



# REQUEST FOR PROPOSAL ARCHITECTURAL, ENGINEERING AND RELATED SERVICES

## PUBLIC WORKS FACILITY

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Volume 1 of 1

Proposal Requirements

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**September 2021**

Owner

City of Sherwood  
Public Works Department  
15527 SW Willamette Street  
Sherwood, OR. 97140  
503-625-5722

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# Request for Proposals

The City of Sherwood, Oregon ("City") is requesting Proposals in order to select a qualified consultant to provide architectural, engineering and other related services for a new Public Works Facility ("Project"). Proposers are invited to demonstrate their experience and qualifications in performing work directly related to the services required by responding to this **Request for Proposals (RFP)**. Proposals will be evaluated in accordance with the qualifications based selection procedures of OAR 137-048-0220. This Project does not involve federal funds at this time.

## I. Project Description

The City of Sherwood desires to construct a new Public Works Facility, including buildings, storage yard, and other amenities, to address the long-term needs of the City and Public Works Department.

### **Community**

Sherwood City limits span four and a half miles along State Highway 99W via Interstate 5. The rapidly growing city is part of the Willamette Valley located in Southwest Washington County. Sherwood is the home of the Tualatin River National Wildlife Refuge to the North, and bordered by Yamhill County to the South, and the City of Tualatin to the East. All these factors make Sherwood an attractive employment hub and one of Oregon's most rapidly growing cities with approximately 20,000 residents. Throughout the growth, the City of Sherwood has benefited from thoughtful planning, high development standards, and a beautiful natural environment.

### **Public Works**

Services provided by the Public Works Department include operations, maintenance, and oversight of Facilities, Parks, Streets, Water Distribution System, Wastewater Collections System, Stormwater System, Fleet, Emergency Management, Broadband Construction and Utility Billing. Currently the department has 43 FTE.

### **Project Background**

The City of Sherwood was awarded a grant from the United States Environmental Protection Agency's (EPA) Brownfields Program to assess and prepare a plan to clean up a contaminated Frontier Leather Site on SW Oregon St. The Brownfields grant was used to assess 24 acres (Tax Lot 600 and 6020 of the 33 acres site) which the city is considering for use as the future home of its public works facility. In March 2015, the consultants hired by the city developed an assessment plan, conducted the assessment and analyzed the results.

A Seismic Resiliency report was completed in April 2020. During the evaluation of the Public Works Building, the assessment revealed that there are significant seismic vulnerabilities associated with the structure and geotechnical conditions below the facility that are susceptible to liquefaction. The facility is at risk of being able to provide services should a seismic event occur. The Public Works Department is currently located 15527 SW Willamette St., Sherwood, Oregon 97140. The facility was constructed in the 1970s and upgrades were made in 2003. The facility includes offices for public works staff,

storage for maintenance equipment, vehicles and materials, fuel, deicing chemical tanks, and a yard for storing materials. Included in the building is an indoor soccer field and recreational facility. The existing office space, warehouse storage, and equipment yard facilities are inadequate and do not meet the current operational needs of the Public Works Department

### **Project Overview**

The City is seeking proposals from highly qualified individuals, consulting firms, or teams of consultants ("Proposers") to: 1) prepare a public works facility master plan that includes a phasing plan, cost estimates, and preliminary site design; 2) provide intermediate and final design of the new building, site, and amenities; and 3) provide construction management services.

A successful Public Works Facility Project will:

- ~ Address the current and future needs of the Public Works Department
- ~ Improve efficiency through consolidation, organization, and layout
- ~ Provide adequate work and shop space, office space, meeting rooms, breakrooms, locker and shower areas, equipment and materials storage, disposal areas, and vehicle and staff parking
- ~ Incorporate sustainability and green energy technology
- ~ Follow all City and State requirements
- ~ Meet category IV seismic standards
- ~ Provide information for funding decisions and project timing

## **II. Scope of Work**

The selected consultant will prepare a public works facility master plan, draft conceptual plans, phasing plans, cost estimates, and preliminary site design for the property. The key elements will guide decision makers regarding recommended layout and uses, budgets, necessary capital improvements, and recommended construction phasing. After Phase 1 work has been created, the City may, in its sole and absolute discretion, move into subsequent intermediate and final design, permitting, and construction phases.

The master plan should provide a clear understanding and vision of the site, including opportunities, and challenges. The master plan should also create a "picture" of the interim and long-term layout, uses, and activities feasible for the property.

This Project will be divided into phases. As stated above, the first phase will be work related to the completion of an analysis of the existing facilities, including a review of current conditions and development of a master plan for the entire site, along with conceptual and preliminary designs, cost estimates, and phasing plan. If the City decides, in its sole and absolute discretion, to proceed, Phase 2 will involve preparation of intermediate and final improvement drawings; and Phase 3 will be to provide support during the construction of the improvements.

