

# PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between CITY OF STEVENSON, a municipal corporation of the State of Washington, and hereinafter referred to as "CITY," and **FLO Analytics**, hereinafter referred to as the "Contractor."

IN CONSIDERATION of the mutual promises, agreements, and covenants contained herein, it is hereby agreed, by and between the parties, as follows:

## SECTION I Nature and Scope of Work

Contractor will perform services as set forth in the attached Exhibit "A." Contractor shall make oral reports, and prepare and submit written reports, in such form and frequency as required by CITY.

## SECTION II Payment for Services & Expense Reimbursement

### A. PAYMENT

Contractor shall be paid by CITY, for the work to be performed hereunder, as set forth in the attached Exhibit "A." Any payment made to Contractor, however, shall not constitute acceptance of the work, or any portion thereof, which is not in accordance with this contract.

### B. TRAVEL

Contractor shall be reimbursed for actual transportation costs that are necessary for the performance of this contract, and which are pre-approved by the City Administrator. Any approved air travel by Contractor shall be limited to coach class (restricted fare). Travel by private auto shall be reimbursable at a rate not to exceed the Internal Revenue Service's current mileage reimbursement rate for business related travel. **If the Contractor is based outside Skamania County, any travel to and from the area shall require the prior approval of CITY's Clerk/Treasurer.**

### C. TRAVEL EXPENSES

Contractor shall be reimbursed for the actual reasonable subsistence costs incurred, by Contractor, while traveling in performance of the services hereunder, not to exceed State per diem rates.

### **SECTION III General Terms & Conditions**

#### **A. DURATION**

This contract shall commence as of the date indicated below, and shall continue **until December 31, 2025** or until terminated by either party giving the other party thirty (30) days written notice of such termination. Notice shall be deemed to have been given at the end of three (3) working days, after the deposit of the same in the United States mail, addressed to the other party, postage prepaid, at the address of the parties as hereinafter stated. In the event of cancellation by either party, the notice may specify the services that are to be performed after receipt of the notice until the date of termination. Unless stated otherwise, Contractor shall perform no further services upon receipt of notice of the termination. On or before termination or expiration of the thirty (30) day period, Contractor agrees to deliver to CITY all records, notebooks, files, materials, reports, data, and other information pertaining to the services performed for CITY. In the event of termination, CITY shall pay Contractor for all contract costs incurred prior to termination. Contractor shall not be entitled to compensation for lost profits or expectations of profit due to CITY's early termination of this contract.

#### **B. RELATIONSHIP OF THE PARTIES**

Contractor is an independent contractor of CITY. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent. Unless specifically restricted by this agreement, Contractor may hold itself out to the general public for the provision of similar services. Upon CITY's request, Contractor shall advise CITY of the approximate workload of its existing and new clients and the possibility of any conflicts of interest that may arise.

#### **C. ASSIGNMENT**

Contractor shall not assign any interest in this contract, and shall not transfer any such interest to any third party, without CITY's prior written consent. Any subcontract entered into by Contractor, for work covered by this agreement, shall require prior approval by CITY.

#### **D. DISCLOSURE**

Contractor agrees to keep confidential any information obtained by Contractor, or its employees, or any person under its control in the course of the services performed under this contract, and to refrain from publishing or revealing any information acquired by Contractor in the course of these services, without the written consent of CITY.

**Any knowledge or information acquired or provided by the Contractor to CITY related to services performed under this contract shall not be considered confidential or proprietary unless such designation is approved, in writing, by CITY's City Administrator.**

**However, regardless of the designation of information provided by the Contractor, CITY does not waive attorney-client privilege or similar protections afforded by law.**

#### E. DISPUTES

Except as otherwise provided or agreed, any dispute relating to this contract which is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction upon the filing of a legal action by the aggrieved party. During the pendency of any dispute, Contractor shall proceed diligently with the performance of this contract. It is further agreed by Contractor that litigation shall be limited and confined exclusively to the appropriate state court located within the State of Washington. **Venue shall be in Skamania County unless otherwise agreed to by CITY.** This contract shall be governed in accordance with the laws of the State of Washington.

#### F. NONWAIVER

The failure of CITY to insist upon or enforce strict performance of any provision of this contract shall not be construed as a waiver or relinquishment to any future enforcement of such contractual term.

#### G. AUDIT RIGHTS/PUBLIC RECORD RETENTION

During this contract, and for six (6) years thereafter, CITY shall have the right to inspect Contractor's records pertaining to this contract and to perform an audit in accordance with generally accepted audit standards. The Contractor shall make these records available without charge to CITY. Contractor agrees to either provide CITY with a copy of all records relating to the contract, or to retain such records for the applicable public records retention period and promptly provide them to CITY in order to fulfill any public records requests submitted during the retention period. Failure to promptly provide said records shall constitute a default of this agreement and entitle CITY to attorney fees and costs to recover the records, plus require Contractor to indemnify CITY against any statutory penalties for failure to promptly comply with a lawful public records request.

#### H. WORK PRODUCT

All "Work Product," which shall contain, without limitation, all documentation, data, studies, surveys, drawings, maps, photographs, and any object or source code for any software developed pursuant to or in connection with this contract, as well as any copyrights, patents, trade secrets, trademarks, or other intellectual property developed for or in connection with this contract, shall be work for hire and shall be the property of CITY. Contractor does hereby transfer and assign any rights that it has in the Work Product, or that may arise out of or in connection with this contract, to CITY. CITY's rights to the Work Product shall survive termination of this contract. In the event the CITY uses the "Work Product" in the future without Contractor's involvement, CITY agrees to hold harmless, defend, and indemnify Contractor for any claims or liabilities resulting from such use.

