REQUEST FOR PROPOSALS

CONSTRUCTION MANAGEMENT SERVICES

FOR

WORK ORDER 183

BOONES FERRY ROAD IMPROVEMENTS PROJECT

PHASE 1

Date Due: June 26, 2017
Time Due: 4:00 pm, local time
Issuing Office: City of Lake Oswego
Address: 380 ‘A’ Avenue
Lake Oswego, OR 97034
Request for Proposals
For
Construction Management Services
For
Work Order 183
Boones Ferry Road Improvements Project – Phase 1

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Solicitation of Services: Construction Management Services.

The full Request for Proposals (RFP) may be downloaded from the City’s website at [http://www.ci.oswego.or.us/engineer/bid.htm](http://www.ci.oswego.or.us/engineer/bid.htm). Consultants choosing to download the full RFP directly from the City’s website must register their firm name and other contact information with the City, and add its individual name or company to the RFP Holder’s List in order to be assured of receiving Addenda or clarifications to this RFP. If you have website questions regarding this RFP please call 503.635.0266.

Purpose of Solicitation

The City of Lake Oswego, Oregon (“City”) desires to contract with a qualified firm to provide Construction Management Services related to a planned rehabilitation and enhancement of Boones Ferry Road within the Lake Grove area and situated between Madrona St. and Lanewood St. in the City of Lake Oswego, Oregon.

Utilization of Unique Business Enterprises

Professional service contracts specific to City sponsored construction, reconstruction or remodeling projects are not subject to Minority, Women, Disadvantaged or Small business enterprise requirements.

General information

This solicitation is issued by Joel Komarek, P.E., on behalf of Erica Rooney, P.E., City Engineer. The City Engineer reserves the right to terminate, suspend or modify this selection process at any time; reject any or all submittals at any time; and waive any informalities, irregularities, or omissions in submittals at any time.
Section 1 – Introduction

A. Boones Ferry Road - Project Background:

In 2008, after many years of work by community stakeholders, the Lake Grove Village Center Plan was adopted by the City Council and incorporated into Comprehensive Plan (Vol. III). The Plan defines and outlines implementation measures to achieve the community’s vision for a welcoming, comfortable community nucleus. The transformation of Boones Ferry Road to address infrastructure and amenity deficiencies is a key element of the Plan.

The general objectives of the Boones Ferry Road Improvements Project (hereinafter “Project”) are to improve pedestrian, bicycle and vehicular safety and access on Boones Ferry Road from just south of Madrona Street to just north of the Lanewood Street intersection; provide for proper drainage and improvements to storm water quality; make aesthetic improvements to enhance the business corridor including landscaped medians and planter strips, underground utilities, and all new signs, traffic signals, sidewalks and other infrastructure. For current project related information and to access the project library, click on the following link to be directed to the project website:

http://www.ci.oswego.or.us/bfp/

PRELIMINARY SCHEDULE FOR PHASE 1

Project Refinement/Engineering 2015-2016
Final Design 2016-2017
Construction 2018-2020

B. Project Delivery Approach:

The City of Lake Oswego is committed to delivering the Project in a highly efficient and effective manner no later than March 30, 2020. The City will commit certain internal resources to facilitate delivery of the Project (See Section 2.D). In some circumstances such resources will augment and support the services provided by the Construction Manager (CM), while in other circumstances the CM will support the activities of the City’s project team. The City’s Project Team will be comprised of a Project Manager, Deputy Project Manager, Project Design Engineer (supplied by project design firm), City Attorney, Associate Planner, Citizens Information Coordinator and Administrative Support, and such other persons as may later be designated by the City Engineer.
Throughout the Project, key stakeholders will be identified and included as appropriate in decisions that affect them. Specific communications plans will be developed as appropriate for each stakeholder reflecting their unique need for content and frequency of information. The CM will use all currently available means, methods and technology as appropriate for the City and/or target audience to track and deliver information to all interested parties.

The selected CM will develop and implement a Construction Management Plan (CMP) generally organized around the following six functional areas:

1. **Project Organization** – The aspect of a CMP that creates both the structure and practices to guide execution of the Plan and provide senior-level leadership, oversight, and control. Strategically, it acknowledges the critical relationship needed between the construction oversight effort and the overall vision and objectives of the City and stakeholders. It also encompasses all decision-making roles and responsibilities involved in executing the CMP.