Phases 2 and 3 will only commence upon release of a written "Notice to Proceed" by the City. The City reserves the right to unilaterally decide how to proceed. The City may decide to issue a "Notice to Proceed" to the firm retained to perform work for Phase 1; decide not to proceed with Phases 2 and 3; elect to have this work completed by other means available

to the City, including but not limited to the release of another RFP, or through direct award of a contract, subject to applicable local and state procurement laws and regulations. Work on Phases 2 and 3 will be dependent on the results delivered for Phase 1 and a decision to proceed. Payments to the selected consultant will be limited to compensation for work authorized and performed and work products delivered and accepted.

At this time, no exact construction budget or timeline has been established for the full implementation of this Project.

## **Phase 1**

### **A. Project Orientation/Start Up**

1. Coordinate with City of Sherwood Public Works Department management, Project Manager, City Facility Projects Team, and other identified individuals.
2. Provide a schedule outlining milestones, projected timelines, and deliverables.
3. Modify Scope of Work as needed to meet needs of Phase 1 of the Project.

### **B. Site Review**

1. Review sites and facilities currently being used.
2. Review the Tannery Brownfield Site Assessment
3. Review land survey and Phase 1 Environmental Site Assessment.
4. Conduct site visits to document and map existing conditions to prepare a site assessment.
5. Review existing aerial photography.
6. Help to identify stakeholders.
7. Conduct interviews with stakeholders identified, including but not limited to Public Works Department personnel.
8. Determine area needs for adequate work and shop space, office space, meeting rooms, breakrooms, locker and shower areas, covered and uncovered equipment and materials storage, disposal and decant areas, and vehicle and staff parking.
9. Review site constraints (including but not limited to):
  - Archaeological concerns
  - Geotechnical
  - Available land area
  - Vehicular flow through site
  - Adjoining and surrounding land use
  - Points of access and access constraints
  - Environmental conditions and regulations, including the Significant Resource Overlay Zone
  - Utility rights-of-way and crossings, including requirements, costs, and liabilities
  - Existing easements/encumbrances
10. Assess security concerns and options, and provide recommendations.
11. Review of local and state requirements related to public building construction.
12. Other mutually agreed upon review subjects.

### **C. Conceptual Designs/Cost Estimates (maximum three alternative concepts)**

1. Prepare report of findings from Section B. Site Review.
2. Prepare designs and management analysis with phasing recommendations,

timetables, and cost estimates for each concept. Cost estimates shall include soft cost and escalation as well as assumptions for each.

**D. Preliminary Design/Cost Estimate**

1. Develop preliminary plans, construction phasing plan, and cost estimate for selected alternative based on results of Coordination and Stakeholder Meetings.
2. Create architectural renderings of selected alternative.

**E. Coordination Meetings**

1. Meeting with Public Works Department Staff and City Facility Projects Team to review results of study, conceptual drawings, and comments from interviews to determine next steps.

**F. Stakeholder Meetings**

1. Develop agenda(s) and desired meeting outcomes, prepare all materials for display and handouts, attend stakeholder meetings, and document outcome results from meeting and distribute findings.

**G. Project Deliverables**

1. Deliver final versions of all reports, plans, estimates, and supporting information.
2. Digital copies of all reports and supporting documentation to be delivered in Word format; copies of all conceptual and preliminary designs to be delivered in AutoCAD compatible format; copies of spreadsheets, budgets, and related supporting financial data to be delivered in Excel compatible format.

**Budget**

Funding for this Project will be provided by City funds. The estimated cost for the requested services in Phase 1 is between \$60,000 and \$80,000.

**The final Scope of Work for Phase 1 will be developed in collaboration with the selected consultant, as the first task under the Professional Services Agreement (“Contract”), the form of which is included as Attachment A.**

**Phase 2 (if the City decides to proceed and decides, in its sole and absolute discretion, to extend the contract with the successful Proposer)**

**A. Intermediate Design (including but not limited to)**

1. Confirm scope of work with the City.
2. Further develop selected alternative design.
3. Perform civil, structural, and electrical engineering and landscape design work.
4. Prepare 50% design plans.
5. Prepare updated design development estimate.
6. Revise design as required based on Coordination Meeting results.

**B. Coordination Meetings**

1. Meetings with Public Works Department Staff and City Facility Projects

Team to review preliminary drawings and to determine next steps.

**C. Final Design** (including but not limited to)

1. Prepare 90% design drawings.
2. Prepare draft construction documents, including specifications.
3. Prepare updated design cost estimate.
4. Revise Final Design, as required, based on results of Stakeholders and City Facility Projects Team Meetings.
5. Complete final construction documents – plans, specifications, and cost estimate.
6. Provide assistance with Project permitting process.

