RESOLUTION NO. 2140

A RESOLUTION OF THE NORTH PLAINS CITY COUNCIL AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN AAKEN CORPORATION ELECTRIC FOR PUBLIC WORKS MAINTENANCE AND OPERATIONS SERVICES

WHEREAS, the City of North Plains (“City”) is seeking professional services to provide Public Works maintenance and operations services to the City, including but not limited to City streetlight maintenance and repair services; and

WHEREAS, the City has solicited proposals for such services from several qualified potential contractors in compliance with applicable City and State contracting requirements; and

WHEREAS, Aaken Corporation dba Aaken Corporation Electric (“Contractor”) has prepared and submitted a proposal to the City offering to provide such Public Works maintenance and operations services; and

WHEREAS, Staff recommends the Contractor’s proposal to the City Council.

NOW, THEREFORE, THE CITY OF NORTH PLAINS RESOLVES AS FOLLOWS:

Section 1. The City hereby approves the selection of Contractor to construct the Commercial Avenue watermain extension and related right-of-way restoration as described above.

Section 2. The City Manager is hereby authorized to execute an Agreement with Contractor on behalf of the City in a form substantially similar to the document attached hereto as “Exhibit A”.

Resolution No. 2140
Agreement between City and Aaken Corp for Public Works Maintenance and Operations Services
Adopted April 19, 2021
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Section 3. This Resolution is and shall be effective from and after its enactment by the City Council.

INTRODUCED AND ADOPTED this 19th day of April, 2021.

CITY OF NORTH PLAINS, OREGON

______________________________
Teri Lenahan, Mayor

ATTEST:

______________________________
Lori Lesmeister, City Recorder
City of North Plains

TRADE SERVICES MASTER CONTRACT

FOR

PUBLIC WORKS MAINTENANCE & OPERATIONS SERVICES, ON-CALL

Contract # 001

This contract is between the City of North Plains, a municipal corporation of the State of Oregon ("City"), and Aaken Corporation Electric ("Contractor").

City and Contractor, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:

1. PURPOSE AND STANDARD OF SERVICES. This contract sets forth the responsibilities and clarifies the relationship between the City and the Contractor.

1.1. All work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in this contract, Contractor shall employ methods that are generally accepted and used in the industry, in accordance with industry standards. City’s authorized representative shall have access to and the right to inspect the work at all times. Defective work shall be corrected at Contractor’s expense.

1.2. Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the work in this contract, unless otherwise specified in this contract, Contractor shall obtain all permits necessary to perform the work. Failure to comply shall constitute a material breach of this contract.

2. CONTRACT TERM. The effective date is: July 1, 2021, or upon final signature, whichever is later.

2.1. The expiration date is: June 30, 2022, unless otherwise amended. Time is of the essence under this Contract.

2.2. Passage of the contract expiration date shall not extinguish or prejudice the City's right to enforce this contract with respect to any default or defect in performance that has not been cured.

3. CONSIDERATION. Contractor shall perform spill cleanup services on roadways, City property or other locations as designated by City and as further described in Exhibits A and B, in consideration for which City agrees to pay for the work in the manner as further described in this contract.
3.1. The maximum amount payable under this contract is $50,000 unless otherwise amended. Contractor bears the risk of non-payment for services in excess of the amount stated above without prior City approval; but City reserves the right to ratify and pay for such services in its sole discretion.

3.2. If applicable, payments based upon hourly rates or other measurements and provisions for travel expenses are set forth and identified in Exhibit A.

3.3. Unless otherwise stated in Exhibit A, the payment terms are thirty days after invoice approval by the City Contract Administrator.

4. ADDITIONAL DOCUMENTS & EXHIBITS. The following documents are incorporated into this contract:

- Standard Contract Terms and Conditions
- Exhibit A: Contractor's Rates Sheet

4.1.1. In the event there is a conflict between the documents comprising this contract, the following order of precedence shall apply: the terms and conditions in the body of this contract; Standard Contract Terms and Conditions, and Contractor's Proposal.

