



April 29, 2024

Project No. 2417001

Kim Karber, *Interim City Manager*
 City of Columbia City
 PO Box 189
 1840 2nd St
 Columbia City, OR 97018

RE: COLUMBIA CITY - WATER MANAGEMENT & CONSERVATION PLAN

Dear Ms. Karber:

CwM-H2O, LLC (CwM) presents this scope of work to The City of Columbia City (City) for the development of a Water Management & Conservation Plan (WMCP). As a municipal water supplier with water rights in the permit stage and serving more than 1,000 people (the City's current population is just under 2,000), the City must maintain an up to date WMCP meeting the Oregon Water Resource Department's (OWRD) requirements. (OAR 690-086-0030(6-8)). The City last submitted a WMCP report in September 2013, which was approved via Final Order (FO) in January 2014.

The City's 2014 WMCP FO set the due date for the next WMCP as **June 2, 2023**. It is CwM's understanding that the City needs to prepare and submit an updated WMCP for review to meet this requirement.

In this scope of work, CwM proposes four tasks aimed at updating and improving the current WMCP report for the City:

-) Task 1 – Water Right Portfolio and Infrastructure Status Update
-) Task 2 – Water Use Data Collection and Analysis
-) Task 3 – Demand Projection Updates
-) Task 4 – Report Formatting Improvement and Finalization

SCOPE OF WORK

Task 1 – Water Right Portfolio and Infrastructure Status Update

Task 1 will begin the WMCP update process by incorporating information on changes within City's water production and water usage system since 2013. Describing and characterizing City's water right portfolio is a crucial part of the WMCP report. Since the 2013 report was completed, CwM understands that there have been changes to the City's portfolio, including the voluntary cancellation of a groundwater permit. There have likely been changes or improvements to the water distribution and water metering infrastructure as well, which will need to be incorporated.

In this first step, CwM will coordinate with City staff to identify all changes in water rights and water use infrastructure since the WMCP FO was issued in 2014. This information impacts nearly every required element of the WMCP, but updates will primarily be within Element 1 – Municipal Water Supplier Description (OAR 690-086-0140). Specific types of changes that must be described and updated include but are not limited to:

-) The acquisition of new water rights or water sources,
-) The pause of use or renewal of use of a particular water source or water right,
-) Construction of new water distribution lines, storage tanks, and pump stations, or major replacements and repairs to old infrastructure,
-) The expansion of or changes to the service area (land annexation, change in the Urban Growth Boundary, etc.),
-) Changes to water metering, usage monitoring, billing, and auditing tools or practices (such as the transition from manual- to radio-read meters for customer connections).

CwM will update the information relevant to water rights and water infrastructure using the 2013 WMCP report and most recent Water Master Plan as a starting point.

Task 2 – Water Use Data Collection and Analysis

The primary goal of the WMCP requirement is to provide a structured framework for municipal suppliers to characterize, analyze, and understand water production and water use patterns within their system. Task 2 seeks to update City’s current water use dataset and to produce up-to-date water production and water use summary statistics. This data is a significant part of three required elements of the WMCP report: Element 2 – Water Conservation, Element 3 – Water Curtailment, and Element 4 – Water Supply (OAR 690-086-0150, 0160, and 0170).

In Task 2, CwM will coordinate with City staff to acquire the following pieces of information from the last five complete water years (2019-2023):

-) Daily, weekly, or monthly water production by source.
-) Daily, weekly, or monthly water consumption by usage class (residential, commercial, etc.) and by location (pressure zone, inside or outside of city limits, etc.).
-) Records of authorized non-revenue water use and unauthorized water use.
-) Records of known leaks and repair responses.
-) Instances of curtailment events (date, duration, cause, response, etc.)

CwM will analyze these datasets to calculate required summary statistics of water production and usage over the last 5 years. This data will also be used to address conservation benchmarks and describe potential curtailment events. If data gaps are identified, these will be included in the next WMCP benchmarks.

Task 3 – Demand Projection Updates

The goal of Task 3 is to update the 2013 population and water demand projections as required in Element 5 – Municipal Water Supply (OAR 690-086-0170). CwM will review recent publications with estimated population growth rates for rural Columbia County. These growth rates, along with known currently served population and water use values from Task 2, CwM will update the demand projections for the next 26 years, or out to approximately 2050. Projection data will be presented in both tables and figures.