**D. Stakeholder Meetings**

1. Develop agenda(s) and desired meeting outcomes, prepare all materials for display and handouts, attend stakeholder meetings, and document outcome results from meeting and distribute findings.

**E. Final Results**

1. Deliver final versions of all drawings, reports, and supporting information.
2. Digital copies of all reports and supporting documentation to be delivered in Word format; copies of designs to be delivered in AutoCAD compatible format; copies of spreadsheets, budgets, and related supporting financial data to be delivered in Excel compatible format.

**Phase 3 (if the City decides to proceed and decides, in its sole and absolute discretion, to extend the contract with the successful Proposer)**

**A. Services During Construction**

1. Facilitate regular inspections of the public improvement project.
2. Conduct regular progress/scheduling meetings with the construction contractor.
3. Create and administer standard construction documentation.
4. Research and prepare responses to Requests for Information (RFIs) and Change Order requests.
5. Administer progress payments and pay requests.
6. Prepare project close-out documentation.

**III. Term of Project**

The City seeks to complete Phase 1 of this Project within a six (6) month period. The successful Proposer should be ready to begin work within 30 days of receiving notice of intent to award.

**IV. Project Manager**

The City's Project Manager shall be the sole point of contact for all questions, concerns, and protests. The Project Manager for this Project is:

Craig Sheldon  
Public Works Director  
Public Works Department

Contact at:  
(503) 925-2310  
[SheldonC@SherwoodOregon.gov](mailto:SheldonC@SherwoodOregon.gov)

## V. Minimum Qualifications

Individuals and firms replying to this solicitation must have prior and relevant work experience in creating successful Public Works Facility for municipalities. Any firms replying to this solicitation must be licensed businesses registered within the State of Oregon, and individuals proposed to be the Architect or Engineer of Record shall possess a valid and current State of Oregon professional registration.

1. Proposer shall demonstrate a minimum of number five (5) years' experience providing the types of services described within the Scope of Work of this Request for Proposals for public agencies.
2. Proposer shall not have a record of substandard workmanship, as verified by the City by communication with licensing authorities, former clients and references, and other means as the City deems appropriate.

## VI. Proposal Requirements and Procedures

Proposers shall prepare and submit Proposals in accordance with the requirements stated within this RFP. Adherence to these requirements will ensure a fair and objective analysis of submitted Proposals. Proposals should provide a clear, concise description of the Proposer's capabilities to satisfy the requirements of this RFP. Emphasis should be placed on completeness, brevity, and clarity of content. Failure to comply with or complete any part of the RFP may result in rejection of the Proposal. The ability to follow these instructions demonstrates attention to detail.

Proposals are made at the Proposer's sole risk and expense. The solicitation may be suspended or delayed if it is determined to be in the best interest of the City to do so. The City is not liable to any Proposer for any loss or expense caused by, or resulting from, any cancellation, suspension, delay, or rejection.

### **Proposal Format**

Proposals shall preferably be double-sided and stapled once or bound in the upper left-hand corner. The City requests that submittal materials contain post-consumer recycled content and are readily recyclable. The City discourages the use of materials that cannot be readily recycled, such as PVC binders, spiral bindings, and plastic or glossy covers or dividers.

Proposals shall be organized in accordance with the listed Proposal contents set forth in the Evaluation Criteria section. Supporting Information, as defined below, shall be provided in a separate section at the end of the Proposal, and not counted in the page limit requirements.

Proposals exceeding the specified number of pages or text font size may be considered non-responsive and the Proposal may be rejected. Pages exceeding the maximum page limit may not be reviewed.

### **Submittal Requirements**

- Proposals should be clear and concise and typewritten
- Number of original copies (marked as such): one (1)



- Number of copies: five (5)
- Electronic versions: CD or USB thumb drive (MS Word, MS Excel compatible, and PDF format files)
- Minimum font size: 12 point with a standard body text font (e.g. Calibri, Times New Roman, Garamond)
- Maximum number of pages: **30 pages** One page is considered to be one side of a single 8 ½" x 11" sheet.
  - **Included in the page count:** Evaluation Criteria responses, charts, graphs, pictures, and all other text or graphics.
  - **Not Included in the page count:** front cover sheet, one-page table of contents, letter of intent, section dividers, back cover or resumes.

### **Submittal Procedure**

- Proposals are to be submitted in a sealed envelope and labeled:  
**Public Works Facility Project**
- Proposals are due no later than:  
**4:00 P.M. (local time), Wednesday, September 29, 2021**
- **Delivery Address:**  
City of Sherwood  
Attn: Craig Sheldon, Public Works Director  
15527 SW Willamette Street  
Sherwood, OR 97140
- Proposals submitted by EMAIL or FAX will not be accepted.
- Proposals received after the listed date and time will not be accepted.
- The City of Sherwood is not responsible for delays in delivery.

