

# REQUEST FOR QUALIFICATIONS

## AQUIFER AND STORAGE RECOVERY (ASR) FEASIBILITY STUDY



PROJECT NO: **PN20-1038**

DATE OF ISSUANCE: **4/3/2024**

PROJECT TYPE: **ENGINEERING DESIGN SERVICES**

PROPOSALS DUE BY: **AT 4/30/24 2 PM**

CITY PROJECT MANAGER: **Travis Sperle, Public Works Director**

PROJECT MANAGER CONTACT **503-874-2210, [tsperle@silverton.or.us](mailto:tsperle@silverton.or.us)**  
INFORMATION:

**CITY OF SILVERTON**

**Public Works**

**306 South Water Street**

**Silverton, Oregon 97381**

## I. INTRODUCTION

In 2021 the City of Silverton completed an initial feasibility evaluation to identify the best potential locations for an Aquifer and Storage Recovery (ASR) Project to store water in the winter underground so it can be pumped out and used in the summer. The completed evaluation identified 2 potential ASR locations. This proposed study would drill exploratory wells at those 2 locations to determine the potential ASR yield at each site. A pre-design level plan of infrastructure needed and estimated costs for an ASR project would then be completed for the site with the best ASR yield based on the well testing. The 2 exploratory wells will be drilled on existing City property. A completed ASR project would allow the City to reduce the reliance on taking water from our two surface water sources, Abiqua and Silver Creek, during the summer when streamflows are low providing a buffer for the City against drought. The study would have the following tasks.

### Task 1 – Exploratory Wells

Task Description: 2 exploratory wells would be drilled at the 2 preferred sites identified in the 2021 study. Test Well Site 1 would be in undeveloped right-of-way owned by Silverton near the industrial park area. Test Well Site 2 would be on an undeveloped portion of City property that is used for a senior center, skate park, and dog park. Both wells would be drilled to a depth to reach the Columbia River Basalt Group Aquifer, as recommended by the 2021 initial feasibility evaluation.

Pump testing, water level measurements, and water quality testing would be completed on both test wells that will help the City determine the following information about the site:

- 1) All regulatory permitting to be done by the Engineering Design services.
- 2) The potential storage volumes of the aquifer at the site. The 2021 evaluation estimated a range of 61 – 133 million gallons over a 140 day period in the winter.
- 3) The recovery rate, how much water could be pumped from the well every day, for an ASR well at the site. The 2021 evaluation results were based on the assumption that the City could achieve a recovery rate of 1 million gallons per day.
- 4) The sizing of the well and pumps needed for the ASR well to be a viable option for the City.
- 5) Water quality testing of the existing groundwater would be completed to determine the compatibility of the groundwater with the finished water from the Silverton Water System. This will help determine if any additional treatment would be needed at the ASR site.

### Task 2 – ASR Preliminary Design Report

Task Description: Once all testing has been completed the consultant would analyze the results to determine the best site for an ASR well and then complete a preliminary design of the infrastructure including identifying any upgrades in the distribution system that are needed to send water from the existing water treatment plant to the ASR site. The completed study would provide information so the City could decide whether ASR was an appropriate project for the City and what the cost would be to design and construct the project.

The City has a strict budget for this project of \$500,000 and an Oregon Water Resources Department grant will pay for half of the cost. If the report shows that ASR would be beneficial to Silverton, the City Council will determine whether to include it in the City's Capital Improvement Plan.

## II. DESIRED SCHEDULE

Documents Available	4/3/2024
<b>Qualifications Due</b>	<b>April 30, 2024 at 2 PM</b>
Notice of Award	Jun 4, 2024
Study Completion	October 31, 2024 (estimate)

**NOTE:** The City reserves the right to modify this schedule at the City's discretion. Proper notification of changes will be made to all interested parties.

## III. CONTRACTOR RESPONSIBILITIES AND DUTIES

Engineering firms must be qualified to provide the necessary design services requested in this document. Firms shall have provided services similar to those listed in the introduction for municipal customers. Firms are required to submit documentation as outlined in this document, related to their ability to provide quality engineering and surveying services as listed in this document.