Task 4 – Report Formatting Improvement and Finalization

CwM will update the City’s 2013 WMCP report to conform with the most recent OWRD formatting requirements defined in OAR 690-086. In Task 4, CwM will incorporate updated information to the WMCP document while retaining all relevant information presented in the 2013 report.

The WMCP update will be completed by adding in the new water right and water system infrastructure information (Task 1), new summary statistics of recent and current water use patterns and trends (Task 2), and future demand projection and anticipated water resource needs of SVWC (Task 3), and all required reports on benchmarks.

CwM will provide a preliminary report to the City for review and comment before finalizing for submittal to the OWRD. A draft copy of the report must be submitted to Columbia County for a 30-day review and comment period. Any comments from the County will be addressed in the final report submitted to OWRD.

Deliverables:

-) 2024 City of Columbia City WMCP Report Update
-) Required Attachments (Tables and Figures)

Cost Estimate and Schedule

Please see the attached time and materials cost estimate to provide the above services. CwM estimates that approximately 150 hours of professional time will be required to support the proposed services for an estimated cost of approximately **\$19,250**.

CwM’s cost estimate does not include the OWRD’s WMCP review fee of \$2,450.

A breakdown of the cost estimate is included as Attachment 1 - Cost Estimate. We anticipate that the proposed tasks can be completed within approximately **3 months** of approval of this scope of work and receipt of all necessary data and documents from the City.

Contract and Work Order Authorization

Accompanying this scope of work, you will also find CwM's Work Order Authorization (WOA) for the proposal (Attachment 2), a Professional Services Agreement (Attachment 3) and CwM's current fee schedule (Attachment 4).

To accept the proposed scope of work, please sign copies of the WOA and the Professional Services Agreement and return them for our records. Please do not hesitate to call or email me with any questions.

Sincerely,

CwM H2O, L.L.C.



Robert Long, RG, LHG, CWRE
Principal Consultant

Attachments:

- 1) Cost Estimate
- 2) Work Order Authorization
- 3) Rate Schedule

Task	Description	Labor Hours	Labor	Outside Services, Affiliates and Expenses	Total
1	Water Right Portfolio and Infrastructure Status Update	40	\$5,230	\$26	\$5,256
2	Water Use Data Collection and Analysis	44	\$5,550	\$0	\$5,550
3	Demand Projection Updates	36	\$4,400	\$0	\$4,400
4	Report Formatting Improvement and Finalization	30	\$4,040	\$0	\$4,040
TOTALS	Project Total	150	\$19,220	\$26	\$19,246

Attachment 2
2417001 – City of Columbia City WMCP
Columbia City, Oregon
Work Order Authorization 001

CwM H2O, LLC

Project Name and Site	Client Reference No.	CwM Project No.
COLUMBIA CITY WATER MANAGEMENT & CONSERVATION PLAN	2417	2417001

SCOPE OF SERVICES

The scope of services is outlined in the attached proposal, dated April 29, 2024. This scope includes four tasks intended to review, analyze, and summarize available water production, water use, and water infrastructure data to update the City’s WMCP report.

AGREEMENT COST

Time and Materials estimate: **\$19,250**

SCHEDULE


The project will commence once CwM receives the signed documents.
Estimated time of completion is approximately three months.

Please endorse the signature page of this document and return to CwM-H2O, LLC along with the contract. Thank you.

Kim Karber, *Interim City Manager*
City of Columbia City

CwM-H2O, LLC

By:
Authorized Representative



By:
Authorized Representative
Robert E. Long Jr.

Its:

Its: Member Manager

Date: _____

Date: April 29, 2024

**Attachment 3
CwM H2O L.L.C.
TERMS AND CONDITIONS
MASTER SERVICES AGREEMENT**

I. CLIENT DEFINITION

CLIENT as used herein shall include and apply to all parties equally, be they individuals, corporations, partnerships, associations, government agencies, or other entities, whether acting alone or collectively as a group where the Services of this Agreement are being provided to, or on behalf of the group.

2. STANDARD OF CARE

Services performed by CwM H2O, L.L.C. (CwM) will be conducted in a manner consistent with that level of care and skill ordinarily exercised by other members of the engineering and science professions practicing under similar conditions subject to the time limits and financial, physical, or any other constraints applicable to the Services. No warranty expressed or implied is made.