**Firms that intend to submit a Proposal should notify Craig Sheldon at [sheldonc@sherwoodoregon.gov](mailto:sheldonc@sherwoodoregon.gov) via email to request to be added to the "Intent to Submit" list. Individuals on this list will be notified of any addenda to the RFP.**

### **Supporting Information**

Supporting materials may include full resumes, other references, sample documents, and photos. However, pertinent information should be covered in the body of the Proposal. Supporting information will not count toward the page limit, but brevity is encouraged. If there is no additional information to present in the Supporting Information, then state, *"There is no additional information we wish to present."*

## **VII. Proposal Submission**

Proposers shall submit one (1) original and five (5) copies, along with a USB thumb drive, of their written Proposals, sealed in an opaque envelope, plainly marked "Request for Proposals – Public Works Facility Project," and include the name and address of the Proposer. Proposals shall be addressed and submitted to the following location by **4:00 p.m. local time on Wednesday, September 29, 2021.**

City of Sherwood  
Attn: Craig Sheldon, Public Works Director  
15527 SW Willamette Street  
Sherwood, OR 97140

Proposals must arrive at the issuing office on or before the listed time and date due. Late Proposals will be returned unopened and without review. Electronically mailed or faxed Proposals will not be accepted.

## VIII. RFP Documents

Request for Proposal (RFP) documents may be downloaded at:  
<https://www.sherwoodoregon.gov/bids>

## IX. Evaluation Process

A Selection Review Committee of at least three members comprised of City staff ("Selection Committee") will be appointed to evaluate the Proposals received. All written Proposals received by the deadline will be reviewed by the Selection Committee. Each Selection Committee member will independently evaluate each Proposal in accordance with the criteria stated in the Evaluation Criteria section of this RFP.

The City may also seek expert advice to help review Proposals. Advisors to the Selection Committee may attend evaluation meetings and consultant presentations, evaluate the Proposals, and lend any such expertise to the process as requested by the City. However, any such person that is contacted by the City for their expert advice shall not, from first being contacted until the RFP process is completed or otherwise brought to an end, have communications with any Proposers regarding their Proposals or the RFP process.

The City will determine the most qualified Proposer based on the Evaluation Criteria listed using predetermined weights and the responsiveness of the Proposal. A subsequent round of interviews may be used to evaluate finalists.

If the City decides to conduct interviews, the interview sessions will be evaluated in a manner similar to the RFP response. Topics covered in the interview session shall include the topics listed hereinafter under the "Evaluation Criteria" section plus any additional, relevant topics which may arise during both the formal presentation and the question and answer portions of the interview. If interviews are conducted and your firm is selected for an interview, you will be contacted by the City for next steps.

At any point during the evaluation process, the City is permitted to seek clarification of any Proposal. The City retains the right to accept any Proposal that is deemed to best fit the needs of the City or no Proposal.

The Selection Committee will review, evaluate, and score written Proposals and interview candidates, as needed, to make the final selection. All information provided by the Proposer, including the written submittal, work product samples, and interview will be evaluated. The successful Proposer will demonstrate outstanding competence and experience relating to the criteria, convincing the Committee that the proposed team is the best one for this Project.

## X. Evaluation Criteria

These instructions were prepared to aid in response development. They also provide for a structured format so the Selection Committee can systematically evaluate several

Proposals. Each copy of the submittal package must include all of the sections in the order indicated. Attachments should be clearly referenced and identified to facilitate the review process. Each Proposal shall include:

**1. Letter of Intent (maximum 2 pages)**

The introductory letter should address the Proposer's willingness and commitment, if selected, to provide the services offered and a brief description of why the Proposer believes it should be selected.

The letter shall be addressed to the City's Project Manager and include the name of the firm, as well as the printed name, title, telephone number, and email address of the officer authorized to represent the consultant in any correspondence, negotiations, and signing of any contract that may result. Include the address of the office that will be providing the service and the project manager's name, title, telephone number, and e-mail address. The Proposer's federal and state tax ID numbers and the state of incorporation, if applicable, shall also be included. The letter must be signed by the Proposer, if an individual, or by a legal representative of the Proposer's entity, authorized to bind the entity in contractual matters.

The letter of interest shall specifically stipulate the following statements:

*"Proposer has received and examined, as part of the Proposal, Addenda No. through. Proposer accepts all terms and conditions contained in the Request for Proposal and the Contract, except as otherwise specifically noted as an Exception in the Proposal."*

*"The submitted Proposal is valid for a period of ninety (90) days from the time and date Proposals are due."*

*"All materials and documents acquired or produced by the consultant in conjunction with the resulting contract shall be delivered to and become property of the City of Sherwood, without restriction or limitation of future use."*

Proposer shall identify whether the Proposer (or which members of Proposer's team) is a "resident Proposer" as defined in ORS 279A.120(1).