2. **Project Quality Assurance** – The CM will be accountable to the City for project construction oversight and documentation of adherence to or authorized deviation from construction contract requirements for the Project. The CM will provide leadership and resources to facilitate the work of the City’s project management team. The CM will be responsible to review construction contract documents for general conformance with Project objectives including cost, schedule, quality, and to confirm compliance with other applicable specifications, codes and standards. The CM will function as a liaison for transfer of information between the City’s project management team, and stakeholders and will conduct periodic briefings/status updates.

3. **Project Financial Management** – The CM will assume responsibilities associated with identifying, recording and reporting Project expenditures. These may include the conduct of a review of financial management apparatus and systems of the City to identify Project specific needs and requirements. To the extent necessary, the CM may identify the need to tailor and recommend adoption of fiscal policies, create new cost centers and/or charts of accounts and recommend new or modified financial procedures and decision authority unique to the Project. The CM will be expected to be actively engaged with the City’s Project Manager and financial staff to ensure timely and accurate reporting of Project costs.

4. **Project Infrastructure** – This is the collection of tools, physical space, technology and practices the Construction Manager may identify, acquire, and utilize to ensure Project information is shared efficiently. Project Infrastructure includes, but is not limited to, Project hardware and software, networking and communications protocols, shared platforms, modeling software, planning tools, communications tools (email, internet browser, virtual meeting/collaboration...
programs, telecommunication programs) and software for Project documentation, retention and reproduction.

5. Project Planning – This is the process used by the CM to develop the CMP that estimates and allocates resources required to effectively administer the construction contract. An objective of project planning is to produce a concise, usable view of all required work, timeframes, and desired results so the City’s Project Manager can verify that the Project is moving in the right direction to meet the City’s project goals, identify where unplanned changes are occurring, assess their impact and determine the impact of possible adjustments and corrections to the CMP.

6. Project Change and Claims Management – This is the process used to identify, analyze and prioritize project risks based on probability of occurrence and consequence of the event. The CM firm will employ its best effort to proactively identify project related risks, assess the likelihood of occurrence, evaluate potential outcomes from the occurrence and assist the City in developing mitigation strategies for such risks. The Project Design Engineer and City project team will actively participate in the development of a Project Risk Register (PRR) prior to bidding. The CM and City will jointly assume responsibility for periodically reviewing the PRR and updating it as appropriate.

Section 2 – Scope of Work

A. General Requirements:

The selected CM, unless otherwise instructed by the City and pursuant to contract amendment, acting as the City’s representative, will provide construction management services specific to the Project as described below. These services will be provided in accordance with the approved scope of work and the terms and conditions of a personal services contract executed between the City and the Firm. Unless terminated for cause or convenience, the CM will provide all contract services without cessation for the duration of the Project and any extensions thereof and will at all times provide such services using best practices of the profession consistent with a standard of care exercised by firms providing similar services within the Portland Metropolitan region.

B. Construction Management Services

Task 1 – Pre-Construction Phase

Objective: Provide construction management input during project final design and permitting in preparation for subsequent construction.

Activities: Prior to commencement of bidding for construction, the Construction Manager and members of the CM team will assist the Project Manager with the following activities:
• Development of the master project schedule, Project Management Plan (PMP), and an opinion of probable construction cost (OPCC) based on bid-ready documents.

• Identification, analysis and development of construction staging, phasing and execution alternatives for review and approval by the City’s Project Team. The selected CM firm will provide the services of an experienced consulting construction contractor to facilitate development and analysis of construction staging alternatives and to support the City’s Project Team as it establishes overall Project construction constraints for incorporation into the construction bidding documents.

• Development of project construction administration standards.

• Preparation of a Project Procedures Manual (PPM) for bid and construction phase administration, including the following:
  o Project organization.
  o Contract administrative procedures.
  o Construction management procedures.
  o Project closeout.
  o Master list of files.
  o Management information system logs.
  o Construction management forms.
  o Project communication directory.

• Input to qualifications based solicitations and evaluations relative to selecting a construction contractor.

• Development of applications for prequalification of construction contractors.

