water services, park facilities and maintenance, and various community development activities. City’s approved budget for all City operations for Fiscal Year 2022/2023 was \$31,183,963. City receives funding through state and federal grant programs.

The City audit also includes an Urban Renewal Agency (URA) that is reported as a blended component unit. The URA’s board includes the same members as the City Council. The URA is included in the budget above in the amount of \$112,143 for fiscal year 2022/2023.

SCOPE OF SERVICES

The purpose of this Request for Proposals – Auditor Services (this “RFP”) is to select an Auditor to provide the following audit services for and on behalf of City (collectively, the “Services”):

1. Conduct the financial and compliance audit of City’s operations, including, without limitation, planning and preparing the audit. Prepare and present the draft and final audit report (including approximately eight bound hard copies and an electronic copy). Plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement, whether caused by error or fraud, and conformity with GAAP.
2. Perform tests of documentary evidence supporting the transactions recorded in the accounts, which may include tests of the physical existence of inventories and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions.
3. Perform tests of City’s compliance with applicable laws and regulations and provisions of contracts and agreements. Review the internal accounting controls of City to the extent necessary to evaluate the system as required by applicable standards.
4. Prepare a report on compliance with specific requirements applicable to major federal financial assistance programs, if required.
5. Issue a “management report” making recommendations for improvement.
6. Make an immediate written report to the city manager of all irregularities and illegal acts or indications of illegal acts of which the Auditor becomes aware.

7. Inform the city manager of any matters involving internal control and its operation the Auditor considers being reportable conditions under standards established by the American Institute of Certified Public Accountants.
8. Provide City with adjusting entries and a final trial balance upon completion of the field work.
9. Attend meetings and prepare progress reports, including, without limitation, the following tasks:
 - (a) Pre-audit conferences(s) with City management and accounting staff (and/or consultant) to discuss audit schedules, working paper requirements, and report deadlines, as well as the audit program.
 - (b) Progress report meetings will be held with key audit firm personnel and City financial management staff at regular intervals.
 - (c) Post-audit conference(s) with City management and key audit firm personnel will be held. The Auditor will present the audit to the city council.
 - (d) The audit will be a single document which will contain financial statements, notes, and supplementary data, the combined and individual fund and account group statements, financial statements and schedules. Audit reports will be provided within the periods required by the State of Oregon to meet any reporting requirements.
10. General financial technical assistance to City throughout the fiscal year, including, without limitation, answers to accounting, reporting, and/or internal control questions.
11. Assist with any other financial and/or audit projects requested by City's city manager from time to time.

The selected Auditor will apply industry standards for auditing, and the audit(s) performed will be made in accordance with all applicable federal, state, and local laws, rules, regulations, standards, and ordinances, including, without limitation, the following: (a) generally accepted governmental procedures as prescribed in the American Institute of CPAs (AICPA) Industry Audit Guide – Audits of State and Local Government Units and in Governmental Accounting, Auditing, and Financial Reporting (GAAFR); (b) generally accepted government auditing standards (GAGAS), government auditing standards, and Oregon minimum standards; (c) the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996; and (d) OMB A-133: Audits of State, Local Governments, and Non-Profit Organizations. City's Annual Financial Report will conform to reporting standards for government entities as determined by the Governmental Accounting Standards Board (GASB) and/or the Financial Accounting Standards Board (FASB), as appropriate. The Auditor's opinion will be directed toward the fairness of presentation of the financial statements in accordance with GAAP. The Auditor will also provide compliance reports as required under federal and state law, if applicable.

The selected Auditor will meet with the city manager prior to the commencement of Services to discuss the planned approach to the Services. The Auditor will work with, and report directly to, the city manager and council. A copy of City's budget and prior year audited financial reports are available on the City's website at <http://www.cityofjohnday.com/bc-budget/page/adopted-budgets>.

MINIMUM QUALIFICATIONS

The Auditor must meet the following minimum requirements: (a) the Auditor must be registered to do business

in the State of Oregon; (b) the principal auditor must be a Certified Public Accountant qualified to perform municipal audits in the State of Oregon; and (c) the Auditor must have experience in performing municipal audits in accordance with auditing standards generally accepted in the United States of America, preparing financial statements compliant with GASB 34, GASB 45, GASB 54, other applicable GASB requirements and Oregon Budget Law.