**2. Proposed Team Qualifications**

Describe each member of the Proposer's team, including the proposed role for each firm or person on the Project, qualifications, expertise, and previous related experience, and experience of the firms collaborating together.

- Identify the day-to-day project manager, the principal-in-charge, and all other key project team members, including sub-consultants, that will be utilized for the work. Identify the Project roles and responsibilities of all key personnel.
- Provide name, title, brief description of duties, years of pertinent experience, and availability of each staff member that will be assigned to this Project.
- Include a description of education, certificates or licenses, professional background, experience, skill, expertise, and training for the types of services required.
- Provide the name, title, and address of any sub-consultant that may perform work on this Project. Include what services they may provide, their pertinent experience, and years of related experience.

- Describe the extent of principal and project manager involvement.
- Estimate the percentage of time key personnel will be devoted to this Project for the duration of the Project, based on a 40-hour work week.
- To help the Selection Committee understand the team structure, provide an organizational chart that shows each of the key team members.
- Full resumes may be added in an appendix and will not be counted as part of the page limit.
- Upon selection, key project staff cannot be changed without written approval of the City.

### **3. Project Understanding and Scope of Work**

This section of the Proposal should demonstrate Proposer's understanding of the intent and requirements of the Project and general Scope of Work. This section should include an explanation of any recommended modifications of the work items and Scope of Work presented in this RFP to best achieve the Project goals. Also provide suggestions of services that should be included for this project that have not been requested, if any.

### **4. Project Approach and Schedule**

This section should layout how Proposer intends to ensure a successful Project, including Project milestones, meetings, and deliverables. After reviewing the proposed Scope of Work included in this RFP, provide a detailed explanation of Proposer's approach to the work and the process Proposer plans to use. Each Proposer should demonstrate knowledge of the type of work requested, ability to solve the anticipated Project issues, and ability to offer innovative ideas. Proposer's ability to expeditiously complete the work should be made evident. The Proposal should include the following:

- Describe your team's unique approach to develop documents needed for a Public Works Facility.
- Describe Proposer's approach and methodology for preparing project cost estimates, including the services being solicited by this RFP, as well as the cost of future design and construction.
- Provide a detailed description of proposed services and the means and methods to be used to accomplish the tasks identified in the Scope of Work section. This work plan will detail team assignments, narratives of work approach and work force, and schedule of activities, with time allocations.
- Present a Project schedule. Identify and describe the deliverables that will result from each task and activity.
- If applicable, state the reasons why Phase 1 may take longer than six months to complete.
- Explain the end products/deliverables and what they will look like.
- Describe Proposer's quality assurance and quality control procedures to be implemented on this Project.
- Provide a detailed description of the team's approach to overall project management, allocation of resources, and integration of all activities required by the Scope of Work.
- Describe Proposer's approach and abilities to interact and engage stakeholders.
- Describe other resources your firm intends to commit to provide the required services for this Project, if any.
- Provide a list of best practices your firm utilizes when making design and

budgetary recommendations.

- Describe Proposer's approach to unanticipated issues that may arise during the Project.
- Also provide any additional information that might be beneficial to the Selection Committee.

## 5 Experience

Provide an overview of Proposer's organization size and experience; major clients; areas of expertise; unique qualifications of Proposer; and other matters that Proposer feels would assist the City in the evaluation process.

- Identify at least three (3) successful comparable projects completed by project team members within the last five years.
- The following information is required for each such project: client name, description of project, services provided, and when the project was completed, along with a reference from each of those comparable projects. Also briefly explain the relevance, lessons learned, or key tasks that apply to your Proposal for this Project.
- Providing links to completed and adopted work samples is welcome.

## 6. Acknowledgement of Personal Services Agreement

Attachment A to this RFP is the Professional Services Agreement (PSA) the City intends to use for this Project. The PSA identifies the standard contract terms, minimum types and amounts of insurance that the successful Proposer is required to carry, and other City contracting requirements. You must identify any objections or questions concerning the form and content of the PSA in your Proposal. Any objection or proposed modification to contract language must be taken as a part of the submitted Proposal or the change will not be considered during negotiations. Making such an objection will put the term on the table for discussion purposes, but the City reserves the right to reject any proposal based on a requirement to change any contract terms.