## IV. QUALIFICATION REQUIREMENTS AND SELECTION PROCESS

### Pre-Submission Questions

- 1) All questions related to this Request for Qualifications must be emailed in writing to Travis Sperle at [tsperle@silverton.or.us](mailto:tsperle@silverton.or.us)
- 2) The question period shall expire 72 hours prior to the due date and time of the proposal.
- 3) The answers to Respondent's questions will be compiled and posted on the same website used for downloading the RFQ as an addendum.
- 4) Answers to questions may not be given for any questions asked within 72 hours of the proposal due date and time. The timeline of the selection process is outlined below:

### Contact with City Staff

The City's Project Manager is Travis Sperle, Public Works Director. Mr. Sperle can be contacted via e-mail at [tsperle@silverton.or.us](mailto:tsperle@silverton.or.us) or 503-874-2210. Communicating with other City staff or authority for information other than the Project Manager or assigned designee may result in disqualification of a submission.

### Addendums

Addendums will be incorporated with the original solicitation as an attachment and can be viewed and downloaded by registered firms. Firms should consult the City of Silverton website, [www.silverton.or.us](http://www.silverton.or.us), regularly until closing to avoid missing any Addendums.

### Qualification Withdrawal

Any Qualification may be withdrawn at any time before the due date and time specified in the schedule, by providing written request for the withdrawal of the qualification to the City. The request shall be executed by a duly authorized representative of the firm.

### Qualification Content Requirements

#### **Offer Format**

The Qualification must include each item listed below. Any Qualification not including the items may be rejected. Qualifications will be clear and concise. Qualifications will be printed double-sided and stapled. Do not use spiral binding or plastic covers.

Each Qualification must contain the criteria listed below. Qualifications not meeting all criteria will be considered nonresponsive and shall be rejected.

### **Qualification Submission**

- 1) Respondents are to submit a .pdf digital copy of the Qualification in accordance with the requirements set forth in this RFQ.
- 2) Late submittals cannot be accepted and will not be opened.
- 3) Qualifications shall be concise as possible and limited to twenty (20) printed pages not including resumes of team members.
- 4) The cover letter will be included in the Qualification page limit if it is provided.
- 5) Qualifications shall provide the information needed for the City of Silverton to determine if the firm is capable of providing a quality ASR feasibility report. Information that should be provided includes:
  - a. Firm's experience with similar projects.
  - b. Information on project team members, their work experience, and their work availability.
  - c. Acknowledgement the Firm can meet the study completion schedule date of 11/31/2024
  - d. Project Manager's name, email address, and telephone number.
  - e. Three references for completed projects similar in scope and size.
  - f. The hourly rates the City will be charged for each team member listed in the Qualification.
  - g. Firm policies on mileage, printing costs, and other expenses that may be billed to the City.
- 6) Qualification documents may be submitted by email to Travis Sperle at [tsperle@silverton.or.us](mailto:tsperle@silverton.or.us). Printed copies of the qualification will not be accepted. E-mails should be received in the inbox of Travis Sperle by 2 PM on April 30. Travis Sperle will provide acknowledgment that e-mail was received.

The City shall not be responsible for the proper handling of any Qualification not properly identified, marked and submitted in a timely manner. Qualifications received after the due date and time will not be considered for award.

### **Consultant Firm Selection Process**

Submittals which conform to the submission requirements will be evaluated. The evaluation process will begin with the evaluation team scoring each submittal using the evaluation criteria and point system below:

- 1) Qualifications and Experience – 50 points
- 2) Staffing Plan – 25 points
- 3) Proposed Project Schedule – 15 points
- 4) References – 10 points

The evaluation team will be made up of the City Manager, Public Works Director, Maintenance Supervisor, and Operations Manager. After each team member scores the Qualifications, scores will be tabulated and the evaluation team will meet to determine the order of consultants from highest to lowest. The evaluation team will determine the top 3 Proposers. The City will then negotiate with the top Proposer on a scope and price before awarding a contract. If the City is not able to come to an acceptable agreement it will negotiate with the 2<sup>nd</sup> Proposer. If the City is unable to come to agreement with the 2<sup>nd</sup> Proposer, the City will then negotiate with the 3<sup>rd</sup> Proposer.

## **Contract Award**

The City Council will approve the agreement between the City and the selected Firm prior to execution of the agreement. The City will award a contract to the Firm whose Qualification would be most advantageous to the City. The selected Firm will be required to assume responsibility for all services outlined in the RFQ and execute a Professional Services Agreement, an example of which is attached as Exhibit A.