PROPOSAL FORMAT

An Auditor interested in performing the Services must submit a signed and dated written proposal to City containing the following information:

1. Cover Letter; Contact Information. A cover letter for the proposal stating the Auditor's name, address, and contact information and the name of the primary contact in reference to the proposal. Also, please provide the Auditor's authorization or licensing by the State Board of Accountants to conduct audits. The cover letter must demonstrate the Auditor's compliance with the minimum requirements identified above.
2. Firm Information; Availability. Brief information concerning the Auditor (e.g., background, size, types of services provided, experience, and types of similar governmental and accounting engagements). Please also identify availability to perform the Services.
3. Experience; References. A list of the current and prior municipal government audit clients indicating the type(s) of services performed and the number of years for each engagement. Please also identify and include contact information for at least three municipal audit clients.
4. Key Staff. Identification of the person(s) who will be assigned and responsible to perform the Services, including any partners, managers, and other key staff members. Identify each individual's experience in auditing governmental jurisdictions. Describe the experience and knowledge that your firm and supervising staff have in performing examinations in accordance with the provisions of the Single Audit Act and component units.
5. Quality Control Review. A copy of the Auditor's most recent quality control review report or peer review.
6. Disclosures. Please (a) disclose all judgments, pending or expected litigation, or other real or potential financial reversals that might materially affect the viability and/or stability of the proposing organization, or (b) warrant that no such condition is known to exist.
7. Subcontractors. Include a statement indicating whether subcontractors will be used and, if so, provide the information contained in this section (i.e., "Proposal Format") for each subcontractor.
8. Rates. Identification of the fees the Auditor desires to receive for the performance of the Services. In addition, please identify the maximum fee associated with performing the Services and include a maximum annual percentage increase that can be expected for the next three fiscal years. Please describe how the fee is allocated to each of the following: (a) the audit the City; (b) the Single Audit Report required under OMB Circular A-133 (should the City be subject to it); and (c) report writing.
9. Audit Approach. A description of the Auditor's audit approach and customer service philosophy. To this end, please describe the Auditor's values that ensure quality controls are in place throughout an audit.

PROPOSAL SUBMISSION

1. Submission. To be considered, please submit your proposal to Melissa Bethel, City Manager, via

email at bethelm@grantcounty-or.gov, or by mail or hand delivery to City of John Day, 450 East Main Street, John Day, Oregon 97845. Please clearly label the outside of the envelope (or fill in the email subject line with) "John Day Audit Services Proposal." Proposals must be received by City on or before **March 22, 2024** at 4:00 p.m., Pacific Time. Proposals received after the deadline date/time will not be considered. Proposals must address all the items listed in this RFP; incomplete proposals may not be considered. Notwithstanding anything contained in this RFP to the contrary, if in City's best interest, City reserves the right to (a) amend and/or revise this RFP in whole or in part, (b) cancel this RFP, (c) extend the submittal deadline for responses to this RFP, (d) waive minor informalities and errors in such proposals, (e) reject all proposals for any reason and/or without indicating reasons for rejection, and/or (f) hold the proposal(s) for sixty (60) days before rendering a decision. Further, City reserves the right to seek clarification(s) from any consultant and/or require supplemental information from any consultant. This RFP does not obligate City to award a contract and/or to procure the Services described herein.

2. Confidential Information.

(a) Any proposal submitted may be subject to public information requests as permitted by Oregon Public Records Law. City will attempt to maintain the confidentiality of materials marked "Confidential" to the extent required under Oregon Public Records Law. If it is necessary to submit trade secrets and/or other confidential information in order to comply with the terms and conditions of this RFP, each Auditor must label any information that it desires to protect from disclosure to third parties as a trade secret under ORS 192.345(2) and/or confidential under ORS 192.355(4) with the following: "This material constitutes a trade secret under ORS 192.345(2) [and/or confidential information under ORS 192.355(4)] and is not to be disclosed except as required by law." Each page containing the trade secret and/or other confidential information must be so marked.

(b) City will take reasonable measures to hold in confidence all such labeled information, but in no event will City be liable for release of any information when required by law or court order to do so, whether pursuant to the Oregon Public Records Law or otherwise, and will also be immune from liability for disclosure or release of information as provided under ORS 646.473(3).

