



REQUEST FOR PROPOSALS

RFP #23-05

ADDENDUM #1

Tannery Site Cleanup & Site Pre-Development Project

Public Advertisement Dates:

August 18th, 2023 and August 21st, 2023 (DJC Portland)

Submit Proposals to:

Jason Waters
City of Sherwood
Engineering Department
22560 SW Pine Street
Sherwood, OR 97140

Proposals due:

~~Thursday~~ ~~Friday~~, September 8th 21st, 2023, 2:00 p.m. (PDT)

Proposals must be sealed in an opaque envelope, plainly marked as follows:

Proposal For Tannery Site Cleanup & Site Pre-Development

Attn: Jason Waters, Engineering Department

Proposals received after the time and date set for closing will not be accepted.

Please be sure to include the name and address of the proposing firm.

Format:

Consultants must submit five (5) hardcopy sets of their Proposal by mail, certified mail or drop-off and one (1) digital, electronic-file version on a compact disc (CD), USB flash-drive, email or other pre-arranged manner in Microsoft compatible or Adobe PDF format.

The City of Sherwood reserves the right to reject any or all Proposals.

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**CITY OF SHERWOOD
TANNERY SITE CLEANUP & SITE PRE-DEVELOPMENT
PROJECT DELIVERY SERVICES
Proposals Due 2:00 pm, September ~~8~~21, 2023
REQUEST FOR PROPOSALS**

The City of Sherwood is seeking a qualified ~~full-service~~ consulting firm to perform Qualified Environmental Professional (QEP) services, including help lead the efforts to apply for EPA Brownfields Program grants and other cleanup grants & special funding opportunities, to complete additional site characteristic investigations, prepare environmental assessments, remediation plans, contaminated media management plan, and complete other work necessary to obtain a 1200-C grading permit and ultimately hire a contractor to complete the site cleanup & remediation of the former Frontier Leather tannery site. Concurrently with the site cleanup & remediation project, the consultant will lead the efforts to adjust & consolidate the property lines, dedicate ROW, establish public easements, and produce approved engineering plans for the initial site grading, public improvements, and environmental enhancements required to receive land-use approval of the initial site plan for a future public works facility. The selected consultant would then provide full construction management & inspection services following the selection of a general contractor using the traditional design-bid-build process, including implementation & management of the contaminated media management plan, including daily monitoring of construction activities, sampling & laboratory test results prior to haul-off or on-site containment, and finally to develop & manage the post-construction site monitoring plan.

Only one consultant will be selected for this project. Proposals will be received until 2:00 p.m. local time (PDT) on ~~Friday~~Thursday, September ~~8~~21, 2023, at Sherwood City Hall's Community Development Counter at 22560 SW Pine Street (2nd Floor), Sherwood, OR 97140. One (1) original and four (4) hardcopies plus a PDF of the consultant's proposal on a CD or USB jump-drive shall be submitted in a sealed envelope titled: PROPOSAL FOR TANNERY SITE CLEANUP & SITE PRE-DEVELOPMENT, ATTN: JASON WATERS, ENGINEERING DEPARTMENT. **Proposals received after the time and date set for closing will not be accepted.**

No proposal will be considered unless fully completed in a manner provided in the RFP packet. Facsimile and electronic (email) proposals will not be accepted, nor will any proposal be accepted after the stated due date and time. The document, "Request for Proposals for Tannery Site Cleanup & Site Pre-Development" is available from the city's website at www.sherwoodoregon.gov/bids. This document provides further details and specific submittal requirements for the consultant's proposal.

The City may reject any proposal not in compliance with all prescribed public bidding procedures and requirements and may reject for good cause any or all proposals upon a finding of the City if it is in the public interest to do so. The City will be the sole judge in determining the selection of consultants and subsequent award of contract and reserves the right to reject any or all proposals and waive any minor informalities or discrepancies. The City reserves the right to cancel this RFP at any time if in the City's best interest.

Any clarification or interpretation of the RFP must be submitted by e-mail to Jason Waters, at watersj@sherwoodoregon.gov not later than 4:00 p.m. on ~~Thursday, August 31~~Tuesday, September 12, 2023. Answers to emailed questions will be posted on the RFP page as a separate .pdf file by 5:00 p.m. on Friday, September ~~1~~15, 2023, with personal information redacted from the question & answer document posted to the RFP webpage.

Consultants responding to this RFP do so solely at their expense, and the City is not responsible for any consultant expenses associated with responding to this RFP.

The City of Sherwood is an Equal Employment Opportunity/Affirmative Action Employer.

Published in the DJC on August 18 and 21, 2023.

SECTION 1 INTRODUCTION

The City of Sherwood is seeking a consultant to manage the Tannery Site Cleanup project from start to finish through monitoring periods to final closeout and turnover, specifically to apply for cleanup grants & other special funding opportunities to fill the remaining \$2.5 million gap required to move the Tannery Site Cleanup project forward in a manner envisioned by the City Council, which includes a concurrent effort to obtain land-use approval for a future public works facility, and assuming the initial site plan is approved, to incorporate w/ the site cleanup efforts the public improvements, stormwater management facilities (or payment of in-lieu-fees to the planned regional facility project), environmental enhancement & mitigation, and other infrastructure required in the conditions-of-approval for the initial site plan and leave the site as pre-developed as possible, preferably only needing to pull building permits, obtain an industrial discharge permit, and pay associated development fees.

A brief history and background summary of the project is available on the RFP webpage here: https://www.sherwoodoregon.gov/sites/default/files/fileattachments/Engineering/page/51552/brownfields_fact_sheet_january_2018.pdf.

The City has completed or is in the process of completing the remaining outlined in the Next Steps of the Fact Sheet from January 2018. The City Council has endorsed ABCA cleanup and remediation Alternative 4. The City Council has endorsed using the remaining developable land for a new public works facility and the City hired an architect to prepare a preliminary building design & site plan based on the preferred cleanup plan. The City has prepared detailed cost estimates and prepared an overall project budget with an approximate \$2.3M funding gap to be filled by grants, special funds or other funding sources. The City has prepared a draft Prospective Purchaser Agreement (PPA) with a site plan for a public works facility set atop the Alternative 4 plan. The draft PPA is currently being reviewed by DEQ staff and the City anticipates the PPA will be approved by a judge and filed with the circuit court this fall, in time for the 3 pending property transactions to record with the City listed as the sole fee-simple owner of the 3 lots of interest prior to the likely mid-November deadline for EPA Brownfields Program grant applications.

The initial duration of the consultant contract resulting from this options-based procurement will be for a period of 4-years with time extension authorized as needed by contract amendment and consultant rates re-set after 2-years. The City may amend or extend the resulting contract beyond the initial 4-year period to accommodate the terms and conditions of any Brownfields grants, other DEQ cleanup grants, site prep grants, or building construction grants awarded to the City of Sherwood within 5-years of another grant provided the City conducts a market analysis and reviews the consultant's current rates and anticipated fees.

SECTION 2 AGENCY OVERVIEW

The City of Sherwood, with a current population of ~~19,505~~20,254 (2021), is governed by the mayor and six-member City Council, all of whom are elected officials serving in unpaid voluntary positions. The Council conducts all legislative business of the City and is responsible for setting City policy and holding public hearings on certain issues required by law. The City of Sherwood employs a City Manager who is delegated responsibility for the administration of the City by the City Charter. The City Council also serves as the board of directors for the Urban Renewal Agency (URA), <https://www.sherwoodoregon.gov/ura>.