## **V. GENERAL INFORMATION**

### **Public Records**

This Qualification will be made a part of a file open to public inspection. If a Qualification contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

“This data constitutes a trade secret and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

Nondisclosure of documents or any portion of a document submitted as part of a Qualification may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law. The above restriction may not include cost or price information, which must be open to public inspection.

Identifying the Qualification in whole as a trade secret is not acceptable. Failure to identify a portion of the Qualification as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret.

### **Reimbursement**

Proposers are responsible for all costs associated with Qualification preparation and participating in interviews during the selection process.

## **EXHIBIT A – EXAMPLE PROFESSIONAL SERVICES AGREEMENT**

**CITY OF SILVERTON  
PROFESSIONAL SERVICES AGREEMENT  
AQUIFER AND STORAGE RECOVERY FEASIBILITY STUDY ENGINEERING SERVICES  
PROJECT PN20 - 1038**

THIS AGREEMENT ("Agreement") is made and entered into as of the date first indicated on the signature page, by and between the City of Silverton, Oregon, (hereinafter referred to as the "City"), and COMPANY/FIRM, (hereinafter referred to as "Provider").

WHEREAS, City requires services which Provider is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Provider represents that it is qualified on the basis of specialized experience and technical competence and prepared to provide such services as City does hereinafter require;

NOW, THEREFORE, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

**1. Term**

The term of this Agreement shall be from the date of execution by both parties until tasks required hereunder are complete and accepted, unless terminated earlier in accordance herewith.

**2. Provider's Services**

The scope of Provider's services and time of performance under this Agreement are set forth in the proposal, attached Exhibit A. All provisions and covenants contained in Exhibit A are hereby incorporated by reference and shall become a part of this Agreement as is fully set forth herein. Any conflict between this Agreement and Provider's proposal (if any) shall be resolved first in favor of this written Agreement. Provider will, in the rendering of its services to City, use its best efforts and due diligence and provide such personnel as are necessary to successfully provide the services covered under this Agreement and Exhibit A.

**3. City's Responsibilities**

The scope of City's responsibilities including those of its Project Manager, are set forth in this agreement. Project Manager duties include but are not limited to:

- 3.1. Reviewing and approving invoices from Provider in a timely manner.
- 3.2. Reviewing and approving deliverables from Provider.
- 3.3. Coordinating communications between Provider and City.
- 3.4. Managing grant with Oregon Water Resources Department.
- 3.5. Assist in the presentation ASR Study findings to Silverton and Mt. Angel City Council.

#### **4. Compensation and Payment**

- 4.1. Compensation. City agrees to pay Provider at the times and in the amount(s) set out and in accordance with Exhibit B.
- 4.2. Overtime. Any person employed on work under this Agreement, other than a person subject to being excluded from the payment of overtime pursuant to either ORS 653.010 to 653.261 or 29 USC §201 to 209, shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any one week.
- 4.3. Withholdings from Compensation. Should Provider elect to utilize employees on any aspect of this Agreement, Provider shall be fully responsible for payment of all withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA) and Medicaid. Provider shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- 4.4. Medical Care for Employees. Provider shall make payment of all sums to any person, co-partnership, association or corporation, furnishing medical, surgical and/or hospital care incident to the sickness or injury of Provider's employee(s), all sums which Provider agrees to pay for such services and all monies and sums which Provider collected or deducted from the wages of employees pursuant to any law, contract or contract for the purpose of providing or paying for such service (ORS 279B.230).
- 4.5. Contributions to the Industrial Accident Fund. Provider shall pay all contributions or amounts due the Industrial Accident Fund from Provider incurred in the performance of this Agreement, and shall ensure that all subcontractors pay those amounts due from the subcontractors (ORS 279B.220).
- 4.6. Payment Within Thirty (30) Days. Except for amounts withheld by City pursuant to this Agreement, Provider will be paid for services for which an itemized bill is received by City within thirty (30) days. City is not responsible for compensating Provider for costs or work performed in excess of scope of services as described in Exhibit A unless City has agreed in writing to a change in the scope of services as provided in Section 5 below.
- 4.7. Fees. City shall be responsible for payment of required fees, payable to governmental agencies including, but not limited to plan checking, land use, zoning and all other similar fees resulting from this project, and not specifically covered in the Request for Proposals and Exhibit A.
- 4.8. Payment of Claims by the City. If Provider fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Provider or a subcontractor by any person in connection with this Agreement as the claim becomes due, the City may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to Provider pursuant to this Agreement. The City's payment of a claim under this section shall not relieve Provider or Provider's surety, if any, from responsibility for those claims.