(c) In submitting a proposal, each proposer agrees that City may (a) reveal any trade secret and/or other confidential materials contained in the proposal to City staff and to any City consultant, and (b) post the proposal on City's intranet or internal network for purposes related to its evaluation and ranking. By responding to this RFP, each proposer agrees to defend, indemnify, and hold harmless City each City officer, employee, representative, and agent from all costs, damages, and expenses incurred in connection with refusing to disclose any material that the proposer has designated as a trade secret and/or as confidential information. Any Auditor that designates its entire proposal as a trade secret may be disqualified.

AWARD OF CONTRACT

If a contract is awarded, City will award the contract to the Auditor whose proposal will serve City's best interests, taking into account price and various other considerations, including, without limitation, the following: (a) service and availability; (b) financial expertise and experience; (c) particular capability to perform the Services; (d) experienced staff available to perform the Services; (e) performance history; (f) approach and philosophy used in provided the Services; and/or (g) ability to provide timely performance in the area where the Services are to be performed. Auditors responding to this RFP do so at their own expense; City is not responsible for any costs and/or expenses associated with the preparation and/or submission of any proposal. City reserves the right to enter into one or more contracts concerning the Services.

If a contract is awarded, City and the selected Auditor will enter into City's form professional services agreement substantially in the form attached hereto as Exhibit A. The agreement will contain terms and conditions required under applicable law and will otherwise be in form and content satisfactory to City. Without otherwise limiting the generality of the immediately preceding sentence, the agreement will include terms and conditions concerning, among other things, acceptable standards of performance, compensation, minimum insurance

requirements, compliance with laws, indemnification, representations and warranties, and City's right to terminate the agreement. The Auditor awarded the contract will be required to obtain a City business license and maintain active business license status while conducting work within City.

If you have any questions regarding this RFP, please contact Ms. Bethel via email (provided above) or telephone (541-575-0028).

Exhibit A
Professional Services Agreement

[attached]

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made and entered into effective as of April __, 2024 (the "Effective Date") between City of John Day (including its component unit) ("City"), an Oregon municipal corporation, whose address is 450 East Main Street, John Day, Oregon 97845, and _____ ("Contractor"), whose address is _____.

RECITAL:

Contractor will perform the Services (as defined below) for and on behalf of City in accordance with, and subject to, the terms and conditions contained in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the parties' mutual obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Contractor Services.

1.1 Services; Standards. Subject to the terms and conditions contained in this Agreement, Contractor will perform the following auditor services for and on behalf of City (collectively, the "Services"): (a) those services set forth on the attached Schedule 1.1; (b) all other necessary or appropriate services customarily provided by Contractor in connection with its performance of those services set forth on the attached Schedule 1.1; and (c) such other auditor services requested by the city manager (or his or her designee) from time to time. Contractor will (w) consult with and advise City on all matters concerning the Services reasonably requested by City, (x) communicate all matters and information concerning the Services to the city manager (or his or her designee) and report directly to the city manager (or his or her designee), (y) devote such time and attention to the performance of the Services as City and Contractor deem necessary or appropriate, and (z) perform the Services to the best of Contractor's ability. Contractor acknowledges and agrees that City may cause or direct other persons or contractors to provide services for and on behalf of City that are the same or similar to the Services provided by Contractor under this Agreement.

1.2 Schedule of Services. The Services will be completed expeditiously and in a timely manner; provided, however, in no event will the annual audits be completed later than _____ each year. To facilitate Contractor's timely performance of the Services, City will timely provide its financial statements to Contractor, which financial statements will fully disclose and fairly present the results of City's operations for the period(s) under audit.

1.3 Conditions Precedent. Notwithstanding anything contained in this Agreement to the contrary, City's performance of its obligations under this Agreement is conditioned on Contractor's performance of its obligations under this Agreement, including, without limitation, those Contractor obligations described under Section 4.4.