SECTION 3 SUBMISSION OF PROPOSALS

Five (5) hardcopy sets and one (1) electronic version on a CD or flash drive in Microsoft compatible or Adobe PDF format must be submitted in a sealed, opaque envelope plainly marked with the Solicitation Name. Proposals will be accepted by mail or personal dropped off at the Community Development Division's front counter on the 2nd Floor of City Hall, with attention to the RFP Coordinator: Jason Waters. Proposals should be dropped-off with the City administrative staff at the front-counter where proposals will be time stamped and then couriered to the RFP Coordinator for intake and immediate distribution to the selection panel for review & scoring. Note: the RFP Coordinator will allow the electronic (.pdf) version to be emailed ahead of the deadline, in-lieu of a CD or USB jump-drive in the opaque envelope w/ the five (5) hardcopies, if the .pdf file is sent at least one (1) hour prior to the stated due-date and time that hardcopy proposals are due.

Submissions must be legible and comply in all regards with the requirements of this solicitation. All proposals must be signed by a principal of the submitting firm. **All submissions must be physically received by the RFP Coordinator as indicated above prior to the proposal due date specified in Section 5. Misdelivered proposals or proposals received after the stated deadline will be considered non-responsive, with no exceptions.** Please do not wait until the last minute for delivery. Proposers mailing a proposal should allow normal mail delivery time to ensure timely receipt of their proposals. Proposals will be opened and read immediately after the proposal deadline at the location specified in Section 5. **Any proposal received after the scheduled closing time for receipt of proposals will not be considered for award of contract and will be returned.** No responsibility will be attached to any official of the City for the premature opening of, or the failure to open, a proposal not properly addressed and identified. The contents of the proposals responding to the request for proposals shall be confidential until the deadline for submission of proposals. All proposals will become part of the City's official files without obligation.

Proposer Certifications and Acknowledgements. By the act of submitting a proposal in response to this RFP, the proposer certifies that:

1. Proposer has carefully examined all RFP documents, all attachments, and all addenda (if any), fully understands the RFP intent, is able to perform all tasks as described in the RFP, and its proposal is made in accordance therewith.
2. The proposer is familiar with the local conditions under which the work will be performed.
3. The proposal is based upon the requirements described in the RFP, without exception, unless clearly stated in the proposal.
4. The proposer will fully meet all of the City minimum insurance requirements (see Appendix A).
5. To the best of proposer's knowledge and belief, and in the case of sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that, no elected official, employee, or person whose salary is payable, in whole or part, by the City has a direct or indirect financial interest in the proposal, or in the services to which it relates, or in any of the profits thereof, other than as fully described in the proposal.

6. The proposer has examined all parts (including addenda) of the RFP, including all requirements and contract terms and conditions thereof, and if its proposal is accepted, the proposer shall accept contract documents conforming thereto.
7. The proposer, if an individual, is of lawful age, is the only one interested in this proposal, and no person, firm, or corporation, other than that named, has any interest in the proposal, or in the proposed contract.
8. The proposer has quality experience providing the types of services and duties as described within this RFP.
9. The proposer shall also certify whether the proposer is an Oregon Proposer or a non-resident Proposer.

The proposer acknowledges that, if selected as the successful proposer, the provision of services described this RFP is contingent upon successful negotiation of a limited-duration contract with the City of Sherwood.

Modification. Any proposer may modify its proposal at any time, in writing, prior to the scheduled closing time for receipt of proposals, provided such modification is received prior to the closing time. Any modification must include a statement that the modification amends and supersedes the prior offer and shall be marked with the Solicitation Name and "Proposal Modification."

If the modification concerns the price or terms, the amount of change shall be shown in such a manner as to allow the City to clearly understand the price or terms. For example, "Total price in the sealed document is amended by reducing the contract price by \$5,000." Any ambiguity, should it occur, will be viewed in terms most favorable to the City.

Withdrawal. Proposals may be withdrawn upon written request received from the proposer prior to the time fixed for opening. A proposal may also be withdrawn in person prior to the opening, upon satisfactory presentation of appropriate identification and evidence of authority. Negligence on the part of the proposer in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened. Withdrawn proposals may be resubmitted prior to the date and time the proposals are due, provided that they are then fully in conformance with the RFP.

Duration of Proposal. The proposal, including proposed prices, terms, and conditions, after opening, will be irrevocable until such time as:

- The City specifically rejects the proposal, or.
- The City awards a contract and said contract is properly executed, or;
- 180 days have lapsed from the proposal closing date and the City has not let a contract.

SECTION 4 GENERAL RFP INFORMATION

Solicitation Name and RFP Coordinator

Solicitation Name: Tannery Site Cleanup & Site Pre-Development

RFP Coordinator: Jason M. Waters, P.E.

City Engineer
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140
watersj@sherwoodoregon.gov

Proposer Questions. All inquiries, whether relating to the proposal process, administration, deadlines, award, or technical aspects of the contract must be **in writing via email** and directed to RFP Coordinator as specified above.

All questions must be received no later than the Questions Deadline specified in Section 5. Questions and answers will be provided by email to all prospective proposers on the RFP holders list. Questions submitted after the deadline will not be addressed. When appropriate, substantive questions and answers requiring revisions, substitutions, or clarifications of the Request for Proposals will be issued as an official addendum as explained below in Section 5.

For the sake of fairness, Proposers are not to contact any City staff or official, other than the RFP Coordinator, concerning this RFP. Contact with any other City staff or officials concerning this RFP will be grounds for disqualification.

Proposers are hereby notified that verbal communication may not be relied upon as official communication concerning the RFP. Only answers to those questions responded to by the RFP Coordinator, either directly to the inquiring party via reply email and/or via a question & answer log posted to the RFP webpage, may be relied upon.

Interpretations. No oral interpretations shall be made to any prospective proposer as to the meaning of any of the RFP or contract documents or be effective to modify any of the provisions of the RFP or contract documents.

Disputes. In case of any doubt or differences of opinion as to the items or services to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the City shall be final and binding upon all parties.

Solicitation Protests. Prospective proposers who believe that this procurement process is contrary to law or that a solicitation document is unnecessarily restrictive, is legally flawed, or improperly specifies a brand name, may submit a solicitation protest. **All protests must be in writing, must include the Solicitation Name and "Solicitation Protest" written on the front of the envelope, and be either mailed or hand-delivered to the RFP Coordinator at the address stated above and received no later than the RFP Protests/Change Requests deadline specified in Section 5.** Any such protest must include the information required by ORS 279B.405(4) and a statement of the desired change(s) to the procurement process or solicitation document(s) that the prospective proposer believes will remedy the conditions upon which the protest is based. The City will not consider any solicitation protest submitted after the deadline or any protest that does not include the required information. The City will review the protest and respond in writing in accordance with ORS 279B.405. If the City determines it is necessary in order to consider and respond to a protest, the City may extend closing. If the City upholds a protest, in whole, or in part, the City may, in its sole discretion, either issue an addendum reflecting its disposition or cancel the solicitation. Before seeking judicial review, a proposer must file a written protest with the City and exhaust all administrative remedies.