• Review of 95% and final bid documents prepared by Project Design Engineer for bid-ability, constructability, incorporation of interface provisions with other bid packages, adherence to project schedule, and incorporation of project standards.

• Development of CM staffing plan.

**Deliverables:**

• Input to Project schedule, PMP, and cost estimates will be reflected in those documents.

• Input to Project and construction administration standards will be shown in those documents.

• Project construction staging and sequencing plan alternatives analysis.

• Technical specification section(s) for incorporation into the construction bidding documents.
• PPM for the Project construction phase.
• Solicitation for testing laboratory services.
• Project-level CM staffing plan.
• Application forms for prequalification of construction contractors.
• Review comments on interim submittals prepared by the Project Design Engineer.

Task 2 - Construction Phase

Objective: CM services provide coordination during bidding, construction and commissioning of the Project; confirm that the specified quality of construction is satisfied; lead resolution of scope, cost, and schedule issues encountered during construction and startup phases; and attend to the efficient and timely close-out of the construction contracts.

Activities: CM activities include construction contractor engagement activities (bidding) and subsequent administration of the construction contract employed for Project delivery and closeout as further defined in the task descriptions below.

Assumptions:
• The Project identified in this RFP is to be designed, let and constructed as a single project employing the traditional Design/Bid/Build approach to project delivery.
• All necessary CM personnel will be provided by the selected construction management firm. This includes the Construction Manager, project inspectors, scheduling and cost estimating experts, and construction office support personnel (administration and project controls assistants). Project CM staff will include Lake Oswego engineering staff to augment the CM.
• Testing Laboratory Services: Certified testing laboratory will be contracted with the City based on a solicitation prepared by the City and Construction Manager and associated services will be managed by the CM team. Costs are to be paid by the City per approval of invoices by the CM team.
• CM Field Offices and Facilities: CM field offices and support facilities will be provided under individual construction contracts (provisions to be specified in construction contract bid documents) with associated costs included in individual construction contracts, as determined appropriate during design.
• Communication and Office Systems: Computers, servers, networks, connections and associated communication hardware and software, and office system equipment (copiers, plotters, scanners, printers, other as needed to support CM activities) will be provided by the selected CM under supplier/installer/maintenance services (lease and/or purchase) subcontracts as approved by the City.
• Web-based document management system: Document sharing among the CM, construction contractor, City and Project Design Engineer during construction will be
web-based and utilize construction management software configured for the Project. The system will provide for directing, routing and tracking of correspondence, submittals, Request for Clarification/Change (RFCs), progress payments and changes via data bases established for the Project.

- The City will provide and insure one vehicle for use by CM staff. Additional vehicles, if needed by the CM team, will be provided by the CM firm.

**Task 2.1. Bid Phase Services**

**Objective:** Engage construction contractors through the competitive bid process.

**Activities:**

- Receive final bid documents from Project Design Engineer (hard copies and electronic copy).
- Prepare pre-bid conference agenda and sign-in sheet.
- Conduct pre-bid conference with assistance from Project Design Engineer and City Project Manager.
- Serve as the single point of contact for questions from prospective bidders, construction subcontractors, and suppliers.
- Receive questions from prospective bidders, construction subcontractors, and suppliers during the bid period and maintain files of all inquiries received.
- Determine responses to questions via input from Project Design Engineer, and City Project Manager.
- Prepare addenda based on input from Project Design Engineer and other project resources.
- Support issuance by City of addenda to all plan holders.
- Conduct bid opening and receipt of construction subcontractor disclosure forms.
- Review bids for responsiveness.
- Make recommendation of award.
- Prepare bid tabulations.
- Assist City in obtaining approval of award and issuance of intent to award to selected construction contractor.
- Assist City with review of executed contract documents and requisite attachments.
- Provide support to City and Project Design Engineer to produce conformed plans and specifications for distribution to the construction contractor.
Pre-Bid Conference: The CM will conduct a pre-bid conference to inform bidders and prepare them to submit responsive bids. The CM will make presentations about project issues including the following:

- Scope.
- Project location.
- Environmental concerns.
- Traffic plan and earthwork management plan requirements.
- Inspection and testing to be carried out during construction.
- Schedule requirements.
- Administrative procedures.
- Other special conditions affecting the construction contractor’s work.