2. Compensation.

2.1 Compensation. Subject to the terms and conditions contained in this Agreement, City will pay Contractor for the Services at the hourly rates and fees identified in the fee schedule attached hereto as Schedule 2.1. Within thirty (30) days after completing the Services each fiscal year, Contractor will submit an invoice to City concerning the Services performed (each an "Invoice"). Each Invoice will contain the following information: (a) a summary of the Services performed by Contractor (and by whom); (b) the number of hours (or fraction thereof) each person spent to perform the Services; (c) the applicable fee(s) for performing the Services; and (d) any other information reasonably requested by City. City will pay the amount due under each Invoice within thirty (30) days after City has reviewed and approved the Invoice. No compensation will be paid by City for any portion of the Services not performed. City's payment will be accepted by Contractor as full compensation for performing the Services to which the Invoice relates. Notwithstanding anything contained in this Agreement to the contrary, total compensation payable by City under this Agreement for the performance of the Services will not exceed \$_____.

2.2 No Benefits; No Reimbursement. City will not provide any benefits to Contractor. Contractor will be responsible for obtaining Contractor's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans. City will not reimburse Contractor for any expenses incurred by Contractor to perform the Services and/or in connection with this Agreement.

3. Relationship.

3.1 Independent Contractor; Taxes; Licenses. Contractor is an independent contractor of City. Contractor is not an employee of City. Contractor will be free from direction and control over the means and manner of performing the Services, subject only to the right of City to specify the desired results. City will not withhold any taxes from any payments made to Contractor, and Contractor will be solely responsible for paying all taxes arising out of or resulting from Contractor's performance of the Services, including, without limitation, income, social security, workers' compensation, and employment insurance taxes. Contractor will be solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services.

3.2 No Agency Relationship. This Agreement does not create an agency relationship between City and Contractor and does not establish a joint venture or partnership between City and Contractor. Contractor does not have the authority to bind City or represent to any person that Contractor is an agent of City.

4. Representations; Warranties; Covenants.

In addition to any other Contractor representation, warranty, and/or covenant made in this Agreement, Contractor represents, warrants, and covenants to City as follows:

4.1 Authority; Binding Obligation; Conflicts. Contractor is duly organized, validly existing, and in good standing under applicable Oregon law. Contractor has full power and authority to sign and deliver this Agreement and to perform all Contractor's obligations under this Agreement. This Agreement is the legal, valid, and binding obligation of Contractor, enforceable against Contractor in accordance with its terms. The signing and delivery of this Agreement by Contractor and the performance by Contractor of all Contractor's obligations under this Agreement will not (a) breach any

agreement to which Contractor is a party, or give any person the right to accelerate any obligation of Contractor, (b) violate any law, judgment, or order to which Contractor is subject, and/or (c) require the consent, authorization, or approval of any person, including, without limitation, any governmental body.

4.2 Licenses; Quality of Services. Prior to Contractor's execution of this Agreement, Contractor obtained all licenses, approvals, and/or certificates necessary or appropriate to perform the Services. Contractor will perform the Services to the best of Contractor's ability, diligently, in good faith, in a professional manner, free from errors, and consistent with the terms and conditions contained in this Agreement. The Services will be performed in accordance with the Laws (as defined below). Contractor will be solely responsible for the Services. Contractor will make all decisions called for promptly and without unreasonable delay. All materials and documents prepared by Contractor will be accurate, complete, unambiguous, prepared properly, and in compliance with the Laws.

4.3 Insurance. During the term of this Agreement, Contractor will obtain and maintain, in addition to any other insurance required under this Agreement, the following minimum levels of insurance: (a) general liability insurance for all losses or claims arising out of or related to Contractor's performance of its obligations under this Agreement (including, without limitation, damages as a result of death or injury to any person or destruction or damage to any property) with limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 in the aggregate; (b) comprehensive automobile liability insurance for all owned, non-owned, and hired vehicles that are or may be used by Contractor in connection with Contractor's performance of the Services with limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 in the aggregate; (c) errors and omissions insurance with limits of not less than \$1,000,000.00; (d) employer liability insurance with limits of not less than \$500,000.00 per occurrence and in the aggregate; and (e) workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law (the workers' compensation insurance policy will contain a waiver of subrogation in favor of City). Each liability insurance policy required under this Agreement will be in form and content satisfactory to City, will list City (and City's Representatives (as defined below)) as an additional insured(s), and will contain a severability of interest clause. The insurance Contractor is required to obtain under this Agreement may not be cancelled without ten (10) days' prior written notice to City. Contractor's insurance will be primary and any insurance carried by City will be excess and noncontributing. Contractor will furnish City with appropriate documentation evidencing the insurance coverage (and provisions) Contractor is required to obtain under this Agreement upon Contractor's execution of this Agreement and at any other time requested by City. If Contractor fails to maintain insurance as required under this Agreement, City will have the option, but not the obligation, to obtain such coverage with costs to be reimbursed by Contractor immediately upon City's demand.