#### **5. Change in Scope of Services**

If at any time during the term of this Agreement Provider anticipates a change in the scope and/or

timing of services as provided in Exhibit A, Provider shall immediately notify City in writing of the anticipated changes in scope, reasons for the change in scope, and additional costs associated with the change(s) in scope. The City's Project Manager or designee must authorize in writing any changes in the scope of services provided under this Agreement prior to the commencement of such changes in scope of services. The City is not responsible for additional costs associated with a change in scope of services, whether foreseen or unforeseen, unless written authorization is obtained from the City.

## **6. Document Authorization**

All written documents, drawings, and plans submitted by Provider and intended to be relied on for the project shall bear the signature, stamp or initials of Provider or Provider's authorized Project Manager. Any documents submitted by Provider which do not bear Provider's signature, stamp, or initials or those of the Consultant's authorized Project Manager shall not be relied upon by City. Interpretation of the Project Scope and answers to questions covering Scope given by Provider or Provider's Project Manager need not be put in writing unless requested by the City and may be relied upon by the City.

## **7. Project Managers**

City's Project Manager is Travis Sperle. Provider Project Manager is XXXXX. Each party shall give the other prompt written notification of any change in their respective Project Manager.

## **8. Project Information**

City shall provide full information regarding its requirements for the project. Provider agrees to share all project information and to fully cooperate with all corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the project. No information, news or press releases related to the project, whether made to representatives of newspaper, magazines or television and radio stations, shall be made without the authorization of City's Project Manager.

## **9. Duty to Inform**

If at any time during the performance of this Agreement, or any future phase of this Agreement for which Provider has been retained, Provider becomes aware of actual or potential problems, faults or defects in the project or any portion thereof, any nonconformity with the Agreement or with any federal, state or local law, rule, or regulation, or has any objection to any decision or order made by City with respect to such laws, rules or regulations, Provider shall give prompt written notice thereof to City's Project Manager. Any delay or failure on the part of City to provide a written response to Provider shall neither constitute agreement with nor acquiescence to Provider's statement or claim, nor constitute a waiver of any of City's rights.

## **10. Provider is Independent Contractor**

Provider shall be and herein declares that it is an independent contractor for all purposes and shall be entitled to no compensation other than compensation expressly provided for in this Agreement. Provider hereby expressly acknowledges and agrees that as an independent contractor, Provider is not entitled to indemnification by the City or the provision of a defense by the City under the terms of ORS 30.285. This acknowledgment by Provider shall not affect Provider's independent ability (or the ability of Provider's insurer) to assert the monetary limitations found at ORS 30.270, the immunities listed at ORS 30.265, or other limitations affecting the assertion of any claim under the terms of the Oregon Tort Claims Act (ORS 30.260 to ORS30.300).



## 11. Discrimination Prohibited

No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age, disability or national origin. Any violation of this provision shall be grounds for cancellation, termination or suspension of the Agreement in whole or in part by the City.

## 12. Indemnity and Insurance

12.1. Indemnity: Except with respect to claims of professional negligence, which shall be addressed in 12.1.1, Provider acknowledges responsibility for any and all liability arising out of the performance of this Agreement and shall hold City harmless from and indemnify and defend City for any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim to the extent resulting from Provider's acts, errors, and omissions, activities or services in the course of performing this Agreement.

12.1.1 Professional Liability. Provider shall hold City harmless from and indemnify and defend City against all liability, claims, suits or actions of whatsoever nature, loss or expenses, including attorney fees, based upon or arising out of the professionally negligent acts or omissions of the Provider or its Sub-contractors, agents, or employees under this Agreement.

12.2. Liability Insurance: Provider shall maintain occurrence form commercial general liability and automobile liability insurance for the protection of Provider, City, its Councilors, officers, agents and employees. Coverage shall include personal injury, bodily injury (including death) and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Provider's operations, in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence. Such insurance shall name City as an additional insured.