Deliverables:

- Conference attendance list.
- Pre-bid conference agendas, sign-in sheets, information hand-outs.
- Pre-bid conference notes.
- Bid document addenda.

Assumptions:

- Project Design Engineer scope of work to include printing of requisite number of sets of bid documents and services to complement the above-described bid phase activities.
- City to approve addenda prior to electronic distribution.
- Project Design Engineer scope to include preparation of Conformed construction documents and delivery of hard copy sets to CM and City project team and construction contractor.

Task 2.2. Pre-construction Conference and Project Meetings

Objective: Initial and ongoing coordination and documentation of construction contractor planning and construction activities with project parties over the construction contract duration.

Activities: The CM team will conduct meetings, and author and issue the meeting minutes to all parties. The CM team will also expedite the required action on outstanding issues by respective parties. All topic items will be assigned to specific parties for action.
• **Pre-construction Conference**: Coordinate date, location, and period of pre-construction conference with internal and external stakeholders. Prepare agenda, sign-in sheet, and other materials regarding project standards and communications protocols. Prepare and distribute notes/attachments to construction contractor and Project Design Engineer.

• **Weekly or Bi-weekly Construction Coordination Meetings**: Meetings will be chaired by the CM and be attended by the construction contractor and City project team. When appropriate, attendees may also include the Project Design Engineer and other project stakeholders. Meeting days and start times will be set and maintained for the contract duration. Copies of pertinent communication logs (shop drawings, RFCs) will be prepared and distributed at meetings to verify status, priorities, and action assignments. Particular emphasis will be placed on reviewing the construction contractor’s 2-to-4-week look ahead schedules as they pertain to coordination with the City project team members, private utilities and business owners.

• **Topic Specific Meetings**: Such meetings will be held as necessary to assemble appropriate project and construction contractor personnel to coordinate project matters.

**Deliverables:**
- Prepare agenda, sign-in sheet, and project tracking documents.
- Prepare/distribute meeting notes to City project team, construction contractor, Project Design Engineer and others as necessary.

**Assumptions:**
- Project Design Engineer scope of work to accommodate participation in meetings.

**Task 2.3. Document Management System**

**Objective**: Establish and maintain administrative protocol for use by CM, City Project team, Project Design Engineer and construction contractor during the construction contract period.

**Activities:**
- **Web-based Document Management System (DMS)**: Furnish and deploy a web-based DMS for use by the City’s project team, CM team and construction contractor within 30-days after approval of the proposed DMS by the City.
- **DMS Training and Support**: Host a DMS training session for the City’s project team and construction contractor prior to start of construction. Provide additional training as may be needed to accommodate new project personnel and effectiveness by all users.
• **Construction Contractor Submittals:** Administrative and technical submittals will receive a unique identifier and will be tracked as to progress and ultimate approval disposition. The system will include the submittal information and track its progress from construction contractor initiation to the CM, CM to Project Design Engineer, Project Design Engineer to CM and CM back to construction contractor. Status of each submittal will be registered. Each submittal will be entered and tracked with logs printed and distributed at coordination meetings.

• **RFCs:** RFCs will receive a unique identifier and be tracked as to progress and ultimate clarification rendered.

• **Daily and Periodic Records:** Daily construction reports generated by the CM team and construction contractor and other periodic progress reports will be maintained in the system.

• **Other Administrative Communications:** The web-based system will be used to track and maintain status of other pertinent construction contract related communications including correspondence logs, submittal logs, construction contractor request logs, work directive logs, notice of change/claim logs, change order logs, equipment delivery/equipment testing logs, and other communications pertinent to the orderly startup and commissioning of project elements and close-out of the construction contract.

**Deliverables:**

• Provide archive database files at any point during construction and upon construction project close-out to City.

**Assumptions:**

• Program standards for use of web-based DMS during the construction phase will be included in the construction contract.

• Assume up to 40-hours of DMS training and support throughout the duration of the construction project.

**Task 2.4. Schedule Review/Monitoring and Progress Payments**

**Objectives:**

• Initial construction contractor baseline schedule submittal reflects project specific milestones, sequence, and scheduling constraints; indicates a clear critical path; includes sufficient activities for work planning and cost loading purposes; and contains sufficient detail to estimate CM, Project Design Engineer and City project team activities during construction, start-up, and construction contract close-out.