3. INVOICES AND PAYMENT

CwM will submit monthly invoices to CLIENT and a final bill upon completion of services. Professional services shall be charged in accordance with CwM's Standard Rate Schedule, when not supporting litigation. Services for litigation investigation, technical support, deposition, and testimony shall be charged at the Standard Rate times 1.50. CLIENT shall notify CwM within ten (10) days of receipt of invoice of any dispute with the invoice. CLIENT and CwM will promptly resolve any disputed items. Payment on undisputed invoice amounts is due upon receipt of invoice by CLIENT and is past due thirty (30) day after the date of the invoice. CLIENT agrees to pay a finance charge of one and one-half percent (1.5%) per month, or the maximum amount allowed by law, on past due accounts. If payment remains past due sixty (60) days from the date of the invoice, then CwM shall have the right to suspend all work under this Agreement, without prejudice. CLIENT will pay all reasonable demobilization and other suspension costs. CLIENT agrees to pay, attorneys' fees, legal costs and all other collection costs incurred by CwM in pursuit of past due payments. Where the cost estimate for the scope of Services is "not to exceed" a specified sum, CwM shall notify CLIENT before each limit is exceeded, and shall not continue to provide Service beyond such limit unless CLIENT authorizes an increase in the amount of the limitation. If a "not to exceed" limitation is broken down into budgets for specific tasks, the task budget may be exceeded without CLIENT authorization as long as the total limitation is not exceeded.

4. CHANGES

CLIENT and CwM recognize that it may be necessary to modify the scope of Services, the schedule, and/or the cost estimate proposed in this Agreement. Such changes shall change the scope of Services, schedule, and/or the cost, as may be equitable under the circumstances. CwM shall notify CLIENT in a timely manner when it has reason to believe a change to the Agreement is warranted. CwM shall prepare a Change Order request outlining the changes to the scope, schedule, and/or cost of the project. CLIENT has a duty to promptly consider the Change Order request and advise CwM in a timely manner in writing on how to proceed. If after a good faith effort by CwM to negotiate modifications to the scope of Services, the schedule, and/or the cost estimate, an agreement has not been reached with the CLIENT, then CwM shall have the right to terminate this Agreement upon written notice to the CLIENT.

5. DELAYS AND FORCE MAJEURE

If site conditions prevent or inhibit performance of Services or if unrevealed hazardous waste materials or conditions are encountered, Services under this Agreement may be delayed. Any such delays and any delays caused by CLIENT and its subcontractors, consultants, agents, officers, directors and employees, shall extend the contract completion date and CwM shall be paid for Services performed to the delay commencement date plus reasonable delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred including but not limited to, labor and material escalation, and extended overhead costs, attributable to such delays. Delays within the scope of this Article shall, at the option of either party, make the Agreement subject to renegotiation or to termination.

CLIENT shall not hold CwM responsible for damages or delays in performance caused by acts of God, acts and/or omissions of Federal, State and local governmental authorities, regulatory agencies or other events which are beyond the reasonable control of CwM. For this purpose, such acts or events shall include, but not be limited to, storms, floods, epidemics, war, riot, strikes, lockouts or other industrial disturbances, and inability with reasonable diligence to supply personnel, information, or material to the project. Should such acts or events occur, it is agreed that CwM shall use reasonable efforts to overcome difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the Services covered by this Agreement. Delays in excess of thirty (30) days within the scope of this Article shall, at the option of either party, make this Agreement subject to termination or to renegotiation.

6. DATA AND INFORMATION

CLIENT shall provide to CwM all the reports, data, studies, plans, specifications, documents and other information which are relevant to the Services. CwM shall be entitled to rely upon the reports, data, studies, plans, specifications, documents and other information provided by CLIENT or others in performing the Services and, CwM assumes no responsibility or liability for the accuracy or completeness of such. CLIENT waives any claim against CwM, and agrees to defend, indemnify and hold CwM harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in reports, data, studies, plans, specifications, documents or other information provided to CwM by CLIENT. CwM will not be responsible for any

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interpretations or recommendations generated or made by others, which are based, whole or in part, on CwM's data, interpretations or recommendations.