Addenda. The City reserves the right to make changes to the Request for Proposals by written addenda prior to the closing time and date. Changes or clarifications will be transmitted to prospective proposers on the RFP holders list electronically via e-mail or facsimile. All addenda shall have the same binding effect as though contained in the main body of the RFP documents. No addenda will be issued later than the Addenda Issuance Deadline specified in Section 5, except by an addendum, if necessary, postponing the closing date or canceling the RFP altogether. Each proposer is responsible for obtaining all addenda prior to submitting a proposal. Proposers must acknowledge receipt of the addenda by signing, dating, and returning a copy of the addenda with the proposal prior to proposal closing. Any proposal submitted without the required addenda attached, signed, and dated will be considered non-responsive and will not be considered for contract award. The City is not responsible for a proposer's failure to receive notice of addenda. Any change or modification to the Request for Proposals will be binding on the City only if it is in the form of written addenda issued by the City.

Intent to Award and Contract Award Protests. The City anticipates issuing notice of intent to award letters to Proposers via e-mail by the date specified in Section 5. Any proposer believing itself to have been adversely affected or aggrieved by the selection of the successful proposer may protest the notice of intent to award pursuant to ORS 279B.410. **All protests must be in writing and either mailed or hand-delivered to the RFP Coordinator and received no later than seven (7) calendar days after the date the Notice of Intent to Award was issued**, unless otherwise provided in the Notice of Intent to Award. Protests must include the Solicitation Name and "Award Protest" written on the front of the envelope. A protest must specify the grounds for the protest, include evidence or supporting documentation, and specify the relief sought. The City shall not consider any written protest not received by the deadline or which does not contain the required information. The City will issue a written disposition of the protest in a timely manner in accordance with ORS 279B.410. If the City upholds the protest, in whole, or in part, the City may, in its sole discretion, either issue an addendum reflecting its disposition or cancel the solicitation. Before seeking judicial review, a proposer must file a written protest with the City and exhaust all administrative remedies.

Award of Contract. Award of the contract by City or City agency will be to the responsible proposer whose proposal the City determines is the most advantageous to the City based on the evaluation process and evaluation factors described herein and applicable preferences described in ORS 279A.120 and 279A.125. No significant deviation from the terms contained herein is acceptable. The contract will be awarded according to the anticipated solicitation schedule set forth herein or within one-hundred eighty (180) calendar days of proposal closing.

Tie. In case of a tie, the City will decide the matter on its own with a coin toss or virtual coin toss application.

Confidentiality and Public Records. All information submitted by a Proposer shall become and remain the property of the City and is considered public information and subject to disclosure pursuant to the Oregon Public Records Law, except such portions of the Proposal which are exempt from disclosure consistent with Oregon law. If a Proposal contains any information that the Proposer believes is exempt from disclosure under the various grounds specified in the Oregon Public Records Law, the Proposer must clearly designate each such portion of its Proposal as exempt, along with a justification and citation to the authority relied upon. Identifying the Proposal, in whole, as exempt from disclosure is not acceptable. Failure to identify specific portions of the Proposal as exempt shall be deemed a waiver of any future claim of that information as exempt.

The City may publish of its own accord, and will make available to any person requesting information, through the City processes for disclosure of public records, any and all information submitted as a result of this RFP not exempted from disclosure, without obtaining permission from any Proposer to do so. However, if a public records request is made for material marked by the Proposer as exempt, the City will attempt to notify the impacted Proposer prior to any release of the material. Application of the Oregon Public Records Law by the

City will determine whether any information is actually exempt from disclosure. The City accepts no liability for the release of any information submitted.

Cooperative Procurement. This RFP and the resulting contract are subject to cooperative purchasing by other government entities, as provided by ORS 279A.210. By submitting a proposal, the successful proposer agrees that other public agencies may establish contracts or price agreements directly with the selected proposer under the terms, conditions, and prices of the resulting contract.

SECTION 5 ANTICIPATED SOLICITATION SCHEDULE

The following is the anticipated timeline for receiving and evaluating proposals and awarding a contract to the most qualified proposer. The City reserves the right to modify this schedule at the City's discretion by written addendum.

- | | |
|--|---|
| 1. Advertise Request for Proposals | <i>August 18th, 2023, and August 21st, 2023</i> |
| 2. Deadline for Emailing Questions | <i>Thursday, August 31st</i> <u><i>Tuesday September 12th</i></u> , 2023,
at 4:00pm (PDT) |
| 3. Addenda Issuance Deadline (72-hours) | <i>Tuesday, September 5th, 2023, at 2:00pm (PDT)</i> |
| 4. Proposals Due | <i>Friday, September 8th</i> <u><i>Thursday, September 21st</i></u> ,
2023, at 2:00pm (PDT) |
| 5. Opening of Proposals | <i>Friday, September 8th</i> <u><i>Thursday, September 21st</i></u> ,
2023, at 4:00pm (PDF) |
| 6. Location of Proposal Opening
<i>*Note: proposals WILL NOT be opened publicly</i> | <i>Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140</i> |
| 7. Review & Scoring | <i>September 8th-22nd to <u>15th-28th</u>, 2023</i> |
| 8. Notice of Intent to Award Issued | <i>Monday-Friday, September 18th-29th</i> , 2023 |
| 9. Direct Appointment Contract for EPA-Grant
<u>Worksite work, special fund grant</u>
<u>applications</u> | <i>NTP on Friday <u>Monday, October</u> September-22nd, 2023</i> |
| 10. End of Contract Award Protest Period | <i>Monday-Friday, September 25th-October 6th</i> , 2023 |
| 11. City Council/URA Resolution to Award
Contract | <i>October 17th, 2023</i> |
| 12. Notice to Proceed Issued | <i>October 24th, 2023</i> |

SECTION 6 PROPOSAL CONTENT AND FORMAT

To provide a degree of consistency in review of the written proposals, proposers are required to prepare their proposals in the standard format specified below.

1. Formatting

Proposals must be typewritten with a standard body text font of at least 10-point for type-written text with exceptions for graphics and examples of previous work, tables, charts and figures.

2. Cover Sheet w/ Title (1-page)

Proposer must identify the Solicitation Name, name and title of the proposer's designated contact person, address, telephone number, fax number, e-mail address, and date of submission.

3. Transmittal Letter (1-2 pages)

The transmittal letter must be not more than two (2) pages long and must include as a minimum the following:

- a. A brief statement of the Proposer's understanding of the project and services to be performed;
- b. A positive commitment to perform the services described and otherwise comply with all requirements set forth in this RFP; and
- c. The names of persons authorized to represent the proposer, and their titles, addresses, and telephone numbers (if different from the individual who signs the transmittal letter).

4. Table of Contents (1-page)

The table of contents must include a clear and complete identification by section and page number of the materials submitted.

5. Proposer Qualifications/Experience (4-pages max)

A statement of qualifications of the proposer and a description of the proposer's history and financial capability is required.

The proposal must address the experience of the proposing agency and its staff as it relates to these types of services. Each proposer shall provide a short narrative statement on their ability and capacity to supply the services and material specified. It must also address the experience of individual staff member(s) who will be assigned to manage the contract and provide services under the contract. If any sub-contractors will be used, they must be disclosed, and you must include a description of their qualifications.

Proposals must also describe company and/or team members' history, history of working with and on-behalf of local municipal organizations on similar projects or complex projects with similar components & aspects. The proposal must include a statement of the educational/guiding philosophy by which the services would be provided if the proposer were awarded the contract and describe how the proposer would evaluate the quality of services and programs on an on-going basis.