4.4 Compliance With Laws. Contractor will comply and perform the Services in accordance with the Laws. Without otherwise limiting the generality of the immediately preceding sentence, Contractor will comply with each obligation applicable to Contractor and/or this Agreement under ORS 279B.220, 279B.225, 279B.230, and 279B.235, which statutes are incorporated herein by reference. For purposes of this Agreement, the term "Law(s)" means all applicable federal, state, and local laws, regulations, restrictions, orders, codes, rules, and/or ordinances related to or concerning, whether directly or indirectly, Contractor, this Agreement, and/or the Services, including, without limitation, all applicable City ordinances, resolutions, policies, regulations, orders, restrictions, and guidelines, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated.

4.5 Indemnification. Contractor will defend, indemnify, and hold City, and each present and future City employee, officer, agent, and representative (collectively, "City's Representatives"), harmless for, from, and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of, whether directly or indirectly, the following: (a) damage, injury, and/or death to person or property caused directly or indirectly by Contractor (and/or Contractor's officers, partners, employees, agents, representatives, and/or contractors); (b) Contractor's failure to pay any tax arising out of or resulting from the performance of the Services; and/or (c) Contractor's breach and/or failure to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement. Contractor's indemnification obligations provided in this Section 4.5 will survive the termination of this Agreement.

4.6 Assignment of Studies and Reports. Contractor will assign all studies, reports, data, documents, and/or materials of any kind produced under this Agreement to City upon the earlier of City's request or the termination of this Agreement. All copies of the materials provided to City will become the property of City who may use them without Contractor's permission for any proper purpose relating to the Services, including, without limitation, additions to or completion of the Services. Contractor will defend all suits or claims for infringement of patent, trademark, and/or copyright for which Contractor is responsible (including, without limitation, any claims which may be brought against City), and Contractor will be liable to City for all losses arising therefrom, including costs, expenses, and attorney fees.

4.7 Records. Contractor will maintain complete and accurate records concerning all Services performed, the number of hours each person spent to perform the Services, and all documents produced under this Agreement for a period of five years after the termination of this Agreement. Contractor's records will be maintained in accordance with sound accounting practices. Contractor's records concerning the Services, including, without limitation, Contractor's time and billing records, will be made available to City for inspection, copying, and/or audit immediately upon City's request.

4.8 Confidential Information. During the term of this Agreement, and at all times thereafter, Contractor will maintain all Confidential Information (as defined below) in the strictest confidence and will not directly or indirectly use, communicate, and/or disclose any Confidential Information to any person without the city manager's prior written consent, except that Contractor may (a) use Confidential Information to perform the Services to the extent necessary, and (b) communicate or disclose Confidential Information in accordance with a judicial or other governmental order or as required by applicable law, but only if Contractor promptly notifies the city manager of the order and complies with any applicable protective or similar order. Contractor will promptly notify the city manager of any unauthorized use, communication, and/or disclosure of any Confidential Information and make every possible effort to retrieve any such Confidential Information disclosed by Contractor, and mitigate the disclosure. Upon the earlier of City's request or the termination of this Agreement, Contractor will immediately return to City all documents, instruments, and/or materials containing any Confidential Information accessed or received by Contractor, together with all copies and summaries of such Confidential Information. Notwithstanding anything contained in this Agreement to the contrary, this Agreement does not operate to transfer any ownership or other rights in or to the Confidential Information to Contractor or any other person. For purposes of this Agreement, the term "Confidential Information" means all documentation, information, and/or materials identified by City as confidential and/or any documentation, information, and/or materials relating to or concerning City's future plans, business affairs, employment, legal, and litigation matters that need to be protected from improper

disclosure, in whatever form (e.g., hard and electronic copies, etc.), that is received or assessed by Contractor; provided, however, the term "Confidential Information" does not include City's public records which are non-exempt public records under applicable federal, state, and/or local laws.