7. PROFESSIONAL WORK PRODUCT

The Services provided by CwM are intended for one time use only. All documents, including but not limited to, reports, plans, designs, boring logs, field data, field notes, laboratory test data, calculations, and estimates (the "Documents") and all electronic media prepared by CwM are considered its professional work product. CwM retains all rights to its professional work product. Copies of Documents shall be provided to CLIENT upon written request and at CLIENT's expense. CwM shall retain these Documents for a period of two (2) years following submission of its report, during which period they will be made available to CLIENT at all reasonable times.

CLIENT understands that the professional work product is not intended or represented by CwM to be suitable for reuse by any party, including, but not limited to, the CLIENT, its employees, agents, subcontractors or subsequent owners on any extension of a specific project not covered by this Agreement or on any other project, whether CLIENT's or otherwise, without CwM's prior written permission. CLIENT agrees that any reuse unauthorized by CwM will be at CLIENT's sole risk and that CLIENT will defend, indemnify and hold CwM harmless from any loss or liability resulting from the reuse, misuse or negligent use of the professional work product.

8. INDEPENDENT JUDGMENTS OF CLIENT

If the Services include the collection of samples and data relative to CLIENT's contemplated purchase or sale of certain property, then CwM performs the Services with CLIENT's understanding of the Subsurface Risks. CwM will not be responsible for the independent conclusions, interpretations, interpolations and/or decisions of CLIENT, or others, which are the result of this effort. CwM does not undertake any Services which would result in any recommendation, advice or direction by CwM as to whether CLIENT should or should not proceed to purchase or sell the site in question, but it is understood that CLIENT intends to utilize the data provided by CwM to make its own independent judgment in this respect.

9. INSURANCE AND INDEMNITY

CwM maintains and shall continue to maintain during the performance of this Agreement its standard insurance coverage as follows:

-) **Workers' Compensation Insurance:**
 - o In compliance with statutory limits
-) **Automobile Liability with the following limits:**
 - o Combined Single Limit \$100,000
-) **Professional Liability Insurance with the following limits:**
 - o Any One Claim \$500,000
 - o Policy Aggregate \$1,000,000

CLIENT shall not require CwM to sign any document or perform any Service which in the judgment of CwM would risk the availability or increase the cost of its professional insurance.

CLIENT shall, at all times, defend, indemnify and save harmless CwM and its subcontractors, consultants, agents, officers, directors and employees from and against all claims, damages, losses and expenses, including but not limited to reasonable attorneys' fees, court and arbitration costs, arising out of or resulting from the Services of CwM, inclusive of claims made by third parties, or any claims against CwM arising from the acts, errors or omissions of CLIENT, its employees, agents, contractors and subcontractors. To the fullest extent permitted by law, such indemnification shall apply regardless of strict liability of CwM. Such indemnification shall not apply to the extent such claims, damages, losses or expenses are finally determined to result from CwM's negligence.

CwM shall, at all times, indemnify and save harmless CLIENT and its officers, directors, agents and employees from and against all claims, damages, losses and expenses arising from personal injury, death, or damage to third-party property to the extent directly attributable to the negligent acts, errors or omissions of CwM.

10. LIMITATION OF LIABILITY

CLIENT shall notify CwM of any deficiencies or suspected deficiencies arising directly or indirectly from CwM's negligent acts, errors or omissions. Failure by CLIENT to notify CwM shall relieve CwM of any further responsibility and liability for such deficiencies. CLIENT and CwM agree that all liability arising directly or indirectly from this Agreement or the Services of CwM shall expire no later than one (1) year from the date of CwM's acts errors or omissions or prior to the last date allowed by the applicable statute of limitation, whichever occurs first in time.

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, which the CLIENT recognizes is sufficient and reasonable, CLIENT agrees to limit the liability of CwM, its employees, officers, directors, agents, consultants and subcontractors to CLIENT, its employees, officers, directors, agents, consultants and subcontractors, whether in contract, tort, or otherwise, which arises from CwM's acts, errors or omissions, such that the total aggregate liability of CwM to all those named shall not exceed \$25,000 or CwM's total fee for the Services rendered under this Agreement, whichever is less. Neither party shall be

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responsible to the other for lost revenues, lost profits, cost of capital, claims of customers, or other special, indirect, consequential or punitive damages.