## XI. Evaluation Scoring

Each Proposal received in response to this RFP will be evaluated based on:

CRITERIA	MAXIMUM SCORE
1. <b>Requirements:</b> Proposal adheres to submittal parameters - cover letter, acknowledgement of Personal Services Agreement, and within page limit.	Pass/Fail
2. <b>Qualifications of Personnel:</b> Capabilities of the Proposer's team to meet the Scope of Work. Prior project related experiences, educational, and professional record, work products, and training of the proposed team members.	25
3. <b>Project Understanding:</b> Overall clarity and thoroughness of Proposal reflecting a clear understanding of Project goals, requirements, and Scope of Work.	10
4. <b>Approach:</b> Quality, detail, and creativity of Proposal in addressing tasks identified in the Scope of Work for completing a successful Public Works Facility. Commitment to timely Project schedule.	30
5. <b>Experience:</b> Proposer team's experience designing and implementing Public Works Facility or similar projects. Experience including master plans, conceptual and preliminary design, project phasing, cost estimating, and other required documents.	25

6. <b>Performance:</b> Proposal team has a proven record of accomplishment of clear communication, teamwork, and effective project management of a multidisciplinary project team, as reflected by past projects and references.	10
<b>TOTAL</b>	100

In addition to the above weighted scoring criteria, feedback from provided references will also be considered and may be determinative in the selection process.

### **Written Evaluation**

Based on their evaluation, each member of the Selection Committee will score each Proposal according to the following scoring criteria. Each member will rank, in descending order, each Proposal by total score.

### **Interview Evaluation**

If determined to be necessary or desirable by the City, finalists from the written evaluation may be invited to participate in an additional interview evaluation process. The number of finalists will be determined by the Selection Committee. The interview evaluation process will provide an opportunity for Proposers to make a presentation to clarify their Proposal and for the Selection Committee to ask additional questions related to the Proposal and Scope of Work. The City will notify finalists of the interview evaluation time and location and allow for a reasonable period of time for finalists to prepare presentations.

After the interviews, each member of the Selection Committee will re-evaluate and re-score each finalist interviewed according to the Evaluation Criteria. Each member will rank, in descending order, each interview by total score.

### **Successful Proposer Determination**

The Proposer with the highest overall ranking, as determined by the Selection Committee, shall be identified as the Successful Proposer. Depending on the number of Proposers and the point spread among Proposals, the Selection Committee may determine that an interview evaluation is needed to determine the Successful Proposer. Those Proposers selected for interviews will be based on the Proposals with the highest overall ranking.

If interviews are conducted, the Successful Proposer will be determined based on the adjusted post- interview score and ranking in accordance with the Evaluation Criteria. The Proposer with the highest overall adjusted ranking, as determined by the Selection Committee, shall be identified as the Successful Proposer.

The City reserves the right to perform additional investigations of any Proposer, including communication with licensing authorities, former clients and references, and other means as the City deems appropriate, and may reject any Proposal upon finding a record of Proposer's substandard workmanship.

The Selection Committee shall determine the final ranking of Proposers, and the Committee's decision is final. Upon determination of the Successful Proposer and performance of additional investigations, the City will issue a Notice of Intent to Award letter notifying all Proposers of the City's selection of a Successful Proposer and protest procedures.

The City reserves the right to negotiate a final contract that is in the best interest of the City. With regards to the Contract, the City will only negotiate those provisions that were noted as Exceptions in the Proposal. The City will attempt to reach a final agreement with the Successful Proposer. The City may, in its sole discretion, terminate negotiations and reject the Proposal in the event agreement cannot be reached. The City may then attempt to reach final agreement with the next highest 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 begin the RFP process over.

### **Award Protest**

A Proposer believing to have been adversely affected or aggrieved by the selection of the Successful Proposer may submit a protest to the City in accordance with OAR 137-048-0240. The protest must be in writing and submitted to:

City of Sherwood Attn: Craig Sheldon  
15527 SW Willamette Street  
Sherwood, OR 97140

**OR**

[SheldonC@SherwoodOregon.gov](mailto:SheldonC@SherwoodOregon.gov)

Award protests shall include “Award Protest –Public Works Facility Project” in the subject line or written on the front of the envelope. The written protest must be received by the City no later than seven (7) calendar days after the date the Notice of Intent to Award letter was issued. The protest should demonstrate that all higher ranked Proposers failed to meet the requirements of the RFP or are not qualified to perform the services described in the RFP. Protests received after the deadline will not be considered.

No contract associated with the RFP will be awarded until any protests have been resolved. The City will evaluate and resolve all award protests submitted before the deadline within a reasonable time following receipt of the protest. The City will promptly issue a written decision on the protest to the Proposer who submitted the protest. If the City’s written decision on the protest results in a change to the RFP, the City shall cancel the Notice of Intent to Award, revise the RFP documents accordingly, and solicit for new Proposals. The City’s decision regarding the protest is final and concludes the administrative appeals process.