5. NOTICE.

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery or mailing with postage prepaid to Contractor or City at the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

For the City of North Plains
Contract Administrator Name, Title: Blake Boyles, Public Works Director
Address, City, State and ZIP Code: 31360 NW Commercial St, North Plains, OR 97123
Telephone: 503-647-5555
Email: blake.boyles@northplains.org

For the Contractor
Contract Administrator Name, Title: Aaron Clickett, President
Address, City, State and ZIP Code: 1260 NE First St., Bend, OR 97701
Telephone: (541) 330-9545
Email: contracts@aakencorp.com
6. SIGNATURES.

6.1. INTERGOVERNMENTAL COOPERATIVE AGREEMENT. Pursuant to ORS 279A, other public agencies shall have the ability to purchase the awarded goods and services from the awarded Contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor’s obligation to the City of North Plains. Any estimated purchase volumes listed herein do not include other public agencies and the City of North Plains makes no guarantee as to their participation. Any bidder, by written notification included with their solicitation response, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies.

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<th>Contractor plans to participate in Intergovernmental Cooperative Purchasing</th>
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<td>[x] Yes</td>
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STANDARD CONTRACT TERMS AND CONDITIONS

1. **Subcontracts and Assignment.** Contractor shall not enter into any subcontracts for any of the work required by this contract, or assign or transfer any of its interest in this contract, without the prior written consent of City. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

2. **Third Party Beneficiaries.** City and Contractor are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.

3. **Written Notice.** Any notice of change, termination, or other communication having a material effect on this contract shall be upon the City Contract Administrator and the Contractor Contact Person and served in one of the following manners: a) In-person delivery; or b) deposited in the U.S. Mail under certified or registered handling, postage prepaid. Except as provided in this contract, it is agreed that fifteen calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically requires such notice.

4. **Governing Law/Venue/Attorney Fees.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "the claim") between City and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the circuit court of Washington County for the State of Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor, by its execution of this Contract, hereby consents to the in-persona jurisdiction of said courts. If a suit or action is filed to enforce any of the terms of this Contract, each party is responsible for their respective costs and fees, including attorney fees.

5. **Remedies Cumulative.** All rights and remedies of City and Contractor shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of City according to law.

6. **Severability/Waiver.** City and Contractor agree that, if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid. The failure of either party to enforce any
provision of this contract shall not constitute a waiver by that party of that or any other provision of this contract.

6.2 PREFERRED METHOD OF PAYMENT: The City's preferred method of payment is by check. Please ensure that your remit to address is correctly recorded with the city and the information is listed clearly on each invoice in addition to the contract number.

6.2.1. NOTE: Contract Number and the Name of the responsible Contract Administrator for the City of North Plains must be clearly displayed on the invoice document.

6.3 CERTIFICATION OF COMPLIANCE WITH DISCRIMINATION LAWS: By my signature below, I hereby attest or affirm under penalty of perjury that I am authorized to act on behalf of Contractor in this matter, and to the best of my knowledge the Contractor has not discriminated against minority, women or emerging small business enterprises certified under ORS 200.055, in obtaining any required subcontract or against a business enterprise that is owned or controlled by or that employs a disabled veteran as defined in ORS 408.225, and that the Contractor is not in violation of any Discrimination Laws.

Signatures

CONTRACTOR:

By my signature below, I certify that I am authorized to execute this contract on behalf of Contractor. I also agree to perform the statement of work in accordance with the specifications and meet the performance standards set forth in the Solicitation.

Signature: _______________________________ Date: ___________________________

Name (Printed): __________________________ Title: ___________________________

CITY OF NORTH PLAINS:

Signature: _______________________________ Date: ___________________________

Name (Printed): __________________________ Title: ___________________________
7. **Public Contracting Statutes.**

7.1 All requirements of Oregon Revised Statutes Nos. 2798.220 through 2798240, Public Contracting, including but not limited to the following, as applicable, are incorporated herein by reference:

7.1.2. ORS 2798.220(1), Make payment promptly, as due, to all persons supplying to the Contractor labor and material for the prosecution of the work provided for in the contract documents;