I. INSURANCE - HOLD HARMLESS

Contractor shall procure and maintain, during the life of this contract, the insurance policies and associated limits listed below to protect it, and any subcontractor performing work under this contract, from claims for damages from personal injury, including death resulting therefrom, as well as from claims for property damage which may arise under this contract, whether such work is performed by Contractor or by any subcontractor, or by anyone directly or indirectly employed by either of them. Upon demand, Contractor shall provide CITY with copies of all applicable insurance policies.

General Liability	\$1,000,000 per claim/\$2,000,000 aggregate
Automobile Liability	\$1,000,000
Worker’s Compensation	\$1,000,000
Professional Liability	\$1,000,000 per claim/\$2,000,000 aggregate

CITY and Contractor (“Party” or ”Parties”) hereby agree to indemnify and hold harmless the other Party, its appointed and elective officers, and its employees, from and against any and all suits, claims, actions, losses, costs, penalties, fines, and damages of whatever kind and nature, including attorney fees and costs, by reason of any and all claims and demands on it, its officers and employees, as may be caused by the negligence or willful misconduct of the indemnitee, its agents or employees, (or anyone directly or indirectly employed or engaged by the indemnitee, including subcontractors) to perform or observe any term or condition of this contract, or for any act or inaction of the indemnitee in connection with or incident to the work covered by this contract. It is the intent of the Parties hereto that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each Party shall bear the proportionate costs of any loss, damage, expense and liability attributable to that Party’s negligence.

In any and all claims against CITY by any employee of Contractor, the indemnification and hold-harmless obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor under workers’ compensation acts, disability acts, or other employee benefits acts, AND THE CONTRACTOR SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY UNDER SUCH ACTS.

J. WARRANTY

Contractor agrees that services performed as specified in Exhibit "A" shall be performed in a manner consistent with the professional standards and industry practices acceptable in the trade.

K. SEVERABILITY

The invalidity or unenforceability of any provision of this contract shall not affect the other provisions hereof, and this contract shall be construed, in all respects, as if such invalid or unenforceable provisions were omitted.

#### L. HEADINGS

The headings used in sections of this contract are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections of this contract.

#### M. CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this contract, and to the fullest extent permitted by law, neither CITY nor Contractor, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this contract in excess of insurance limits required hereunder.

#### N. ENTIRE AGREEMENT

Contractor and CITY understand and agree that this document constitutes the entire understanding between the parties regarding the work or services described herein, and that this contract supersedes all other prior agreements and understandings, whether oral or written. This contract shall not be modified or amended, except in writing, signed by both parties.

[Signatures appear on next page]

IN WITNESS WHEREOF, the parties have executed this contract at Stevenson, Washington, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF STEVENSON

CONTRACTOR

By: \_\_\_\_\_  
\_\_\_\_\_, its Mayor

By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Name & Title

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

Approved as to form

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Kenneth B Woodrich,  
City Attorney

\_\_\_\_\_  
Federal Tax ID Number

\_\_\_\_\_  
UBI#



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2815 2<sup>nd</sup> Avenue, Suite 540 | Seattle, WA 98121 | 1-888-847-0299 | www.flo-analytics.com

Dear Leana Kinley,

FLO Analytics (FLO) is looking forward to working with the City of Stevenson on a three year on-call GIS services contract. This work may include the following tasks:

## SCOPE OF WORK

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### Task 1—Project Management

This task includes all communications with client (the City). This includes, emails, phone calls, and virtual meetings with the client.

#### Deliverables

- Monthly project calls with the client
- Virtual meetings set up as needed

### Task 2—GIS Layer and Data Updates

This task includes any changes to the City's GIS layers and data hosted on ArcGIS Online, as well as changes to existing web maps and apps requested by the client or deemed necessary by FLO. Data layer updates will be made using the ArcGIS Pro desktop software. Changes to web maps and apps will be made within the client's ArcGIS Online environment. This task may also include the creation of new web applications requested by the client.

### Task 3—AutoCAD File Conversion

This task encompasses all AutoCAD files that need to be converted to GIS data and appended to the current GIS utility data that is hosted in ArcGIS Online.

#### Deliverables

- New data will be synchronized to the client's ArcGIS Online environment

### Task 4—GIS Training

FLO will be available for GIS-related training (software, application, data management) that is requested by the client.

#### Deliverables

- Virtual trainings as needed or requested by the client
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## BUDGET

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The estimated cost to perform the proposed work each year is \$31,700 (see estimated budget below). This cost estimate does not represent a lump sum. FLO bills for time and materials, consistent with the attached schedule of charges. FLO may apply money from one task to another to complete the scope of work.

	Task	Hours	Labor	Direct	Subcontractors	Total
1	Project Management	60	\$10,800	\$0	\$0	\$10,800
2	GIS Layer/Data Updates	70	\$10,850	\$0	\$0	\$10,850
3	AutoCAD File Conversion	30	\$4,650	\$0	\$0	\$4,650
4	Training	30	\$5,400	\$0	\$0	\$5,400
<b>Total Estimated Cost</b>						<b>\$31,700</b>