5. Term; Termination.

5.1 Term of Agreement. Subject to the terms and conditions contained in this Agreement, the term of this Agreement commenced on the Effective Date and will continue thereafter until Contractor has completed the Services, unless sooner terminated as provided in this Agreement. This Agreement may be extended by the parties' mutual written agreement. Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated (a) at any time by the mutual written agreement of City and Contractor, and/or (b) by City for convenience and without cause by giving thirty (30) days' prior written notice of such termination to Contractor.

5.2 Immediate Termination. Notwithstanding anything contained in this Agreement to the contrary, City may terminate this Agreement immediately upon notice to Contractor upon the happening of any of the following events: (a) Contractor engages in any form of dishonesty or conduct that reflects adversely on City's reputation or operations; (b) Contractor fails to comply with any applicable law related to Contractor's independent contractor relationship with City; (c) continuous and repeated problems occur in connection with the performance of the Services, including, without limitation, Contractor's failure to timely perform the Services; and/or (d) Contractor breaches and/or otherwise fails to perform any Contractor representation, warranty, covenant, and/or obligation contained in this Agreement. The determination as to whether any of the aforementioned events have occurred will be made by City in City's sole discretion.

5.3 Consequences of Termination. Upon termination of this Agreement, City will not be obligated to reimburse or pay Contractor for any continuing contractual commitments to others or for penalties or damages arising from the cancellation of such contractual commitments. Within a reasonable period of time after termination of this Agreement (but in no event later than five days after termination), Contractor will deliver to City all materials and documentation, including raw or tabulated data and work in progress, related to or concerning the Services. Termination of this Agreement by City will not constitute a waiver or termination of any rights, claims, and/or causes of action City may have against Contractor.

5.4 Remedies. If a party breaches or otherwise fails to perform any of its representations, warranties, covenants, and/or obligations under this Agreement, the non-defaulting party may, in addition to any other remedy provided to the non-defaulting party under this Agreement, pursue all remedies available to the non-defaulting party at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

6. Miscellaneous.

6.1 Severability; Assignment; Binding Effect. Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law. Contractor will not assign this Agreement to any person without City's prior written consent. Subject to the immediately preceding sentence, this Agreement will be binding

on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit. This Agreement may be amended only by a written agreement signed by each party.

6.2 Attorney Fees; Dispute Resolution. If any arbitration or litigation is instituted to interpret, enforce, and/rescind this Agreement, including, without limitation, any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney fees and other fees, costs, and expenses of every kind, including, without limitation, costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court. If any claim, dispute, or controversy arising out of or related to this Agreement occurs (a "Dispute"), City and Contractor will exert their best efforts to seek a fair and prompt negotiated resolution of the Dispute and will meet at least once to discuss and seek a resolution of the Dispute. If the Dispute is not resolved by negotiated resolution, either party may initiate a suit, action, arbitration, or other proceeding to interpret, enforce, and/or rescind this Agreement.

6.3 Governing Law; Venue. This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action or proceeding arising out of this Agreement will be litigated in courts located in Grant County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Grant County, Oregon.

6.4 Attachments; Further Assurances; Notices. Any exhibits, schedules, instruments, documents, and other attachments referenced in this Agreement are part of this Agreement. If any provisions contained in an attached exhibit, schedule, instrument, document, and/or other attachment conflicts with this Agreement, the provisions of this Agreement will control. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement. Time is of the essence with respect to Contractor's performance of its obligations under this Agreement. All notices or other communications required or permitted by this Agreement must be in writing, must be delivered to the parties at the addresses set forth above, or any other address that a party may designate by notice to the other party, and are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

6.5 Waiver; Entire Agreement. No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by City and Contractor. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement will be deemed a waiver of other provisions or conditions hereof. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and contains all the terms and conditions of the parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. Contractor has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement.