7.1.3. ORS 279B.220(2), Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Contract;

7.1.4. ORS 279B.220(3), Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished;

7.1.5. ORS 279B.220(4), Be responsible for all federal, state and local taxes applicable to any compensation or payments paid to the Contractor under this Contract and may to the Department of Revenue all sums withheld from employees under ORS 316.167. Unless the Contractor is subject to backup withholding, the City will not withhold from such compensation or payments any amount(s) to cover the Contractor's federal or state tax obligation and;

7.1.6. Contractor shall pay employees for services as stated in ORS 279B.235(1). The employee shall be paid at least time and a half for all overtime worked in excess of forty (40) hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

7.2 **Making Payments:**

7.2.1 If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Contract as such claim becomes due, City may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of the Contract;

7.2.2 The payment of a claim in this manner shall not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims;

7.2.3 The Contractor shall promptly as due, make payment to any person, co-partnership or association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employee of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. (ORS 279B.230(1)).
7.2.4 Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 279B-230(2)).

8. Independent Contractor.

8.1 Contractor shall perform the work required by this contract as an "Independent Contractor." Although City reserves the right to determine the delivery schedule for the work to be performed and to evaluate the quality of the completed performance, the City cannot and will not control the means or manner of the Contractor's performance. The Contractor shall comply promptly with any requests by City relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to the work under this contract. Contractor is responsible for determining the appropriate means and manner of performing the work.

8.2 Contractor represents and warrants that Contractor is not an employee of the City, is not currently employed by the Federal Government, meets the specific independent Contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.260 et. seq.

8.3 Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this contract. Contractor is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid to Contractor under this contract.

8.4 Contractor agrees to immediately provide City notice of any claim made against Contractor by any third party. Contractor also agrees not to assign to any third party, without City’s written consent, any obligation of City to indemnify Contractor for any actions under this contract.

9. Nondiscrimination. 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 contract on the grounds of race, color, religion, gender, sexual orientation, national origin, disability, age, or marital status. Any violation of this provision shall be considered a material defect and shall be grounds for cancellation, termination or suspension in whole or in part by the City.
10. Failure to Perform.

10.1 The City may withhold funds if the contractor fails to perform the work or provide the products ordered in accordance with the specifications.

10.2 The City may require additional work without any additional payments should the contractor fail to perform.

10.3 The City may declare the contractor in default and terminate this contract.

11. Termination.

11.1 This contract may be terminated under the following conditions:

11.1.1 By mutual consent of both parties.

11.2.2 Contractor may terminate this contract upon a material default of City; however, Contractor must provide written notice to the City Contract Administrator and provide City with thirty days to cure the default.

11.2.3 City may at any time terminate, the whole or any part of, this contract for default if Contractor fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from the City, fails to correct such failures within seven calendar days or such other period as the City may authorize or require.

11.2 Upon receiving a notice of termination issued by City, Contractor shall immediately cease all activities under this contract, unless expressly directed otherwise by City in the notice of termination.

11.3 In the event the City Council of the City of North Plains reduces, changes, eliminates, or otherwise modifies the funding for this contract, or if funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services, then the City may terminate this contract, in whole or in part, effective upon delivery of written notice to the Contractor, or at such later date as may be established by the City, and Contractor agrees to abide by any such decision.

11.4 In addition to its other rights to terminate, the City may terminate this contract in whole or in part upon thirty days’ notice to Contractor when it is determined to be in the best interests of the City. During this thirty-day period, Contractor shall wind down and cease its services as quickly and efficiently as possible, without performing unnecessary services or activities and by minimizing negative effects on the City from such winding down and cessation of services.
11.5 The rights and remedies of the City provided in this section, are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

11.6 If this contract is terminated under subsections 11.3 or 11.4, City shall be liable only for payment in accordance with the terms of this contract for services satisfactorily rendered prior to the effective date of termination. Further, upon termination, Contractor shall deliver to City all contract documents, information, works-in-progress, and other property that are or would-be deliverables had the contract been completed.

12 **Time is of the essence.** Time is of the essence in Contractor's performance of each and every obligation and duty under this contract.

13 **Force Majeure.** Neither City nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, City's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this contract.

14 **Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal, state and municipal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. The City's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 which are incorporated by reference herein.

