

ORDINANCE NO 893

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH OTAK FOR PROFESSIONAL SERVICES; AND DECLARING AN EMERGENCY

WHEREAS, the Cities of Canby and Molalla and the County of Clackamas County desire to construct a pedestrian pathway system that will connect the two Cities in Clackamas County; and

WHEREAS, the three entities are under a June 30, 1993, deadline to apply for an Intermodal Surface Transportation Efficiency Act (ISTEA) grant for the proposed project; and

WHEREAS, Clackamas County has funded \$31,000 for professional services for a Transportation Mater Plan (TMP) to facilitate the grant process; and

WHEREAS, the City of Canby will serve as the contracting agency for the Intergovernmental Agreement between the Cities and Clackamas County.

THE CITY OF CANBY ORDAINS AS FOLLOWS:


Section 1. The Mayor of the City of Canby is hereby authorized to make, execute, and declare in the name of the City of Canby on its behalf, a contract with OTAK for professional services for a Transportation Master Plan, a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete this project as soon as possible, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, June 2, 1993; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, June 16, 1993, after the hour of 7:30 p.m. at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.


Marilyn K. Perkett, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on June 16, 1993, by the following vote: YEAS 4 NAYS 0


Scott Taylor, Mayor

ATTEST:



Marilyn K. Perkett, City Recorder
Ordinance No. 893

Project Molalla River Pathways Project # L4422.I99
Client City of Canby - Mike Jordan
182 N. Holly
Canby, OR 97013

Location & Description Per attached letter of May 27, 1993

Terms and Conditions:

- Otak, Inc. agrees to furnish and perform those professional services specified in the proposal letter, dated 5/27/93
- Client agrees to compensate Otak, Inc. for the professional services provided on a monthly basis, based on the percentage of work completed as determined by Otak, Inc.
- Upon execution of this Agreement, Client shall pay Otak, Inc. \$ -0- to be applied against the last invoice(s).
- The fee amounts specified in the proposal letter do not include direct project expenses incurred by Otak, Inc. on behalf of Client. Copies of direct expense vouchers are not provided with the invoices. A 10% handling fee is applied to direct expenses.
Subconsultant fees are invoiced to Client monthly, and also include a 10% handling fee.
- Otak, Inc. shall perform all of its professional services in a workmanlike and professional manner. Client shall indemnify and hold harmless Otak, Inc., its agents, subcontractors and employees from and against all claims, damages, losses, and expenses arising out of the development of this project not caused by the failure of Otak, Inc., its agents, subcontractors, and employees, to perform its and/or their services in a professional and workmanlike manner.
- If the project is materially changed, or if Client desires other professional services not already included in this Agreement or not customarily furnished as part of the agreed upon services, then additional consideration shall be paid to Otak, Inc., which shall be subject to negotiation by both parties. The terms of this agreement shall apply to such additional services.
- All original documents prepared by Otak, Inc. in performance of this Professional Service Agreement, including but not limited to original maps, plans, drawing and specifications, are the property of Otak, Inc. unless otherwise agreed in writing. Quality reproducible record copies shall be provided to Client, at Client's expense, upon request.
- Otak, Inc. shall regularly invoice Client for services rendered using the attached invoice format. If Client requires a format different from that attached, a special handling fee of \$150.00 will be added to each invoice processed.
- All invoices are payable upon receipt and payments are due within 30 days of receipt unless otherwise agreed in writing.

Failure to pay an invoice when due shall constitute default, and interest at 14% per annum shall be payable on all such invoices. In the event of a default, Otak, Inc. may elect to suspend all professional services under this Agreement until such invoice is paid in full, and may elect to terminate this Agreement as of the 30th day of default. Otak, Inc. shall not be liable for any direct, indirect, incidental or consequential damages suffered by Client, his subcontractors, agents, employees and assigns as a result of any suspension or termination.

- If the project is idle for more than 60 days there will be a remobilization charge of 10% of the contract fee to cover the cost of restarting the project.
- The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the contract as a whole without written consent of the other.
- Client agrees to pay the costs and reasonable attorneys' fees and disbursements incurred by Otak, Inc. in connection with the failure by Client to make any payment in accordance with the provisions of this Agreement. The parties agree that in the event action or suit is commenced, to enforce any provision of this Agreement or in the event of any breach of this Agreement, the prevailing party shall have and recover reasonable attorney fees, both at trial and on appeal, together with all other costs and disbursements allowed by law.
- Otak, Inc. shall be free from any liability for delay or failure of providing the services contemplated by this Agreement which arise from strikes, lockouts, or labor troubles of any kind, accidents, fire, earthquake, civil commotion, war or consequences of war, government acts, restrictions or requisitions, failure of manufacturers or suppliers, suspension of shipping facilities, any act or default of a carrier or any other contingency of whatsoever nature beyond Otak, Inc.'s control, including disturbances existing at the time this agreement was made. In such a situation, if the services contemplated by this Agreement are not provided during the period contracted for, Client shall accept the services and pay for the same when provided, however, provided that the services are provided within a reasonable time after cessation of the aforementioned impediments or causes.
- This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understandings between the parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

This Agreement entered into this 27th day of May, 19 93

Otak
By: Joe Dills
Joe Dills, Project Manager
(Title)

City of Canby
(Client)
By: Scott Taylor
Scott Taylor, Mayor
(Title)