6. Cost Factor & Project Budget Evaluation (1-page max)

Proposers must evaluate the overall project budget prepared by the City for the project that's ~~posted to and available for download from the RFP webpage under the Supporting Documents section (filename: Tannery Site Cleanup Project Budget Summary for CIP Plan.pdf)~~ although consultant selection will be based upon qualification alone, ~~provide statements regarding your review and analysis of the project budget the City currently has prepared for this project, is it realistic and do the anticipated consultant fees seem reasonable and are there certain risks or pitfalls the City and the selected consultant should be cognizant of.~~ summarized below. Per the EPA Brownfields Grants: Guidance on Competitively Procuring a Contractor document, "Consistent with 2 CFR 200.320(b)(2)(iii), price must be a selection factor in the evaluation of proposals or quotes. The cost/price reasonableness criterion will be worth 25 points (25%) with 10 points (10%) allocated to the overall consultant's estimate of their total fee not-to-exceed amount to complete the work which the City estimates below at \$1.133M, 5 points (5%) allocated to the hourly rates of primary team members, and 10 points (10%) allocated to the consultant's evaluation of the City's CIP project budget summarized below by phase:

- A. Initial Phase, Grant Writing, Technical Assistance \$100,000
 - B. Land-use planning, land-use approval, design, permits, bid documents, 1200-C, including site cleanup bid docs \$555,000
 - C. Site cleanup construction, construction management/inspections/monitoring costs (from above, site cleanup only) \$5,100,000
 - D. Additional construction & construction management/inspection/monitoring costs (1200-C, site pre-development only) \$700,000
 - E. City staff time & overhead costs for 3.5 year duration \$175,000
- TOTAL PROJECT BUDGET = \$6,630,000 in 2023 \$'s *w/ total consultant fee-not-to-exceed amount estimated at \$1,133,000 for cradle-to-grave services*

7. Project Approach (4-pages max)

Proposers must provide comments on and provide a description of how they would approach the project during each of the project phases from initial phase to obtain grant funds and get the project moving forward again, to how to go about integrating the site cleanup work with the mass-grading, site improvements and environmental enhancement work associated with the land-use into one set of bid documents, to strategies for bidding the project for example during a certain time of year, to how you'd approach the construction management, regular site inspections while overseeing the implementation and day-to-day oversight of the CMMP, and approach the punchlist phase, closeout, monitoring and ultimate acceptance of the project by the City.

Proposers must include comments on the City's desire to utilize the traditional design-bid-build process to deliver this project or if an alternate process, for example the construction-manager/genera-contractor process that requires pre-authorization by resolution from the City Council and City staff believes the site has been studied enough to predict the subsurface conditions and volume of contaminated materials to be moved around on-site or hauled-off, and the City knows it wants to develop the site into a new public works facility and even going so far to develop a preliminary site plan for a new public works facility, and because the City knows what it wants to do the City believes the design-bid-build process is an appropriate delivery method for this project. Proposers shall provide comments on the City's preferred design-bid-build delivery method and the City's rationale for doing so.

8. References, Example Projects, Sample Work and Misc. Information (9-pages max)

Proposers can use this section of the proposal as they feel fit to convey additional information, list contact information for references, provide example work from other projects, and or insert personal resumes for team members although individual detailed resumes are not a requirement of the RFP.

SECTION 7 DESCRIPTION OF SERVICES TO BE PROVIDED

City is seeking a single firm¹ with qualifications and experience to provide the City or any of its agencies with the following capabilities and services:

- A. Grant writing and related technical services to apply for EPA Brownfields program funds.
- B. Endangered Species Act (ESA) and NEPA documentation, Certified Biologists
- C. Wetland Determinations & Natural Resource Assessments by a Professional Wetland Scientist (PWS)²
- D. Obtain DSL-USACE Joint Fill-Removal Permits, Fish Passage Permits, Monitoring
- E. Produce stamped engineering plans for mass grading, public road improvements and development plans for projects requiring land-use approval from public agencies and right-of-way permits.
- F. Traffic Engineering: traffic study and photometric analysis for site development and initial composite utility plan to help w/ mass grading & future building development.
- G. Storm drainage & hydraulics analysis, develop storm reports meeting City-CWS standards and develop an initial storm drainage plan for the on-site development of a public works facility³
- H. Engineering Geologist (EG) or Registered Geologist (RG) site work & technical report writing.
- I. Environmental site cleanup project management including monitoring & testing by certified technicians, and development & management of QA/QC programs on similar cleanup & pre-development projects.
- J. Geotechnical Engineering services
- K. Public Involvement & Community Engagement
- L. Cost estimating, prepare engineer's estimates & bid schedules with accurate quantity takeoffs, and final bid documents for public agencies.
- M. Land Use Surveying by a Licensed Professional Land Surveying (PLS), ALTA & Boundary Surveys, Topography Surveys for Design, Construction Staking, and other required services by a PLS
- N. Land-Use Planning Services
- O. Construction Management, Construction Administration, General Construction Site Inspections, Management of Special Inspections & Testing
- P. Erosion & Sediment Control Plans & Inspections by Certified CESCL Inspector
- Q. Additional services⁴ determined to be necessary to deliver the overall project regardless of whether prior to execution of the contract or after by amendment or pre-budgeted contingency tasks, for example:

¹ Prime consultant need NOT be listed on the ODOT full-service list, although the selected consultant must have the same qualifications and be capable of providing the same services as the firms listed:

https://www.oregon.gov/odot/Business/Procurement/FS23/Full_Service_PA_Info_2022_2027.xlsx

² Wetlands were delineated/re-delineated for the 3 lots of interest in spring 2023 and received concurrence from DSL in May 2023 and will expire in 2028; the selected consultant must have the same capabilities should this project carry on beyond the expiration date or new wetlands are encountered or discovered on/adjacent to the project limits at some point during design or construction.

³ Assume regional hydraulics analysis for the planned regional stormwater management facility will be handled by a separate project and contract, so there is no extensive hydraulics analysis of the upstream regional system associated w/ this RFP contract, although a storm report & extensive Natural Resource Assessment (NRA) work will be required by CWS to complete the property line adjustments, preliminary grading work to make the site truly shovel-ready for a new public work facility.

⁴ Note: this RFP does Not include legal services from an Environmental Attorney which have been procured separately through the City Attorney's office for this project.

- a. ROW Acquisition
- b. Railroad Engineering
- c. Arboricultural Services

The City anticipates this being a multi-phased contract with the following stages:

- **Phase 1 – Grant Writing & Technical Assistance, Plan Development, Environmental Assessments**

- Grant writing & technical assistance, gap fund analysis and summary of upcoming special fund opportunities, economic cost-benefit analysis for different land-use zoning scenarios, additional subsurface investigations, tests and analysis for building foundations & potential sanitary trunkline, stakeholder identification & develop initial interview questions and involvement plan, one City Council or URA work session, and up-to one (1) open house, if required.
- Review, develop a plan and begin working towards implement the 2018 Analysis of Brownfield Cleanup Alternatives (ABCA) Alternative 4.
- Ensure site has been sufficiently characterized and adequately assessed prior to submission of EPA grant application in November.
- Seek other special fund and grant opportunities available to help fill the fund-gap for this project, which the City currently estimates could require up-to \$500k to \$750k in additional grants and special funds, in addition to EPA Brownfields Program funds.
- Ensure site is sufficiently characterized to the level appropriate for the traditional design-bid-build process versus CM-GC process,
 - Reason: the site has already been studied extensively and the City has a clear plan for developing the site for a specific public use that was developed around the approved cleanup plan.
- Complete Phase II Environmental Assessment of 3 properties for purposes of EPA Brownfields grants, if required.