14.1.1 Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 279B.230(2)).
15 **Oregon Registration.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this contract.

16 **Use of City Facilities.** Contractor and its employees or agents shall have the right to use only those facilities of the City that are necessary to perform the services under this contract and shall have no right of access to any facility of the City without prior approval of City Contract Administrator. The City shall have no responsibility for the loss, theft, mysterious disappearance of or damage to equipment, tools, materials, supplies, and other personal property of Contractor or its employees, subcontractors or agents which may be stored on City premises.

17 **Publicity.** Contractor shall not use in its external advertising, marketing programs or other promotional efforts, any data, pictures, or other representations of the City except on prior specific written authorization from the City Contract Administrator.

18 **Survival.** The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.

19 **Counterparts.** This contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.

20 **Warranties.** Contractor represents and warrants to City that: (a) Contractor has the power and authority to enter into and perform the contract, (b) the contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and (c) Contractor’s performance under the contract shall be in a good and workmanlike manner and in accordance with the professional standards.

20.1 **Goods.** Additionally, unless otherwise stated, all goods purchased or leased pursuant to this Price Agreement shall be free and clear of any liens or encumbrances and shall be new (and, if applicable, the current model) and shall carry full manufacturer warranties. Contractor warrants all goods delivered to be free from defects in labor, material design and manufacture to be in compliance with the specifications set out in the Contract including but not limited to quality, performance and health and safety specifications. All implied and express warranty provisions of the UCC are hereby incorporated by reference. Further, Contractor represents and warrants to Authorized Purchaser that Contractor has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
20.1.1 **Delivery.** Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance when responsibility shall pass to the City except as to latent defects, fraud and Contractor's warranty obligations. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by Contractor, unless specified otherwise in the solicitation documents.

20.1.2 **Inspection.** Goods furnished under this contract shall be subject to inspection and test by the Authorized Purchaser at times and place determined by the Authorized Purchaser. If the Authorized Purchaser finds goods furnished to be incomplete or not in compliance with solicitation specifications, the Authorized Purchaser may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, whichever is equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the Authorized Purchaser, the Authorized Purchaser may reject the goods and cancel the contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the Authorized Purchaser's rights as buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

20.1.3. **Safety Data Sheet.** Contractor shall provide the City and Authorized Purchasers with a Safety Data Sheet as defined by the Occupational Safety and Health Administration (OSHA) for any goods provided under this Contract which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag or mark such goods.

21 **Records.** Contractor shall maintain all fiscal records relating to this contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the City and its duly authorized representatives shall have access to such fiscal records and all other books, documents, papers, plans, and writings of the Contractor that are pertinent to this contract. All such fiscal records, books, documents, papers, plans, and writing shall be retained by Contractor and kept accessible for a minimum of three years, except as required longer by law, following final payment and termination of this contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions.

22 **Work Product.** All work products of the Contractor which result from this contract ("the work products"), except material previously and mutually identified as confidential or proprietary, shall be provided to City upon request and shall be considered the exclusive property of the City. In addition, if any of the work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants the City a perpetual, royalty-free, fully paid-up, nonexclusive and
irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so. Such work products include, but are not limited to: databases, templates, file formats, scripts, links, procedures, materials, training manuals and other training materials, especially created key commands, and any other information, designs, plans, or works provided or delivered to the City or produced by Contractor under this contract.

23 Insurance. Contractor shall obtain prior to beginning any work under this Contract and shall maintain in full force and effect for the term of this Contract, at Contractor's expense, comprehensive general liability to include bodily injury and property damage for at least $1,000,000 per occurrence and at least $2,000,000 aggregate per project. Workers' compensation, Contractor shall comply with ORS 656.017 for all employees who work in the State of Oregon. Unless otherwise exempt, Contractor shall provide the City with certification of Workers' Compensation Insurance, with employed liability with limits not less than $1,000,000/$1,000,000/$1,000,000. Automobile liability with a combined single limit coverage of not less than $1,000,000 to include bodily injury and property damage and shall include coverage for owned, hired and non-owned vehicles, as applicable, for the protection of the Contractor and the City of North Plains. Contractor shall name the City of North Plains, its elected and appointed officials, officers, agents, employees and volunteers as additional insureds. The policies shall be primary to and non-contributory with any insurance or self-insurance carried by the City, issued by a company authorized to do business in the State of Oregon. The Contractor shall provide the City written notice within thirty (30) days of cancellation or material modification of the insurance contract at the address listed below. Contractor shall provide certificates of insurance and additional insured policy endorsement to City prior to commencement of any work under this Contract. If requested, complete copies of insurance policies shall be provided to City. Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance used to satisfy these requirements.