## **XII. Schedule**

The following is the anticipated timeline for receiving and evaluating Proposals and awarding a contract to the most qualified firm or individual. *These dates are estimates and are subject to change.*

Advertise Request for Proposals	September 10, 2021 and September 13, 2021
RFP Question Submission Deadline	September 20, 2021, 5:00 p.m
Answers Posted	September 22, 2021
Proposals Due	September 29, 2021, 4:00 p.m.
Interviews <i>(if needed)</i>	TBD
Evaluation of Proposals Complete	October 13, 2021 <i>(or no later than one week after interviews are</i>

Notice of Intent to Award  
Award Protest Deadline  
Notice of Award/Finalize Contract

*completed, if necessary)*  
October 27, 2021  
November 4, 2021, 5:00 p.m.  
November 17, 2021

### XIII. Pre-Proposal Meeting

There will be no pre-submittal meeting or site visit scheduled for this RFP.

### XIV. RFP Questions

During this process, Proposers are encouraged to ask as many questions as needed to prepare a viable Proposal.

Proposers shall direct all questions regarding RFP documents in writing or by email to:

City of Sherwood Attn: Craig Sheldon  
15527 SW Willamette Street  
Sherwood, OR 97140

OR

[SheldonC@SherwoodOregon.gov](mailto:SheldonC@SherwoodOregon.gov)

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

All questions shall include "RFP Questions – Public Works Facility Project" in the subject line or written on the front of the envelope and be submitted in writing by **5:00 p.m. local time on Monday, September 20, 2021**. Questions submitted after 5:00 p.m. local time on will not be addressed.

Questions and answers will be provided by email to all firms on the Intent to Submit list. Additionally, responses will be posted on the City's website by **Wednesday September 22, 2021** to share clarifying information with all potential Proposers.

Proposers are hereby notified that verbal communication may not be relied upon as official communication concerning this RFP. Only answers to those questions responded to by the Project Manager via email or by written addendum may be relied upon.

### XV. General RFP Information

#### **Contract Award**

The City reserves the right to cancel the procurement or reject any or all Proposals when the cancellation or rejection is in the best interest of the City.

The City may elect to award the Contract to the highest ranked Proposer based on successful negotiation of scope, price, and terms. However, the City may, in its sole discretion, terminate negotiations and reject the Proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the next highest scoring Proposer and may continue on, in the same manner, with remaining Proposers until an agreement is reached.



The City will only negotiate those provisions of the Contract that were noted as Exceptions in the Proposal.

### **Changes to the RFP Solicitation by Addenda**

At any time before the Proposal Due Date, the City may issue addenda to the Request for Qualifications, which will be published on the City website. The Addenda will be issued at least three (3) calendar days before the Proposal Due Date or the deadline will be extended to allow the three-day period to elapse. All who notify the City of their intent to propose will be notified of official written addenda. The Project Manager shall issue all official communication as written addenda to the RFP.

All addenda shall have the same binding effect as though contained in the main body of the RFP and Scope of Work.

No addenda will be issued later than **September 22, 2021**, except by an addendum, if necessary, postponing the date for receipt of Proposals or withdrawing the RFP altogether.

Each Proposer is responsible for obtaining all addenda prior to submitting a Proposal, and shall acknowledge in the Proposal receipt of each addendum as part of the Proposal. Failure to acknowledge receipt of all addenda as part of the Proposal may result in rejection of the Proposal.

### **Confidentiality**

All information submitted by Proposers shall become and remain the property of the City and, as such, is considered public information and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which the Proposer requests exception from disclosure as being proprietary information exempt from disclosure, consistent with Oregon law. If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), each sheet of such information must be marked with the following legend:

*"This data constitutes a trade secret and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."*

Identifying the Proposal in whole as a trade secret is not acceptable. Failure to identify a portion of the Proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret. Nondisclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Oregon Public Records Law.

The City 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 after the Notice of Intent to Award has been released.

The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted. If a public record request is made for material marked as proprietary, the City will attempt to notify the impacted Proposer prior to the deadline for release of the material but will not defend against any legal challenge for release. Therefore, claims arising out of any public record request for such information shall be at the

Proposer's sole expense, if the Proposer wishes to deny or withhold the information.

### **Cancellation**

The City reserves the right to cancel this RFP or the contract award at any time before execution of the contract by both parties, if cancellation is deemed to be in the best interest of the City. In no event shall the City have any liability for the cancellation of a contract award.

### **Late Proposals**

All Proposals that are not received by the Proposal Due Date and Time will not be considered and will be returned unopened to the Proposer. Electronically mailed or faxed Proposals will not be accepted. Delays due to mail and/or delivery handling, including but not limited to delays within the City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the Proposal Due Date.