- **Phase 2 – Preliminary Design & Stakeholder Engagement**

- Review, update or re-affirm the preferred site remediation & cleanup plan (ABCA, Alternative 4) previously reviewed by DEQ staff and endorsed by the City Council as the preferred approach for the site cleanup efforts.
- Expand up the preliminary site plan for a new Public Works Facility (see RFP webpage for initial mass grading plan) and integrate w/ above cleanup to produce <30% design plan for basis of cost estimating and programming the project for final design and construction permits.
- Determine most-likely scenarios and requirements for all environmental & construction permits required to complete this type of project, including but not limited to Clean Water Services (CWS) buffer impacts, USACE-DSL (Nationwide, Joint-Permit) wetland impact, SPHO (Archaeological/Historic/Tribal) site investigation & reports, and a DEQ 1200-C permit (Erosion & Sediment Control).
- Identify stakeholders and develop engagement plan w/ public involvement and at least one open house.
- CWS Service Provider Letter (SPL) Requirements
- DSL Wetland Impacts (DSL-USACE)
- Archaeological/Historical/Tribal (SPHO)
- Erosion & Sediment Control Permit, 1200-C (DEQ)
- Pending a separate City project's analysis of [the proposed alignment for a nearby sanitary trunkline upsizing project \(Rock Creek Phase 2 Trunkline\) and the City's final decision on the location \(in middle of floodplain or up in the 25'/50' CWS buffer?\)](#), the consultant will determine approximate contaminated material removal/storage volumes expected to be encountered during the sewer trunkline project and help City determine whether the sanitary project should

go it alone, if so before or after, or be incorporated w/ this site cleanup & site-preparation design-bid-build project.

- **Phase 3 – Land Use Planning for Property Line Adjustment, Pre-Site Development w/ Conditions of Approval for Public Improvements & Environmental Mitigation**
 - Prepare and submit land-use application for a project that will adjust & consolidate the 3 lots into a single lot that will someday accommodate a new public works facility and yard, including necessary ROW dedication & establishment of 8' PUE along SW Oregon St, a 25'-50' wide CWS vegetated corridor preservation easement, and (potentially) a CWS-City sanitary conveyance easement along the north side of the property between the wetlands & floodplain.
 - Obtain land-use approval w/ conditions for site predevelopment project (everything but the building) that incorporates & accounts for the cleanup & on-site remediation of the contaminated materials.
- **Phase 4 – Final Design, Permits & Bid Documents for Tannery Site Cleanup and Conditions of Approval**
 - Produce stamped engineering plans approved by the City of Sherwood Engineering Department to satisfy the conditions of approval from and the approved cleanup plan.
 - Prepare Contaminated Media Management Plan (CMMP) to be incorporated with bid documents for implementation by low-bid contractor and monitoring of progress & quality by City's selected consultant.
 - Obtain all environmental permits, clearances and erosion & sediment control permits required to comply w/ the conditions of approval, federal & state laws/rules, and bid & construct the project.
 - Produce final bid documents including advertisement for public construction bids and provide the City with bid assistance, including review of bids and determination of a low-responsible bidder to complete the work.
- **Phase 5 – Full Construction Management, Site Inspection, 1200-C Inspections, and Environmental Remediation Plan Management**
 - Selected consultant will act as the owner's representative during all phases of construction and provide a broad spectrum of services to deliver the project including general construction management and site inspections to overseeing the cleanup operations, soils testing, management of logistics, and keep the contractor's operations organized and efficient.
 - Other services during this phase include Bid Assistance, CA-CEI (Owner Representative, Construction Manager), Commissioning, Bond Closeout, Turnover/Acceptance.
- **Phase 6 – Site Monitoring for Cleanup & Environmental Mitigation, Project Closeout**
 - Once the project has been completed, accepted and final notification delivered to the general contractor, the selected consultant will monitor all aspects of the site through the end of the warranty and maintenance bond periods, or any other unique monitoring required for example, fish passage permits, or other mitigation plantings required to receive approval of state/federal or other permits.

SECTION 8 PROPOSAL EVALUATION PROCEDURES

Minimum Qualifications. Proposers must meet or exceed the following criteria:

- Proposer must be legally capable of operating within the State of Oregon.

- Proposer must provide no fewer than three references from accounts where Proposer is currently or has previously provided similar services.

Evaluation Criteria and Process. Each proposal will be checked for the presence or absence of the required proposal contents.

Those proposals which meet the mandatory requirements will be evaluated on both their technical merit and qualifications alone. The City will evaluate the proposals on a 100-point scale using the criteria set forth below. Award, if made, will be to the highest-scored proposal with interviews at the City’s discretion. The City’s selection panel for this RFP will consist of the City Engineer, Public Works Director and 2-3 additional City staff.

Evaluation Factor	Max. Points
Overall format & quality of and content in the proposal document	10
Grant writing & experience seeking EPA, other special funds <u>with success</u>	20 15
Overall qualifications & experience of firm/team for project, cradle to grave	25 15
Qualification & experience for environmental consulting & site cleanup services	10
Qualifications & experience for land-use & engineering plan services	10
Qualifications & experience for construction phase & cleanup services	10
<u>Cost Factor & Evaluation</u> , understanding of the City’s budget and current approach	10 25
References, examples of similar projects completed	5
Total Evaluation Points	100

Interview. The City reserves the right to interview the top scoring proposer or multiple proposers at any point during the evaluation process, prior to awarding the contract. The interview evaluation process, if used, will provide an opportunity for proposers to summarize and clarify their proposal and for the City to ask additional questions related to the proposal and ensure the team is a good fit. The City will notify the proposers to be interviewed of the interview evaluation time and location and allow for a reasonable period of time to prepare presentations. If an interview is scheduled with only the top scoring firm the selection criteria will be a straightforward pass or fail decision. If interviews are scheduled with more than one firm, the selected proposers will be notified of their selection and provided interview questions & scoring summary ahead of the scheduled interview, and proposers will be asked the same questions.

Selection and Negotiation. The City reserves the right to negotiate modifications of proposals, and to negotiate specific elements within a proposal. After the City has selected a preferred proposer, it will proceed to negotiate a contract. An example of the City’s standard contract is enclosed as Appendix A. The City reserves the right to negotiate a final contract that is in the best interest of the City. The City will attempt to reach a final agreement with the successful proposer but may, in its sole discretion, terminate negotiations and reject the proposal in the event additional information becomes available which affects the City’s evaluation, or agreement on a final contract cannot be reached within a reasonable time, as determined by the City in its sole discretion. The City may then attempt to reach final agreement with the next ranked proposer, and so on with the remaining proposers, until an agreement is reached. In the alternative, the City may at any time elect to reject all proposals, and thereafter may begin the process over.

City Requests for Clarification, Additional Research and Revisions. The City reserves the right to obtain clarification of any portion of a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a proposer to timely respond to such a request for additional information or

clarification may result in a finding that the proposer is non-responsive and consequent rejection of the proposal.

The City may obtain information from any legal source for clarification of any proposal. The City need not inform the proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole discretion, investigations of any proposer. Information may include, but shall not necessarily be limited to, current litigation and contracting references. All such information, if requested by the City, become part of the public record and may be disclosed accordingly.