12.3. Workers' Compensation Coverage: Provider certifies that Provider has qualified for State of Oregon Workers' Compensation coverage for all Provider's employees who are subject to Oregon's Workers' Compensation statute, either as a carrier insured employer as provided by ORS 656.407, or as a self-insured employer. Provider shall provide to City within ten (10) days after contract award a certificate of insurance evidencing coverage of all subject workers under Oregon's Workers' Compensation statutes insured by an insurance company satisfactory to City, if any. The certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days advance written notice to City. A copy of the certificate of self-insurance issued by the State shall be provided to City if the Provider is self-insured.

12.4. Professional Errors and Omissions: Provider shall provide City with evidence of professional errors and omissions liability insurance for the protection of Provider and its employees, insuring against bodily injury and property damage and arising out of or resulting from Provider's negligent acts, omissions, activities or services, in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence. Such insurance shall be endorsed to include contractual liability.

12.5. Certificates: Provider shall furnish City certificates evidencing the date, amount, and type of insurance required by this Agreement. All policies will provide for not less than thirty (30) days written notice to City before they may be canceled.

12.6. Primary Coverage: The coverage provided by insurance required under this Agreement shall be primary, and any other insurance carried by City shall be excess.

### **13. Provider's Standard of Care**

The City agrees that in accordance with generally accepted production practices, the Provider will be required to assume sole and complete responsibility for job site conditions during the course of production of the project, including safety of all persons and property. In the performance of its professional services, the Provider shall use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the State of Oregon. The Provider will re-perform any services not meeting this standard without additional compensation. Provider's re-performance of any services, even if done at City's request, shall not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of Provider's failure to perform in accordance with the applicable standard of care or this Agreement.

### **14. Breach of Contract**

14.1 Provider shall remedy any breach of this Agreement within the shortest reasonable time after Provider first has actual notice of the breach or City notifies Provider of the breach, whichever is earlier. If Provider fails to remedy a breach in accordance with this section, City may terminate that part of the Agreement affected by the breach upon written notice to Provider, may obtain substitute services in a reasonable manner, and may recover from Provider the amount by which the price for those substitute services exceeds the price for the same services under this Agreement.

14.2 If the breach is material and Provider fails to remedy the breach in accordance with this section, City may declare Provider in default and pursue any remedy available for a default.

14.3 Pending a decision to terminate all or part of this Agreement, City unilaterally may order Provider to suspend all or part of the services under this Agreement. If City terminates all or part of the Agreement pursuant to this section, Provider shall be entitled to compensation only for services rendered prior to the date of termination, but not for any services rendered after City ordered suspension of those services. If City suspends certain services under this Agreement and later orders Provider to resume those services, Provider shall be entitled to reasonable damages actually incurred, if any, as a result of the suspension.

14.4 To recover amounts due under this section, City may withhold from any amounts owed by City to Provider, including but not limited to, amounts owed under this or any other Agreement between Provider and City.

### **15. Mediation/ Trial without a jury**

15.1 Should any dispute arise between the parties to this Agreement it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Agreement shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation. Any litigation arising under or as a result of this Agreement shall be tried in the Marion County

Circuit Court without a jury. Each party agrees to be responsible for payment of its own professional fees, including attorneys' fees.

15.2 The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Silverton, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If either party requests mediation and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Marion County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this section.

## **16. Early Termination**

16.1 This Agreement may be terminated prior to the expiration of the agreed upon terms:

16.1.1 By mutual written consent of the parties; or

16.1.2 By City for any reason within its sole discretion, effective upon delivery of written notice to Provider by mail or in person.

16.2 If City terminates the Agreement in whole or in part due to default or failure of Provider to perform services in accordance with this Agreement, City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, Provider shall be liable for all costs and damages incurred by City in procuring such similar service, and the Agreement shall be in full force to the extent not terminated.

16.3 If City terminates the Agreement for its own convenience, Provider shall be entitled to compensation for all services rendered prior to actual notice of the termination or the receipt of the City's written notice of termination, whichever is earlier.

16.4 Termination under any provision of this section shall not affect any right, obligation or liability of Provider or City which accrued prior to such termination. Provider shall surrender to City items of work or portions thereof, referred to in the Scope of the Project for which Provider has received payment, or City has made payment. City retains the right to elect whether or not to proceed with actual execution of the project.