### **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.

### **Proposer Certifications**

By the act of submitting a Proposal in response to this RFP, the Proposer certifies that:

1. Proposer has carefully examined all RFP documents, including the draft Contract (attached as **Attachment A**), all addenda, and all other attachments, fully understands the RFP intent, is able to perform all tasks as described in the Scope of Work of this RFP, and the Proposal is made in accordance therewith. Except as otherwise noted as part of the Proposal, Proposer certifies that Proposer is ready, willing, and able to comply with all terms of the attached Contract.
2. 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 response.
4. Proposer accepts all of the terms of the City's Contract and warrants that Proposer will fully meet all of the insurance requirements contained therein. **If Proposer wishes to amend or modify any terms of the Contract, such amendment or modification must be stated in particularity in the Proposal. Proposed changes to the draft Contract not stated at the time of Proposal submission will not be considered.** Changes stated will be considered but may not be agreed upon by the City for contract award. If the City does not agree with such noted changes, Proposer may withdraw the proposed change or the entire Proposal and the City may elect to award to the next highest ranked Proposer.
5. Proposer certifies, and in the case of sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of Proposer's knowledge and belief, 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 Proposer's response to this solicitation.

6. Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and if its Proposal is accepted, the Proposer shall accept the contract documents thereto, unless substantive changes are made in same without the approval of the Proposer.
7. 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. Proposer has quality experience providing the types of services and duties as described within the Scope of Work of this RFP.
9. Proposer shall also certify Proposer's state of residence.

### **Nondiscrimination**

By the act of submitting a Proposal in response to this RFP, the Proposer certifies, under penalty of perjury, that ***the Proposer has not discriminated and will not discriminate against minorities, women, emerging small business enterprises, or a business enterprise that is owned or controlled by or that employs a disabled veteran, in obtaining any required subcontracts.***

### **Competition**

Prospective Proposers are encouraged to comment, either with their Proposals or at any other time, in writing, on any specification or requirement within this RFP which the Proposer believes will inordinately limit competition.

### **RFP Protests and Change Requests**

A prospective Proposer may protest anything contained in the RFP documents and request a supporting change to any provision, specification, or contract term contained in the RFP documents by submitting a written request to:

City of Sherwood  
Attn: Craig Sheldon, Public Works  
Director 15527 SW Willamette Street  
Sherwood, OR 97140

OR

[SheldonC@SherwoodOregon.gov](mailto:SheldonC@SherwoodOregon.gov)

All change requests shall include "RFP Protest — Public Works Facility Project" in the subject line or written on the front of the envelope and be submitted, in writing, by **5:00 p.m. local time on Thursday, November 4, 2021**. Each protest and request for change must specify the provisions, specifications, or contract terms of the RFP in question and contain reasons for the requested change and any proposed changes.

The City will evaluate and resolve all protests and related change requests submitted before the listed time and date due within a reasonable time following receipt of the protest. The City will issue a written decision on the protest to the Proposer who submitted the protest. Changes that are accepted by the City shall be issued in the form of

an addendum to the RFP.

### **Proposal Liability**

Proposers responding to this RFP do so solely at their expense, and the City is not responsible for any Proposer expenses associated with the RFP. By proposing, Proposers agree that doing so is at their own risk and the City shall have no liability related thereto. 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 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 option, investigations of any Proposer. Information may include, but shall not necessarily be limited to, current litigation and contracting references. All such documents, if requested by the City, become part of the public record and may be disclosed accordingly.

The City reserves the right to request revisions of any Proposal after the date and time due and before award for the purpose of obtaining best and final offers.

### **Rejection of Proposals**

The City reserves the right to reject any or all irregularities or omissions in Proposals submitted in response to this RFP to the extent it is determined to be in the best interest of the City to do so. Furthermore, the City reserves the right to reject any or all Proposals or portions thereof submitted in response to this RFP. Proposals may be rejected for one or more of the following 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.

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

**Modification or Withdrawal of Proposal by Proposer**

A Proposal may not be modified, withdrawn, or canceled by the Proposer following the time and date the Proposals are due. Proposals submitted early may be modified or withdrawn only by notice to the City, at the Proposal submittal location, prior to the time and date the Proposals are due. Such notice shall be submitted to the Project Manager, in writing, executed and signed by a duly authorized representative of the firm/individual submitting the Proposal. All such communication shall be so worded as not to reveal the contents of the original Proposal.

Withdrawn Proposals may be resubmitted prior to the time and date the Proposals are due, provided that they are then fully in conformance with the RFP.

**Duration of Proposal**

Proposal prices, terms, and conditions shall be firm for a period of ninety (90) days from the time and date Proposal due date. During this 90 day period, proposals shall not be subject to future price escalation or changes in terms.

**Local and Federal Requirements**

The City of Sherwood intends to select a consultant in accordance with OAR 137-048-0220 and the City's municipal code. Selection of a consultant 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 consultant 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 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

The selected consultant is 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, sexual orientation, gender identity, age, marital status, disability, or political affiliation.



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**  
[hereafter called City]

and

[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:**

**ADDRESS:**

**VOICE:**

**CONTACT:**

**LIC #:**

**FAX:**

**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**  
*Approved as to Form:*

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]**