• Appropriate cost values are placed on administrative and work activities through development of a detailed schedule of values (SOV) and loading into the schedule for progress payment purposes.
• Monthly progress payments and periodic construction contractor schedule updates reflect actual work accomplished for progress pay estimate purposes and any critical path changes are justified.

Activities:

• **Schedule Acceptance and Monitoring:** Assemble construction contractor schedule review team consisting of CM, project schedule specialist (CM firm supplied) and the City’s Project Manager. Conduct a detailed review of construction contractor’s initial baseline schedule and prepare schedule comments and observations in a summary memorandum to construction contractor. Meet with construction contractor to discuss schedule comments and observations and reach consensus regarding action items and modifications to be incorporated into the baseline schedule prior to acceptance. Prepare a consensus memorandum of action items and required modifications. With respect to periodic construction contractor schedule updates, review construction contractor schedule updates for changes to milestone dates and critical path activities and prepare a review comment and observation memorandum to be directed to the construction contractor for response justification. Meet with construction contractor regarding schedule update comments and observations. Prepare a consensus memorandum of action items and required modifications.

• **Progress Payments to Construction Contractor:** Monthly progress payments to the construction contractor will be based on actual progress and progress payment amount based on actual progress as determined by review of schedule activities by the resident project representatives, CM, and the construction contractor. Progress payment submittals will include the construction contractor’s schedule updated to reflect actual progress, and the monthly progress payment invoice calculated therefrom. Construction contractor progress payment applications will be accompanied by monthly project status reports prepared by the construction contractor summarizing project status and corrective actions in the event that progress lags behind planned progress. The provisions will be incorporated into project standards incorporated into the Project bid documents.

Deliverables:

• Initial schedule review comments and observation memorandum to construction contractor.

• Initial schedule consensus memorandum summarizing action items and modifications required for approval of construction contractor’s base-line schedule.

• Periodic schedule update review comments and observation memorandum to construction contractor.

• Periodic schedule review consensus memorandums of action items and required modifications.
• CM approvals of acceptable construction contractor monthly progress payment requests and accompanying construction contractor monthly schedule progress update and report.

Assumptions:
• Initial schedule review processes as described above.
• Quarterly update reviews over the duration of the Project.
• Administration of construction contractor monthly progress payment applications.

Task 2.5. CM Documentation and Reporting

Objective: Maintain daily documentation of construction activities for project reporting and change management control.

Activities:
• Supervise CM staff assigned to the Project.
• Supervise and direct specialty subcontractors in the conduct of schedule, cost, quality control and change management activities.
• Oversee CM team activities for resolution of issues that arise during the project construction phase.
• Provide monthly status summary for the Project regarding budget, schedule and quality, and issues requiring resolution.
• Prepare daily reports of construction activities, scheduled work accomplished, scheduled work not accomplished, on-site construction contractor and subcontractor workforce, on-site equipment (used or idle), materials and equipment deliveries, materials stored, weather conditions and other conditions that support or impede construction contractor work activities. Photographic records of work activities and issues encountered will be taken to document work progress and issues encountered.
• Prepare monthly summary reports of project status including: schedule status (ahead by, on, behind by), work progress summary for the period, status of major issues encountered or resolved during the period, representative work progress photographs, contract value earned, change order summary. This construction project information will be rolled into the overall program monthly status report.

Deliverables: Daily construction reports, photographic records, monthly summary reports.

Assumptions: Web-based electronic files available at any point during the construction period and as electronically archived at project close out. Daily and monthly reports will also be maintained in hard copies in field office files. Photographic records to be maintained in project specific and dated electronic files.
Task 2.6. Change and Claims Management

Objective: Manage changes to construction contract scopes such that changes are incorporated into the overall program in a timely (least-impact) fashion and agreements are reached between construction contractor and City regarding costs and time attributable to changes.