## **17. Suspension of Work**

City may suspend, delay or interrupt all or any part of the work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Provider. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within the Provider's control. City shall not be responsible for work performed by any subcontractors after notice of suspension is given by City to Provider. Should the City suspend, delay or interrupt the work and the suspension is not within the Provider's control, then the City shall extend the time of completion by the length of the delay and the method of compensation shall be adjusted to reflect the Provider's increase or decrease in its standard hourly rates.

**18. Successors and Assignments**

- 18.1. Each party binds itself, and any partner, successor, executor, administrator, or assign to this Agreement.
- 18.2. Neither City nor Provider shall assign or transfer their interest or obligation hereunder this Agreement without the written consent of the other party. Provider must seek and obtain City's written consent before subcontracting any part of the work required of Provider under this Agreement. Any assignment, transfer, or subcontract attempted in violation of this subsection shall be void.

**19. Access to Records**

City shall have access upon request to such books, documents, receipts, papers and records of Provider as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of four (4) years unless within that time City specifically requests an extension. This clause shall survive the expiration, completion or termination of this Agreement.

**20. Work is Property of City**

All work, including but not limited to documents, drawings, papers, computer programs, and photographs, performed or produced by Provider under this Agreement shall be the property of City.

**21. Errors**

Provider shall perform such additional work as may be necessary to correct errors in the work required under this without undue delays and without additional cost.

**22. Law of Oregon**

This Agreement shall be governed by the laws of the State of Oregon. Venue shall be in Marion County, Oregon.

**23. Adherence to Law**

Provider shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, and minimum and prevailing wage requirements. Any certificates, licenses or permits which Provider is required by law to obtain or maintain in order to perform work described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

**24. Modification**

Any modification of the provisions of this Agreement, in addition to those provided for in Section 5 of this Agreement, shall not be enforceable unless reduced to writing and signed by both parties.

**25. Integration**

This Agreement, including but not limited to Exhibits and Provider's proposal submitted to City, contains the entire and integrated agreement between the parties and supersedes all prior written or

oral discussions, representations or agreements. In case of conflict among these documents the provisions of this Agreement shall control.

**26. Payment for Labor or Materials.**

Provider shall make prompt payment of any claim for labor, materials or services furnished to the Provider by any person in connection with this Agreement as such claim becomes due. Provider shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of the Provider. If the Provider fails, neglects or refuses to make prompt payment of any such claim, the City may pay such claim to the person furnishing the labor, materials or services and charge the amount of the payment against funds due or to become due the Provider under this Agreement.

**27. Miscellaneous / General**

- 27.1. Force Majeure. Neither party shall be responsible for damages or be deemed to be in default of Agreement by reason of delays in performance due to acts of God; strikes, lockouts, or industrial disturbances; acts of public enemies; orders of the government of the United States, or the State of Oregon, or their departments, agencies, political subdivisions, or officials; acts of any civil or military authority; riots; epidemics; and similar occurrences outside the control of Provider. In the cause of such an event happening, the time of completion shall be extended accordingly.
- 27.2. Intellectual Property. The interest in any intellectual property, including but not limited to copyrights and patents of any type, arising from the performance of this Agreement shall vest in the City. Provider shall execute any assignment or other documents necessary to effect this section. Provider may retain a nonexclusive right to use any intellectual property that is subject to this section. Provider shall transfer to the City any data or other tangible property generated by Provider under this Agreement and necessary for the beneficial use of intellectual property covered by this section.
- 27.3. Conflict of Interest. Except with City's prior written consent, Provider shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.
- 27.4. No Waiver of Legal Rights. A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

The PROVIDER and the CITY hereby agree to all provisions of this AGREEMENT.

IN WITNESS WHEREOF, the parties by their signatures below enter into this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

PROVIDER:

\_\_\_\_\_  
Name of Firm

By \_\_\_\_\_  
Typed or  
Printed Name: \_\_\_\_\_

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

Mailing  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employer I.D. No. \_\_\_\_\_

CITY OF SILVERTON:

By \_\_\_\_\_  
Cory Miskey, City Manager

Mailing  
Address:  
306 S. Water Street  
Silverton, OR 97381

\_\_\_\_\_  
Approved as to Form:  
City Attorney

**EXHIBIT B – ASR TEST WELL SITE MAP**