11. RIGHT OF ENTRY

CLIENT will provide for the right of entry for CwM, its subcontractors, and all necessary equipment in order to complete the Services under this Agreement. If CLIENT does not own the site, CLIENT must obtain permission for CwM to enter the site and perform the Services. While CwM will take all reasonable precautions to minimize any damage to the property, it is understood by CLIENT that in the normal course of work some surface damage may occur, the restoration of which is not part of this Agreement.

12. SUBSURFACE RISKS

Special risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program implemented in accordance with a professional Standard of Care may fail to detect certain conditions. The environmental, geologic, geotechnical, geochemical and hydrogeologic conditions that CwM interprets to exist between sampling points may differ from those that actually exist. Furthermore, CLIENT recognizes that, passage of time, natural occurrences, direct or indirect human intervention at or near the site may substantially alter discovered conditions. In the prosecution of the Services, CwM will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. CLIENT agrees to defend, indemnify and hold CwM harmless for any damage to subterranean structures or utilities and for any impact this damage may cause, except to the extent the damage is directly attributable to the negligence of CwM.

Subsurface sampling may result in unavoidable contamination of certain subsurface areas not known to be previously contaminated such as, but not limited to, a geologic formation, the groundwater, or other hydrous body. CwM will adhere to the Standard of Care during the conduct of any subsurface investigation. Because subsurface sampling is a necessary aspect of the work which CwM may perform on CLIENT's behalf, CLIENT waives any claim against CwM, and agrees to defend, indemnify and hold CwM harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination caused by any subsurface investigation. CLIENT further agrees to compensate CwM for any time spent or expenses incurred by CwM in defense of any such claim, in accordance with CwM's prevailing fee schedule and expense reimbursement policy.

13. DISPOSAL OF SAMPLES MATERIALS AND CONTAMINATED EQUIPMENT

All uncontaminated samples obtained pursuant to this Agreement remain the property and responsibility of CLIENT. These soil and rock samples or other specimens will be disposed of 60 days after submission of the report. Upon written request, CwM will store samples for longer periods of time or transmit the samples to CLIENT for a mutually acceptable charge.

All contaminated samples and materials (containing or potentially containing hazardous constituents), soil cuttings, contaminated water, and/or other environmental wastes obtained pursuant to this Agreement remain the property and responsibility of CLIENT and shall be returned to CLIENT for proper disposal. All laboratory and field equipment that cannot readily and adequately be cleansed of its hazardous contaminants shall become the property and responsibility of CLIENT. All such equipment shall be charged and turned over to CLIENT for proper disposal. Alternate arrangements to transfer equipment, materials and or samples directly over to a licensed hazardous waste disposal facility may be made at CLIENT's direction and expense. It is understood and agreed that CwM is not, and has no responsibility as, a handler, generator, operator, treater, storer, arranger, transporter, or disposer of hazardous or toxic substances, waste or materials found or identified at the site.

CLIENT agrees to indemnify and hold CwM harmless from and against all loss, damage, expense, and claims arising out of the disposal of all such samples materials and equipment.

14. CONTROL OF WORK AND JOB-SITE SAFETY

CwM shall be responsible only for its activities and that of its employees and subcontractors. CwM's Services under this Agreement are performed for the sole benefit of the CLIENT and no other entity shall have any claim against CwM because of this Agreement or the performance or nonperformance of Services hereunder.

Insofar as job site safety is concerned, CwM is responsible only for the health and safety of its employees and subcontractors. Nothing herein shall be construed to relieve CLIENT or any other consultants or contractors from their responsibilities for maintaining a safe job site. CwM shall not advise on, issue directions regarding or assume control over safety conditions and programs for others at the job site. Neither the professional activities of CwM, nor the presence of CwM or its employees and subcontractors, shall be construed to imply that CwM controls the operations of others or has any responsibility for job site safety.

15. PUBLIC RESPONSIBILITY

CLIENT has a duty to conform to applicable codes, standards, regulations and ordinances, with regard to public health and safety. While CwM performs the Services it will endeavor to alert CLIENT to any matter of which CwM becomes aware and believes requires CLIENT's immediate attention to help protect public health and safety, or which CwM believes requires CLIENT to issue a notice or report to certain public officials, or to otherwise conform with applicable codes, standards, regulations or ordinances. If CLIENT decides to disregard CwM's recommendations in these respects, CwM shall employ its best judgment in deciding whether

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or not it should notify public officials. If CLIENT decides to disregard CwM's recommendations, CwM shall have the right to immediately terminate this Agreement upon written notice to the CLIENT.