Activities:

- **Potential Change Order (PCO) Tracking:** Monitor project events and correspondence from construction contractor to identify PCOs. Changes may be initiated by various project participants including Project Manager, Project Design Engineer, construction contractor, the CM and potentially other parties. At such time as a potential change comes to the attention of the CM, the CM will open a PCO file to accumulate pertinent information. Opening of a PCO file does not mean that a PCO issue will become a change order. Instead, doing so is considered a preliminary location to file information pertaining to a potential change issue that could later become a contract change. A PCO/CO log will be maintained to track potential changes to finalize “no-change” or “change” cost and schedule determinations. The PCO/CO log is for distribution to the construction contractor, Project Design Engineer, and City Project Manager.

- **Change Order (CO) Initiation:** Necessary changes will be initiated through preparation of clearly defined scopes incorporated into formal requests for proposal from the construction contractor. Change order documents and opinions of probable cost and time implications will be prepared by the CM.

- **CO Administration:** Initiated COs will be issued to the construction contractor for its proposal identifying added or reduced contract cost and added or reduced contract time. The CM will open a CO file and maintain a CO log for each initiated change order to track its progress and final disposition. Construction contractor proposals will be reviewed by the resident project representative and CM to determine reasonableness of proposed cost and time adjustments with particular emphasis on impacts to critical path schedule activities. All related correspondence will be through the RPR. Such CO proposals may be deemed acceptable, negotiated to become acceptable, agreed to be accomplished on a force accounting basis, or be withdrawn. Change order and force account provisions specified in the construction contract General Conditions and Special Provisions will be utilized. Change orders will be approved by the City prior to issuing notice to proceed to the construction contractor.

- **Claims Management:** Receive all Initial Notices of Claims by construction contractors against the City. Evaluate contents of claims, obtain the factual information concerning the claims, review the impact of the alleged cause, and make recommendations in conjunction with the Project Manager and Project Design Engineer as to what the City position with the construction contractor should be.
Continue to assist the City in evaluating, negotiating, and otherwise bringing to conclusion all claims.

**Deliverables:** PCO and CO logs updated through close-out of the construction contract. PCO and CO logs will be available electronically at any point during construction and electronically archived at construction contract close-out.

**Task 2.7. Quality Assurance**

**Objective:** Confirm that construction contractor obligations regarding work quality are achieved.

**Activities:** The CM, in conjunction with City provided Project resources will verify construction contractor adherence to quality assurance and quality control requirements specified in the construction contract documents. The major inspection disciplines of the CM and Project resources to be employed as needs arise are as follows:

- Civil/structural/pipeline.
- Geotechnical.
- Materials testing.
- Plumbing.
- Electrical, including traffic signals
- Landscaping and irrigation.
- Construction contractor record drawing reviews.

Observed or discovered construction contractor failures to satisfy specified work quality will be documented by CM issuance of a Non-Compliance Notice (NCN) to the construction contractor at the time of observation or discovery. NCN’s will be logged and tracked through final corrections. Records of quality compliance will be maintained in the project records.

**Deliverables:** Documentation of QA verifications and resolution of non-compliance issues will be maintained in project files and available to program and other local permitting agencies at any point during construction. Records will be archived at construction contract close-out. Records are to be made available to permitting agencies.

**C. Approach to Delivery of Services:**

The responding CM firm is requested to provide a detailed and comprehensive discussion of their approach to delivery of services requested through this RFP. The discussion should demonstrate a thorough understanding of all aspects of the Project, and the CM firm’s understanding of the role of the Construction Manager in the delivery of requested services.
Include with the detailed discussion of service delivery approach, discussion of the following topics of interest to the City:

1. Your firm’s knowledge and experience providing construction management services to municipal clients. Discuss two of your most recent projects and explain why those representative projects are relevant to the delivery of construction management services for the Boones Ferry Road project;

2. The likely range of fees to provide the services requested over the duration of the Project;

3. How the firm will manage continuity of service delivery of key staff in the event of planned or unplanned absences, or any event that may result in the need to substitute, either temporarily or permanently, such key staff.

4. Your current rate schedule and labor classification for all members of the Construction Management team proposed to be actively assigned to the work. Identify and enumerate all proposed allowances for markups on reimbursable expenses and services including sub-consultants. Identify in the rate schedule a specific allowance for adjustments to labor rates and reimbursable expenses over the estimated two year duration of construction.