23.1.1 Workers' Compensation and Employers' Liability Insurance. Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 2798.230(2)). Unless otherwise exempt, Contractor shall provide the City with certification of Workers' Compensation Insurance and shall maintain Employers' Liability Insurance with limits not less than $1,000,000 for each accident, $1,000,000 for disease each employee and $1,000,000 each policy limit.

24 Indemnification. Contractor shall indemnify, defend, save and hold harmless the City of North Plains, its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits or actions of whatsoever nature, loss or expenses, including attorney fees, and against all claims, actions, judgments based upon or arising out of damage or injury or death to persons or property, but only to the extent caused by a act or omission by the Contractor and anyone acting on Contractor's behalf in connection with, or incidental to, this Contract or the work
to be performed hereunder; provided, however, that nothing herewith shall be construed to require indemnification of City attributable to its own negligence. In addition, Contractor expressly agrees to defend, indemnify and hold the City of North Plains, Its elected and appointed officials, officers, agents, employees and volunteers against all liability, claims, suits, actions, loss or expenses, including attorney fees, arising out of or related to any claims that the Work, the Work Product, or any other tangible or intangible items delivered to City by Contractor may be the subject of protection under any state or federal intellectual property law or doctrine, or the City's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design or other proprietary right of any third party.

25 City Policies. During the performance of this contract, Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work including obtaining a City of North Plains Business License or obtaining a METRO contractor's business license. Failure to comply with such requirements shall constitute a breach of Contract and shall be grounds for Contract termination. Damages or costs resulting from noncompliance shall be the responsibility of Contractor. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

26 Amendment. This contract may only be amended by a written amendment signed by authorized agents of both parties.

27 Price Escalation. A request for escalation of Contract pricing may be made under the following conditions:

27.1 Offered prices must be firm for a least one (1) consecutive year after written notification of a Contract

27.2 The Contractor shall provide written notice to the City of any requested price increases and all requests for price increases shall be accompanied by:

27.2.1 A letter from the Contractors supplier certifying the price increase to the Contractor; or

27.2.2 Evidence of verifiable market conditions resulting in increased costs such as mandated labor rate increases and significant fuel or energy cost increases.

27.3 All revisions to Contract pricing shall become effective when they have been received and approved by the City.

27.4 The City reserves the right to cancel a Contract and solicit a new contract if a requested price escalation is unacceptable to the City. Cancellation of the Contract shall not affect any outstanding orders.

27.5 All approved price changes resulting from this escalation clause shall be firm for a period of one (1) calendar year after approval of the escalation by the City.
27.6 Contractors are obligated to treat price decreases as equally as price increases during the tenure of the contract. Contractor shall notify the City within ten (10) working days of subsequent price de-escalations from its supplier or cost reductions in areas where pricing increases were previously implemented.

27.6.1 The Contractor will reduce its pricing to the City immediately to pass on such de-escalations and reductions unless otherwise agreed by the parties.

27.7 The City reserves the right to approve pricing increases requested by the Contractor other than those described in this subsection, if in the best interest of the City.

27.8 All approvals required by this subsection must be in writing by the City Contract Administrator.

28 Reimbursement of Expenses. Under this contract, Contractor is to be reimbursed for miscellaneous expenses such as printing, copies, long distance calls etc. Such expenses shall be itemized in detail on the monthly billing statement without any markup by the Contractor. Travel reimbursement shall be in accordance with the City's travel policy to the extent that: coach air fare shall be used, GSA per diem rates will be used for meal reimbursement, lodging costs shall only be for the room and room taxes, car rental shall be at an economy car rate, unless there are extenuating circumstances (i.e. extensive equipment to transport, multiple passengers), which will need a statement of explanation attached and if a personal vehicle is used, reimbursement will be at the IRS mileage rate.