16. NOTIFICATION AND DISCOVERY OF HAZARDOUS MATERIALS

Prior to commencing the Services, CLIENT shall furnish to CwM all documents and information known to CLIENT that relate to the identity, location, quantity, nature or characteristics of any hazardous materials or suspected hazardous materials, on or under the site. CLIENT hereby warrants that, if it knows or has any reason to assume or suspect that hazardous materials may exist at the project site, it has so informed CwM.

CLIENT recognizes that hazardous materials or suspected hazardous materials may be discovered on the project site property or on any adjacent property to the site. CLIENT recognizes that it is CLIENT's responsibility, and not CwM's, to inform the Owner of any affected property not owned by CLIENT of such discovery. CLIENT also recognizes that any such discovery may result in a significant reduction of the property's value. CLIENT waives any claim against CwM and agrees to defend, indemnify and hold harmless CwM from any claim or liability for injury or loss of any type arising from the discovery of hazardous materials or suspected hazardous materials on CLIENT's property or on property not owned by CLIENT. CLIENT agrees that discovery of unanticipated hazardous materials shall constitute a changed condition for which CwM shall be fairly compensated.

17. NOTICES

All notices required or permitted to be given hereunder, shall be deemed to be properly given if delivered in writing by hand, facsimile machine, e-mail, or express courier addressed to CLIENT or CwM, as the case may be, at the addresses set forth below, with postage thereon fully prepaid if sent by mail or express courier.

All notices, correspondence, deliverables, and invoices shall be submitted to CLIENT as indicated below or by email:

City of Columbia City
PO Box 189
1840 2 nd St
Columbia City, OR 97018
Attn: Kim Karber, <i>Interim City Manager</i>
(503) 397-4010

All notices and correspondence shall be submitted to CwM as indicated below or by email:

CwM H2O, LLC
311 B Ave, Suite P
Lake Oswego, OR 97034
Attn: Robert Long
bob.long@cwmh2o.com
(503) 954 – 1326

The CLIENT's authorized representative hereby represents that he has read and understands the paragraphs entitled Insurance and Indemnity and Limitation of Liability, which deal with the allocation of risk between the CLIENT and CwM.

18. TERMINATION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice, such period shall not be less than seven (7) calendar days. In the event of termination, CwM shall be paid for services performed to the termination notice date, reasonable termination expenses, and a portion of its anticipated profits not less than the percentage of the contract services performance as of the termination notice date. CwM may complete such analyses and records as are necessary to complete their files and may also complete a report on the Services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of CwM in completing such analyses, records and reports.

19. DISPUTES

All disputes, claims, and causes one party makes against the other, at law or otherwise, including third party or "pass-through" claims for indemnification and/or contribution, shall be initiated, determined, and resolved by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. In the event that one party makes a claim against the other, at

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law or otherwise, and then fails to prove such claim, then the prevailing party shall be entitled to all costs, including attorneys' fees including defending against the claim.

20. CLIENT LITIGATION

IF CwM is requested to produce documents, witnesses or general assistance pursuant to a litigation, arbitration or mediation in support of the CLIENT litigation to which CwM is not an adverse part, CLIENT shall reimburse CwM for all direct expenses and time in accordance with CwM's current rate schedule at time and a half.

21. CONFIDENTIALITY

CwM shall endeavor to keep confidential all data and information which is marked confidential and furnished to CwM by CLIENT under this Agreement CwM's confidentiality obligations shall not apply if such data or information is within the public domain, previously known to CwM, obtained from third parties without violating any confidentiality agreement, required to be produced by CwM pursuant to any law, subpoena, or court order or required by CwM in the defense of any claim. CwM may use and publish the CLIENT's name and give a general description of the Services rendered by CwM for the purpose of informing other clients and potential clients of CwM's experience and qualifications.