D. Services/Information Provided by the City:

The City of Lake Oswego will provide the following services and information to the CM to facilitate Project delivery:

1. A team of four City staff (or more, if the City Manager elects to increase the Project Team), dedicated to the project and who will provide support to and be supported by the Project Construction Manager;

2. Access to and copies of record drawings, maps and studies, analyses, reports, notes and correspondence related to the Project;

3. With support of the Project Construction Manager the City will:
   a. Provide public information and outreach services including neighborhood notifications of meetings, business outreach and coordination, construction activities, updates to elected officials, periodic newsletters and information provided to print, radio, and social media;
   b. Provide legal services as may be necessary for regulatory permitting, construction claims resolution, contracting and bond issuance;
   c. Provide the services of a professional appraiser/right of way agent to facilitate and secure property, leases and easements;
   d. Provide professional services related to construction contract bonds and insurance, property and casualty and environmental damages insurance and risk management;
e. Provide in-house professional services for periodic financial analysis at appropriate stages throughout Project implementation; and

f. Provide information on financial, data management, and communications standards, construction contract document forms and documents, public contracting standards, drafting standards and information technology standards and protocols.

Section 3 – Selection Procedures

A. General Procedures and Schedule

Firms responding to this RFP are asked to submit a written technical proposal, and should be prepared to participate in an interview process. A final scope and corresponding fee estimate will not be requested until after interviews, when a first ranked firm will be selected. The general schedule is provided below:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Anticipated Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solicit Proposals from qualified firms</td>
<td>May 24, 26, 2017</td>
</tr>
<tr>
<td>Receive proposals</td>
<td>June 26, 2017</td>
</tr>
<tr>
<td>Complete preliminary ranking of proposals</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td>Notice of preliminary ranking*</td>
<td>June 30, 2017</td>
</tr>
<tr>
<td>Interviews: (first and second ranked firms)</td>
<td>July 10, 2017</td>
</tr>
<tr>
<td>Notice of selection of highest ranked firm following interviews*</td>
<td>July 12, 2017</td>
</tr>
<tr>
<td>Contract Negotiations</td>
<td>July 24, 2017</td>
</tr>
<tr>
<td>Award contract</td>
<td>September 5, 2017</td>
</tr>
<tr>
<td>Notice to proceed</td>
<td>September 12, 2017</td>
</tr>
</tbody>
</table>

* The notice shall be final upon the later of the following:

- 10 days after the date of the notice; or
- Until the City Manager, or designee, provides a written response to all timely-filed protests that either denies or affirms the protest(s).

Request for Proposal:

The purpose of the RFP is to confirm the responding firms understanding of the Project and its components within the geographical, political, regulatory and financial context of the Project. An ability to articulate a well thought out, and thorough construction management approach and team structure to facilitate Project delivery will be important factors considered by the Source Selection Committee (SSC) as part of their evaluation.
Interviews:

Interviews are an opportunity to communicate to the SSC how your firm’s construction management philosophy and individual representatives will fit into the City’s management structure and approach and an opportunity for the City to evaluate the potential for successful integration of the individuals comprising the construction management team with the City’s project staff.

Only the first and second ranked proposers will be invited to interview with the SSC. Firms invited to interview will need to articulate how they will address the coordination of a variety of activities among designers, contractors, stakeholders and the City. Firms should be prepared to address how their approach takes into account these unique aspects of the Project. 90 minutes will be allowed for each interview.

Scope and Fee Negotiations:

After interviews the SSC will conduct a final ranking and contract negotiations will begin between the first ranked proposer and the City and will include review and refinement of a final scope of work and fee based on the terms and conditions of the Personal Services Contract used by the City. The City reserves the right to terminate or suspend negotiations with the first ranked proposer and move on in the process to the second ranked proposer.