Rejection of Proposals. The City reserves the right to reject any or all proposals, or portions thereof. Proposals may be rejected for reasons including, but not limited to:

1. Failure of the proposer to adhere to one or more of the provisions established in the RFP.
2. Failure of the proposer to submit a proposal in the format specified herein.
3. Failure of the proposer to submit a proposal within the time requirements established herein.
4. Failure of the proposer to adhere to ethical and professional standards before, during, or following the proposal process.
5. Failure to provide information that is specifically requested in this RFP.

The City may reject any proposal not in compliance with all prescribed public procurement procedures and requirements and may reject any or all proposals upon a finding by the City that it is in the public interest to do so.

SECTION 9 OTHER INFORMATION AND REQUIREMENTS

Nondiscrimination. By the act of submitting a Proposal in response to this RFP, Proposer certifies, under penalty of perjury, that Proposer has not discriminated against minorities, women, or emerging small business enterprises in obtaining any required subcontracts. The successful contractor agrees that, in performing the work called for by this proposal and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious, creed, political ideas, sex, age, marital status, physical or mental handicap, national origin or ancestry, or sexual preference unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental disability.

Employees and Officials Not to Benefit. No employee or elected official of the City of Sherwood shall be admitted to any share or part of this contract or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

No material, labor, or facilities will be furnished by the City unless otherwise provided for in the RFP.

Proposal Costs. Proposers responding to this RFP do so solely at their expense, and the City is not responsible for any Proposer expenses associated with responding to the RFP. Finalists invited to participate in interview evaluations are responsible for scheduling and paying for their own travel arrangements. The City is not liable

for any cost incurred by a Proposer in protesting any portion of the RFP documents or the City's selection decision.

City's Reservation of Rights. The City reserves the right to waive minor irregularities or omissions in compliance with the requirements of this RFP to the extent the City determines it is in the best interest of the City to do so. The City also reserves the right to cancel this RFP at any time if it determines it is in the best interest of the City to do so. Proposers, therefore, by proposing, agree that doing so is at their own risk and the City shall have no liability related thereto.

Legal Requirements. Selection of a proposer under this process is not a guarantee of a contract award, nor is the award of a contract for any portion of the work a guarantee of award of a contract for any subsequent work. All work is subject to budgetary and funding constraints of the City of Sherwood.

The selected proposer shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the work under this contract, including, without limitation, the provisions of (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all applicable state and federal wage and hour laws; (v) all regulations and administrative rules established pursuant to the foregoing laws; and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

Proposers will be subject to the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires the provision of Workers Compensation coverage for all employees working under this contract. The City of Sherwood's programs, services, employment opportunities, and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, disability, or political affiliation.

The City of Sherwood has a variety of ordinances and policies, which may or may not apply to a subsequent agreement, including, but not limited to, background checks of employees and licensing requirements. Application of these requirements will be determined based on the structure of any subsequent agreement.

[End of Main RFP Document \(see below for attachments & reference documents\)](#)



Home of the Tualatin River National Wildlife Refuge

CITY OF SHERWOOD
Public Works Department
15527 SW Willamette St.
Sherwood, OR 97140
503-625-5722

CONTRACT FOR PROFESSIONAL SERVICES

PROJECT NAME: _____

CONTRACT PARTIES: **City of Sherwood** and _____
[hereafter called City] [hereafter called Consultant]

C.O.S. PROJECT MANAGER: _____

ACCOUNT #: _____	FUND #: _____	DEPT: _____	JOB #: _____
VENDOR #: _____	URA RES: _____	PHASE: _____	

SCOPE of WORK: Attached as Exhibit A **FEE SCHEDULE:** Attached as Exhibit B

SCHEDULE of WORK: effective date: _____ expiration date: _____

PAYMENT: City agrees to pay Consultant based on the Fee Schedule an amount not to exceed \$_____ for the Scope of Work.

A performance bond in the amount of the maximum contract payment amount set forth immediately above, and a payment bond in the amount of 50% of the performance bond amount, are are not required for this Contract.

CONSULTANT DATA, REGISTRATION, and SIGNATURE

CONSULTANT FIRM: _____	LIC #: _____
ADDRESS: _____	
VOICE: _____	FAX: _____
CONTACT: _____	TITLE: _____

I, the undersigned, agree to perform the work outlined in this Contract in accordance with the terms and conditions listed on pages 2-6 and made part of this Contract, and in accordance with the exhibits attached and made part of this Contract. I certify, under penalty of perjury, that I/my business is not in violation of any Oregon tax laws; and certify that I am an independent contractor as defined in ORS 670.600.

CONSULTANT: _____ signature _____ date _____

CITY OF SHERWOOD APPROVALS (consult the City's Delegation of Contracting Authority policy for requirements)

PROJECT MANAGER:	_____ signature _____	_____ date _____
DEPARTMENT DIRECTOR:	_____ signature _____	_____ date _____
FINANCE DIRECTOR:	_____ signature _____	_____ date _____
CITY MANAGER:	_____ signature _____	_____ date _____
CITY ATTORNEY <i>Approved as to Form:</i>	_____ signature _____	_____ date _____

STANDARD CONTRACT PROVISIONS

(These provisions not to be altered without approval of the City Attorney.)

1. Access to Records

The Consultant shall maintain, and the City of Sherwood ("City") and its duly authorized representatives shall have access during normal business hours to the books, documents, papers, and records of the Consultant which are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon reasonable request. Payment for cost of copies is reimbursable by the City.

2. Audits

(a) The City, either directly or through a designated representative, at City's expense except as provided in subsection 2(b), may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Consultant were in excess of the amount to which the Consultant was entitled, then the Consultant shall repay the amount of the excess to the City. If the payments to the Consultant were in excess of the amount to which the Consultant was entitled by five percent (5%) or more, then Consultant shall additionally repay to the City the reasonable costs of the audit performed under subsection 2(a).

(c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Contract** and section 7, **Remedies**.

3. Effective Date and Duration

The passage of the Contract expiration date, or early termination of this Contract, shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance that has not been cured.

4. Payments

City agrees to pay Consultant based on the fee schedule in Exhibit B, attached hereto and incorporated herein by reference, in a total sum not to exceed the amount indicated on the cover page of this Contract, for the scope of work identified in Exhibit A, attached hereto and incorporated herein by reference. Consultant shall submit detailed written invoices to City for work performed, referencing the work performed and the fee schedule in Exhibit B, at a frequency not to exceed one invoice per calendar month, and no later than sixty (60) calendar days after performance of the work referenced in the invoice. Within thirty (30) calendar days of receipt of each invoice, City shall submit payment to Consultant or shall notify Consultant in writing of any dispute with regard to such invoice.

5. Early Termination of Contract

(a) The City and the Consultant, by mutual written agreement, may terminate this Contract at any time.

(b) The City, by written notice to the Consultant, may terminate this Contract for any reason deemed appropriate in its sole discretion, such termination to be effective thirty (30) calendar days after the effective date of such notice or at such later date as specified in such notice.