29 REQUIREMENTS FOR DOING ELECTRICAL WORK ON NEW OR EXISTING CITY FACILITIES:

29.1 All contractors performing electrical work on City facilities must comply with all applicable requirements of the NFPA 70E Standards.

29.2 Unless the City determines in its sole discretion that a Contractor’s attendance is not necessary, Contractors will be required to attend a Pre-Task Meeting with the Project Manager and Electrical Signing Supervisor or designee to discuss the hazards and safe work procedures for all electrical work to be performed on existing or new City facilities.

29.3 If the work performed changes or alters the Arc Flash Analysis, contractor is required to provide an updated Arc Flash Analysis and any required labeling to the Facilities Operations Manager and the Department occupying the facility where the work was performed.

29.4 In addition to the above, Contractors performing electrical Work must:
29.4.1. Hold an electrical contractor license. This is a specialized license allowing a company to perform electrical work. Oregon's Building Codes Division issues the electrical license.

29.4.2. Hold a valid General Contractor’s license or a Specialty Contractors License from the State of Oregon Construction Contractors Board.

29.4.3. The person(s) actually installing or modifying any electrical system in accordance with the Work must possess a valid General Journeyman Electrical license issued by the State of Oregon.

30  Whole Contract. THIS CONTRACT CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE CONTRACT BETWEEN THE PARTIES RELEVANT TO THE PURPOSE DESCRIBED HEREIN AND SUPERSEDES ALL PRIOR AGREEMENTS OR PROPOSALS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATION BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS CONTRACT.
This Task Order between the City of North Plains, a municipal corporation of the State of Oregon, and Aaken Corporation Inc. (CONSULTANT).

The parties agree as follows:
This Task Order is placed against Master Contract 001 (“Master Contract”). The terms and conditions, contract documents and any special terms and conditions contained in the Master Contract are hereby incorporated into this Task Order. Such terms and conditions, contract documents and any special terms and conditions shall apply and shall take precedence over this Task Order, its Exhibits and all conflicting terms and conditions, express or implied.

This Task Order is comprised of the following, in order of precedence:

1. This Task Order document,
2. Scope of Work, as specified by City’s Public Works Director requesting the work and
3. Exhibit B Fee and Rates

I. Scope of Work
The Consultant shall provide the City the Work as per the Master Contract and as specified by the City of North Plains Public Works Director, on a time and materials basis. Work may be authorized on the verbal or written (email) basis.

II. Total Not To Exceed Value
The total not to exceed value of this Task Order is $25,000. The fees and rates specified in Task Order Exhibit A to this Task Order apply to all work performed against this Task Order.

III. Effective Date and Duration of Contract
This Task Order shall become effective on July 1, 2021. Unless earlier terminated, this Task Order shall remain in full force and effect until City accepts Consultant’s completed performance or on June 30, 2022, whichever first occurs.

This Task Order may be amended by the parties.

I certify that I have the authority to sign and enter into this Task Order on behalf of the party I represent and agree to be bound by its terms.

City of North Plains

Aaken Corporation Inc.

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

City of North Plains Point of Contact: Blake Boyles, Public Works Director
### TRADE SERVICES MASTER CONTRACT RATE

<table>
<thead>
<tr>
<th>Service</th>
<th>Hourly Rate</th>
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<tbody>
<tr>
<td>Electrician</td>
<td>$115.00</td>
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<tr>
<td>Fiber Optic Tech</td>
<td>$ 95.00</td>
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<td>PGE Line Man</td>
<td>$175.00</td>
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<td></td>
<td>Min. four hours</td>
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<tr>
<td>Machine Operator</td>
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<td>Laborer</td>
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<tr>
<td>Traffic Control</td>
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<td>Bucket Truck</td>
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<td>Fiber Optic Van</td>
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<tr>
<td>Vacuum Trailer</td>
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