6.6 Person; Interpretation; Execution. For purposes of this Agreement, the term "person" means any natural person, corporation, limited liability company, partnership, joint venture, firm,

association, trust, unincorporated organization, government or governmental agency or political subdivision, or any other entity. All pronouns contained herein and any variations thereof will be deemed to refer to the masculine, feminine, or neutral, singular or plural, as the identity of the parties may require. The singular includes the plural and the plural includes the singular. The word "or" is not exclusive. The words "include," "includes," and "including" are not limiting. The titles, captions, or headings of the sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. The parties may execute this Agreement in separate counterparts, each of which when executed and delivered will be an original, but all of which together will constitute one and the same instrument. Facsimile or email transmission of any signed original document will be the same as delivery of an original. At the request of either party, the parties will confirm facsimile or email transmitted signatures by signing and delivering an original document.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed and made effective for all purposes as of the Effective Date.

CITY:
City of John Day,
an Oregon municipal corporation

CONTRACTOR:

By: Melissa Bethel, City Manager

By:
Its:

Schedule 1.1
Description of Services

In addition to any other Services provided under this Agreement, Contractor will perform the following services for and on behalf of City:

1. Contractor will perform the annual audit for City for the fiscal years ended _____. Each audit will encompass a financial and compliance examination of the government and business type activities, the discretely component unit, each major fund, and the aggregate remaining fund information, which collectively comprises the entity's basic financial statements. Contractor will prepare and present the draft and final audit report (including approximately eight bound hard copies and an electronic copy). Contractor will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement, whether caused by error or fraud and conformity with GAAP.
2. Each audit will be undertaken to express an opinion upon the financial statements of City, and to determine if City has complied substantially with appropriate legal provisions.
3. Each audit will include the preparation of City's Comprehensive Annual Financial Report (CAFR).
4. Contractor will apply industry standards for auditing, and each audit will comply with all applicable federal, state, and local laws, rules, regulations, standards, and ordinances, including, without limitation, the following: (a) generally accepted governmental procedures as prescribed in the American Institute of CPAs (AICPA) Industry Audit Guide – Audits of State and Local Government Units and in Governmental Accounting, Auditing, and Financial Reporting (GAAFR); (b) generally accepted government auditing standards (GAGAS), government auditing standards, and Oregon minimum standards; (c) the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996; and (d) OMB A-133: Audits of State, Local Governments, and Non-Profit Organizations. The CAFR will conform to reporting standards for government entities as determined by the Governmental Accounting Standards Board (GASB) and/or the Financial Accounting Standards Board (FASB), as appropriate. Contractor's opinion will be directed toward the fairness of presentation of the financial statements in accordance with GAAP. Contractor will also provide any applicable compliance reports as required under federal and/or state law.
5. Contractor will perform tests of documentary evidence supporting the transactions recorded in the accounts, which may include tests of the physical existence of inventories and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions.
6. Contractor will perform tests of City's compliance with applicable laws and regulations and provisions of contracts and agreements. Contractor will review City's internal accounting controls to the extent necessary to evaluate the system as required by applicable standards.
7. Contractor will prepare a report on compliance with specific requirements applicable to major federal financial assistance programs, if required.
8. Contractor will issue a "management report" making recommendations for

improvement. Contractor will make an immediate written report to the city manager of all irregularities and illegal acts or indications of illegal acts of which Contractor becomes aware. Contractor will inform the city manager of any matters involving internal control and its operation Contractor considers being reportable conditions under standards established by the American Institute of Certified Public Accountants.

9. Contractor will provide City with adjusting entries and a final trial balance upon completion of the field work.

10. Contractor will attend meetings and prepare progress reports, including, without limitation, the following tasks:

(a) Pre-audit conferences(s) with City management and accounting staff (and/or City's consultant) to discuss audit schedules, working paper requirements, and report deadlines, as well as the audit program.

(b) Progress report meetings will be held with key Contractor personnel and City financial management staff at regular intervals.

(c) Post-audit conference(s) with City management and key Contractor personnel will be held. Contractor will present the audit to the city council.

(d) The audit will be a single document which will contain financial statements, notes, and supplementary data, the combined and individual fund and account group statements, financial statements and schedules. Audit reports will be provided within the periods required by the State of Oregon to meet any reporting requirements.

11. Contractor will provide general financial technical assistance to City throughout the term of this Agreement, including, without limitation, answers to accounting, reporting, and/or internal control questions. Contractor will assist City with any other financial and/or audit projects requested by the city manager from time to time.

Schedule 2.1
Fee Schedule

[to be inserted]

DRAFT