22. INTELLECTUAL PROPERTY

All rights to patents, trademarks, copyrights, and trade secrets owned by CwM (hereinafter "Intellectual Property") as well as any modifications, updates or enhancements to said Intellectual Property during the performance of the Services remain the property of CwM, and CwM does not grant CLIENT any right or license to such Intellectual Property. CwM shall use reasonable efforts to provide the Services without infringing on any valid patent or copyright and without the use of any confidential information that is the property of others, unless CwM or its agents, employees or subcontractors are licensed or otherwise have the right to use and dispose of such information. CwM shall also use reasonable efforts to inform the CLIENT of any patent infringement that may be reasonably expected to result from the Services. However, reasonable efforts of CwM shall not include a duty to conduct or prepare a patent or copyright search and/or opinion. If CwM performs its Services in a manner consistent with the above, then to the fullest extent permitted by law, CLIENT shall indemnify, defend and hold harmless then CwM and its officers, directors, agents and employees against all liability, cost, expense, attorneys' fees, claims, loss or damage arising from any alleged or actual patent or copyright infringement resulting from the Services under this Agreement.

23. MISCELLANEOUS

- a) This Agreement supersedes all other agreements, oral or written, and contains the entire agreement of the parties. No cancellation, modification, amendment, deletion, addition, waiver or other change in this Agreement shall have effect unless specifically set forth in writing signed by the party to be bound thereby. Titles in this Agreement are for convenience only.
- b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns provided that it may not be assigned by either party without consent of the other. 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.
- c) No waiver of any right or remedy in respect of any occurrence on one occasion shall be deemed a waiver of such right or remedy in respect of such occurrence on any other occasion.
- d) All representations and obligations (including without limitation the obligation of CLIENT to indemnify CwM in Article 10 and the Limitation of Liability in Article 11) shall survive indefinitely the termination of the Agreement
- e) Any provision, to the extent it is found to be unlawful or unenforceable shall be stricken without affecting any other provision of the Agreement, so that the Agreement will be deemed to be a valid and binding agreement enforceable in accordance with its terms.
- f) All questions concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be governed by the laws of Oregon, unless the law of another jurisdiction must apply for this Agreement to be enforceable.

24. ENDORSEMENT

CwM will include this Agreement by reference in separate proposals, work order authorizations, and change orders. All work performed for the CLIENT under approved proposals, work order authorizations,

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and change orders shall be covered by the terms and conditions of the CwM H2O, LLC Master Services Agreement, Version 11/20. Please endorse this copy and return it to CwM. CwM will then endorse this document and return a copy of the completed agreement to you for your records.

Kim Karber, *Interim City Manager*

CwM H2O, LLC



By: _____

By: _____

Authorized Representative
Robert E. Long Jr.

Its: Authorized Representative

Its: Member Manager

Date: _____

Date: April 29, 2024



ATTACHMENT 4

**CwM H2O, LLC
Professional Services Rate Schedule for Calendar Year
2023-2024**

Invoices from CwM H2O, LLC include all labor charges, other direct costs, and costs associated with in-house services. Charges include only those services directly attributable to a client’s individual project. Time spent when traveling in the interest of work will be charged in accordance with the hourly rates.

An additional 50% will be added to the applicable labor rate for technical support of legal counsel, litigation support, expert testimony, and response to subpoena related to any client projects, including time spent preparing for and in depositions and for the preparation of testimony.

Labor charges are based upon standard hourly billing rates for each category of staff. The billing rates include costs for salary, payroll taxes, insurance associated with employment, benefits (including holiday, sick leave, and vacation), administrative overheads, and profit. Rates by labor category are as follows:

<i>Personnel Level</i>	<i>Personnel Category</i>	<i>Hourly Rate (U.S. \$)</i>
LA1	Admin Support	\$75
LA2	Staff Admin Support	\$95
LT1	Technician	\$85
LT2	Staff Technician	\$100
LD1	CAD/Graphics	\$105
LD2	Staff CAD/Graphics	\$130
LV1	Engineer/Scientist	\$105
LV2	Staff Engineer/Scientist	\$115
LV3	Project Engineer/Scientist	\$140
LV4	Senior Project Engineer/Scientist	\$160
LV5	Senior Engineer/Scientist	\$180
LV6	Senior Consultant	\$215
LV7	Principal Consultant	\$240

Other approved direct costs, including materials, rental equipment, and approved subcontractor costs will be invoiced at cost plus a minimum general and administrative fee of 15% or as required by contract.

Rates for laboratory services and use of equipment owned by CwM H2O, LLC will be provided upon request.