(c) City may terminate this Contract by written notice to Consultant, such termination to be effective immediately upon the effective date of such notice or at such later date as specified in such notice, upon the occurrence of any of the following events:

(1) City fails to receive funding, or appropriations, limitations, or other expenditure authority at levels sufficient to pay for Consultant's work;

(2) Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or City is prohibited from paying for such work from the planned funding source;

(3) Consultant no longer holds any license or certificate that is required to perform the work, or any license or certificate required by statute, rule, regulation, or other law to be held by the Consultant to provide the services required by this Contract is for any reason denied, revoked, suspended, not renewed, or changed in such a way that Consultant no longer meets requirements for such license or certificate.

(4) City determines, in its sole discretion, that Consultant has violated section 25, **Information Technology**.

(d) Either the City or the Consultant may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) calendar days of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

- (e) Upon receiving a written notice of termination of this Contract, Consultant shall immediately cease all activities under this Contract, unless City expressly directs otherwise in such notice. Upon termination of this Contract, Consultant shall deliver to City all documents, information, works in progress, and other property that are or would be deliverables had the Contract been completed.

6. Payment on Early Termination

- (a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Contract** hereof, the City shall pay the Consultant for work performed in accordance with the Contract prior to the termination date.
- (b) In the event of termination under subsection 5(d), **Early Termination of Contract** hereof, by the Consultant due to a breach by the City, the City shall pay the Consultant as provided in subsection (a) of this section.
- (c) In the event of termination under subsection 5(d), **Early Termination of Contract** hereof, by the City due to a breach by the Consultant, the City shall pay the Consultant as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.
- (d) In the event of early termination, all of the Consultant's work product will become and remain property of the City.

7. Remedies

- (a) In the event of termination under subsection 5(d), **Early Termination of Contract**, hereof, by the City due to a breach by the Consultant, the City may complete the work itself, by contract with another consultant, or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Consultant shall pay to the City the amount of the reasonable excess.
- (b) The remedies provided to the City under section 5, **Early Termination of Contract** and section 7, **Remedies** for a breach by the Consultant shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.
- (c) In the event of breach of this Contract by the City, the Consultant's remedy shall be limited to termination of the Contract and receipt of payment as provided in section 5(d), **Early Termination of Contract** and section 6(b), **Payment on Early Termination** hereof.

8. Subcontracts and Assignment

Consultant shall not subcontract, assign or transfer any of the work scheduled under this Contract, without the prior written consent of the City. Notwithstanding City approval of a sub-consultant, the Consultant shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Consultant hereunder. The Consultant agrees that if sub-consultants are employed in the performance of this Contract, the Consultant and its sub-consultants are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. Consultant further agrees that Consultant will be solely responsible for ensuring any sub-consultants fully comply with the terms of this Contract, and that Consultant will be solely liable for actions or omissions of sub-consultants under this Contract.

9. Compliance with Applicable Law

In connection with its activities under this Contract, Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws and regulations.

10. Indemnity - Standard of Care

If Consultant's services involve engineering or planning consulting, the standard of care applicable to Consultant's service will be the degree of skill and diligence normally employed by professional engineers or planning consultants performing the same or similar services at the time such services are performed. Consultant will re-perform any services not meeting this standard without additional compensation. City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Contract. Consultant represents that all of its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of Consultant's work by City will not operate as a waiver or release.

Consultant acknowledges responsibility for liability arising out of the performance of this Contract and shall defend, indemnify, and hold harmless City and its officers, agents, volunteers, and employees against any and all liability, settlements, loss, damage, costs, and expenses (including attorney's fees and witness costs at both trial and on appeal, whether or not a trial or appeal ever takes place, including any hearing before federal or state administrative agencies) arising from or in connection with any action, suit, demand, or claim resulting or allegedly resulting from, attributable in whole or in part to, or in any way connected with Consultant's and Consultant's officers', agents', volunteers', and employees' acts, omissions, activities, or services in the course of performing this Contract, to the fullest extent permitted by law, and except to the extent otherwise void or unenforceable under ORS 30.140. Consultant's activities are deemed to include those of subcontractors. The City may, at any time at its election assume its own defense and settlement in the event that it determines that Consultant is not adequately defending the City's interests, or that an important governmental principle is at issue, or that it is in the best interests of the City to do so. If any aspect of this indemnity is found to be illegal or invalid for any reason whatsoever, such illegality or invalidity does not affect the validity of the remainder of this indemnification.

This section will survive the termination or revocation of this Contract, regardless of cause.

11. Insurance

Consultant shall obtain at its expense, and maintain for the term of this contract, occurrence form commercial general liability and commercial automobile liability insurance, including coverage for all owned, hired, and non-owned automobiles, for the protection of Consultant, the City, its Councilors, officers, agents, volunteers, and employees. Such coverage shall be primary and non-contributory. Coverage shall include personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Consultant's operations, in an amount not less than \$2,000,000 combined single limit per occurrence and \$2,000,000 aggregate. Such insurance shall name the City as an additional insured. Consultant, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract, who are subject employers under the Oregon Workers' Compensation Law, shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that complies with ORS 656.126. Employers' Liability Insurance with coverage limits of not less than \$1,000,000 each accident shall be included. Consultant shall obtain at its expense and maintain for the term of this contract, professional errors and omissions liability insurance for the protection of Consultant and its employees, insuring against bodily injury and property damage and arising out of or resulting from Consultant's errors, negligent acts, omissions, activities or services, in an amount not less than \$2,000,000 combined single limit per occurrence, with an annual aggregate limit not less than \$2,000,000. Such insurance shall be endorsed to include contractual liability. If Consultant obtains professional errors and omissions liability insurance on a claims made form, Consultant shall maintain three (3) years of tail coverage for the three (3) years after the accepted completion of the Contract by the City. All policies will provide for not less than thirty (30) calendar days' written notice to the City before they may be canceled. Prior to commencing work under this Contract, and thereafter upon request, Consultant shall furnish the City certificates of insurance and necessary endorsements evidencing the effective dates, amounts, and types of insurance required by this Contract. Additionally, if Consultant is subject to the professional errors and omissions liability insurance tail coverage requirement under this section, Consultant shall furnish the City, upon the accepted completion of the Contract by the City, a certificate of insurance and necessary endorsements evidencing the effective dates, amounts, and types of insurance meeting said requirement.

12. Ownership of Work Product

All work products of the Consultant, which result from this Contract, are the exclusive property of the City; provided, that Consultant is hereby granted an irrevocable, royalty free, worldwide, perpetual license to use, reproduce, copy, distribute and make derivatives of its work product, regardless of whether Consultant has resigned, this Contract has been terminated, Consultant's scope of services has been modified, or Consultant's services under this Contract have been completed.

13. Nondiscrimination

Consultant agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

14. Successors in Interest

The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

15. Severability

The parties 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.

16. Waiver

The failure of the City to enforce any provision of this Contract shall not constitute a waiver by the City of that or any other provision.

17. Errors

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

18. Governing Law; Forum

The provisions of this Contract shall be construed in accordance with the provisions of the laws of the State of Oregon, without regard to conflicts of law principles. Any action or suits involving any question arising under this Contract must be brought in the appropriate court in Washington County, Oregon or, only if there is no Oregon state court jurisdiction, the United States District Court for the District of Oregon, and each party hereby submits to the exclusive jurisdiction of those courts for purposes of any such proceeding. Any trial will be to the court without a jury.

19. Amendments

The City and the Consultant may amend this Contract at any time only by written amendment executed by the City and the Consultant.

20. License

Prior to beginning work under this Contract, the Consultant shall provide a professional registration number in the space provided on page one of this Contract, if required by the City.

21. Payment to Vendors and Sub-consultants

Consultant must promptly pay any persons supplying services, material, or equipment to Consultant in its performance of the work under this Contract. Consultant shall not take or fail to take any action in a manner that causes the City or any materials that the Consultant provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

22. Exhibits

Each document that is attached to this Contract as an Exhibit shall be labeled with an Exhibit letter and listed below. Provisions and covenants contained in Exhibits are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein. If any item in an Exhibit contradicts this Contract, this Contract shall take precedence over the conflicting item in the Exhibit.

List of Exhibits

Exhibit A – Scope of Work

Exhibit B – Fee Schedule

23. Merger Clause

This Contract and attached exhibits constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. Consultant, by the signature of its authorized representative, hereby acknowledges that he or she has read this Contract, understands it and agrees to be bound by its terms and conditions.

24. Mediation

- (a) Should any dispute arise between the parties to this Contract it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Contract shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation.
- (b) The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If a party requests mediation and the other party fails to respond within ten (10) calendar days, or if the parties fail to agree on a mediator within ten (10) calendar days, a mediator shall be appointed by the presiding judge of the Washington County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section.

25. Information Technology

If Consultant access to City's information technology systems is necessary for the performance of this Contract:

- (a) Consultant agrees to sign and be bound by the terms of the City's then-current Contractor Security Policy, as it may be amended by City from time to time during the course of this Contract.
- (b) Consultant shall use the standard of care in its profession to safeguard any and all usernames, passwords, and other confidential information relating to accessing said systems; will limit access to such information to the smallest number of Consultant's employees and/or subcontractors as is reasonably practical; and will provide City with the names of all such employees and/or subcontractors who will be provided such information;
- (c) Consultant will not attempt to access any City information technology resources beyond those necessary for performance of this Contract; and
- (d) Consultant will be solely liable for any damages to City's information technology systems, data breaches, and any other losses or damages relating to Consultant's access to City's information technology systems.

26. Notice

Any notice required to be provided to City under this Contract shall be provided to the City Project Manager specified on the cover page of this Contract at the address for the City specified on the cover page of this Contract. Any notices required to be provided to Consultant under this Contract shall be provided to the Consultant Contact specified on the cover page of this Contract at the address for the Consultant specified on the cover page of this Contract. Notices shall be made by personal service, in which case they are effective on the date of service, or by certified mail, in which case they are effective on the date of delivery, or if delivery is refused, upon the date of

delivery refusal. Either party may alter the person designated for receipt of notices under this Contract by written notice to the other party.

27. **Miscellaneous Terms**

- (a) Consultant Identification. Consultant shall furnish to City Consultant's employer identification number, as designated by the Internal Revenue Service, or, if the Internal Revenue Service has designated no employer identification number, Consultant's Social Security number.
- (b) Duty to Inform. Consultant shall give prompt written notice to City if, at any time during the performance of this Contract, Consultant becomes aware of actual or potential problems, faults, or defects in the project, any nonconformance with the Contract, or with any federal, state, or local law, rule, or regulation, or has any objection to any decision or order made by City. Any delay or failure on the part of City to provide a written response to Consultant shall constitute neither agreement with nor acquiescence in Consultant's statement or claim, and shall not constitute a waiver of any of City's rights.
- (c) Independent Contractor. Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Contract.
- (d) Time is of the Essence. Time is of the essence under this Contract.
- (e) Authority. The parties signing this Contract are authorized to sign and to bind their respective contracting parties to the terms of the Contract.
- (f) Conflict of Interest. Except with City's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear, to compromise Consultant's professional judgment with respect to this Contract, including, without limitation, concurrent employment on any project in direct competition with the subject of this Contract.
- (g) No Third-Party Beneficiaries. City and Consultant 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 or 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.

28. **Statutory Provisions**

- (a) As provided by ORS 279B.220, Consultant shall:
 - (1) Make payment promptly, as due, to all persons supplying to Consultant labor or material for the performance of the work provided for in this Contract.
 - (2) Pay all contributions or amounts due the Industrial Accident Fund from the Consultant or subcontractor incurred in the performance of this Contract.
 - (3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
 - (4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
- (b) As provided by ORS 279B.230, Consultant shall promptly, as due, make payment to any person, copartnership, association, or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Consultant, of all sums that Consultant agrees to pay for the services and all moneys and sums that Consultant collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services. It is a condition of this Contract that all employers working under this Contract are either subject employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- (c) As provided by ORS 279A.110, Consultant may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women, or an emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225. If Consultant violates this subsection, City may regard the violation as a breach of contract that permits the City to: (1) terminate this Contract; or (2) exercise any remedies for breach of contract that are reserved in this Contract.
- (d) As required by ORS 279B.235:
 - i. Consultant's employees shall be paid at least time and a half for all overtime worked, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime. Consultant must give notice in writing to employees who work on this Contract, either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
 - ii. Consultant must comply with ORS 652.220 and shall not unlawfully discriminate against any of Consultant's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. Consultant's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles City to terminate this Contract for cause.
 - iii. Consultant may not prohibit any of Consultant's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Consultant may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

[SIGNATURES ON COVER PAGE TO CONTRACT]

**APPENDIX B
SIGNATURE PAGE**

[Fill out and submit this page with your Proposal]

This page must be signed with the full name and address of the Proposer submitting the response; if a partnership, by a member of the firm with the name and address of each member; if a corporation, by an authorized officer thereof in the corporate name.

The undersigned verifies that he/she is a duly authorized officer of the company, and that his/her signature attests that information provided in response to this Request for Proposal is accurate.

The undersigned certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications have been received and duly considered and that all cost adjustments associated with the addenda are reflected in this proposal.

Resident Proposer as defined in ORS 279A.120(1)?*	<input type="checkbox"/> YES / <input type="checkbox"/> NO
Proposers certify non-discrimination in accordance with ORS 279A.110(4)	<input type="checkbox"/> YES / <input type="checkbox"/> NO
If awarded a contract pursuant to this solicitation, will Proposer participate in Intergovernmental Permissive Cooperative Purchasing (extend the terms, conditions and prices of such contract to other public agencies)? If no, please explain on a separate piece of paper.	<input type="checkbox"/> YES / <input type="checkbox"/> NO

Proposer hereby makes this proposal to furnish goods and/or services at the price(s) indicated herein in fulfillment of the requirements and specifications of the City as stated in the Request for Proposal.

Signature of Authorized Official	Date
Printed Name	Telephone Number
Title	E-mail Address
Firm Name	Address
	City, State, Zip Code

*"Resident Bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "resident bidder".

APPENDIX C
ATTESTATION OF COMPLIANCE WITH TAX LAWS
[Complete and submit this page with your Proposal]

I, _____, representing _____ (Bidder/Proposer)
(Insert printed name) (Insert name of Firm)

hereby attest that:

1. I am an authorized agent of Bidder/Proposer, and I have full authority from Bidder/Proposer to submit this attestation and accept the responsibilities stated herein.
2. I have knowledge regarding payment of taxes of Bidder/Proposer, and to the best of my knowledge, Bidder/Proposer is not in violation of any Oregon tax laws, including, without limitation, ORS 305.620 and ORS chapters 316, 317 and 318.
3. Bidder/Proposer shall provide written notice to City within two business days of any change to its compliance with tax laws.

Authorized Agent Signature

Date

Title