B. Selection Criteria:

The SSC will score and rank respondents technical proposals and interviews based on their ability to articulate:

1. Why your firms’ reference projects (refer to 2.C.1 above) directly translate to provision of construction management services for the City’s Boones Ferry Road project (weight factor=4);

2. Means and methods to establish, implement and sustain the Construction Management functions and obligations identified in Section 2, above for the duration of the Project (weight factor=3);

3. Why the suggested Scope of Services described in Section 2, is or is not, appropriate and adequate to achieve the City’s objectives for the Project. The proposers response to this criterion should reflect a thorough understanding of all elements of the Project being undertaken by the City (weight factor=4);

4. Their ability to identify specific areas of concern regarding delivery of the Project and the ability to articulate specific measures to mitigate such concerns (weight factor=3); and

5. Their client services vision for the Project as articulated in the interview (weight factor=1).
C. Scoring and Ranking

Scoring of proposals will be based on ratings assigned independently by each SSC member to the above selection criteria. Each criterion above will be rated on a scale of 1 to 10 with 10 being highest. These ratings will be multiplied by the weighting factor shown and combined to determine the total score of each reviewer as shown in the following table:

<table>
<thead>
<tr>
<th>Criterion #</th>
<th>Reviewer Rating (1 to 10 maximum)</th>
<th>X Criterion Weight Factor</th>
<th>= Total Score for Selection Criterion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>5 - Interview</td>
<td>-</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Total Possible Score = 150</td>
</tr>
</tbody>
</table>

The ratings of all reviewers will be totaled to determine the ranking of each respondent. At its sole discretion, the SSC will convene as needed to collectively review, rate and, if necessary, adjust ratings as the committee as a whole deems appropriate. In the event of a numerical tie in ratings, the committee will resume its discussion of the proposals until the ratings reflect a unique combined score for each responding firm. The respondents receiving the first and second highest scores will be invited to interview with the SSC.

Section 4 – Administrative Information

A. Applicable Laws

1. Public Disclosure of Proposals

   Any information provided to the City pursuant to this RFP is subject to public disclosure pursuant to Oregon’s public records laws (ORS 192.410 to 192.505). The general requirement for public disclosure is subject to a number of exemptions. Each page containing information deemed by the proposer as necessary to remain exempt from public disclosure after proposals have been evaluated (e.g., pages containing trade secret, economic development information, etc.) should be plainly marked. Marked pages should be placed in a group separate from the remainder of the proposal. The fact that a proposer marks and segregates certain information as exempt from disclosure does not mean that the information is necessarily exempt. The City will make an independent determination regarding exemptions applicable to information that has been properly marked and segregated. Information that has not been properly marked and segregated may be disclosed in response to a public records request.
When exempt information is mixed with nonexempt information, the nonexempt information must be disclosed. The City will redact pages that include both exempt and nonexempt information to allow disclosure of the nonexempt information.

2. Non-Discrimination Clause

Pursuant to ORS 279A.110(4), a bidder or proposer who competes for or is awarded a public contract may not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women or emerging small business enterprise certified under ORS 200.055. **Attached herein to this RFP is Appendix B, “Proposer’s Certification of Non-Discrimination”. To be deemed responsive, this certification must be signed and submitted with the proposal.**

B. Addenda

1. General Information

   Pre-Proposal Interpretation of Contract Documents - The City reserves the right to make changes to the RFP. Proposers may request or suggest any change to the RFP by submitting a written request. The request shall specify the provision of the RFP in question and contain explanation for the requested change. The request must be submitted at least ten (10) business days prior to the date set for receipt of proposals.

2. Notice of Addenda

   Changes to the RFP will be made by written addendum, which will be issued to proposers not less than five (5) business days before the date/time set for receipt of proposals. Addenda may be downloaded from the City’s website at [http://www.ci.oswego.or.us/engineer/bid.htm](http://www.ci.oswego.or.us/engineer/bid.htm). Consultants must register their company name and other contact information with the City, and add its individual name or company to the RFP Holder’s List in order to be assured of receiving Addenda or clarifications to this RFP. If you have website questions regarding this RFP call 503.635.0266. Any Addenda to this RFP will be in writing and will be issued to all persons or businesses that have registered to receive RFP Addenda. The RFP Holders List will be updated daily and posted on the web by 3:00 pm. from this site. Proposers should check this web site until the solicitation closing date, i.e., at least once weekly and at least daily during the week prior to the published closing date.

3. Amend or Withdraw Proposal

   A proposer may amend or withdraw its proposal any time prior to the time and date set for submission of proposals.
C. Protests

1. Applicable Laws and Procedures

Protests of the City’s RFP, Addenda, or its intent to award a Personal Services Contract shall be processed in accordance with ORS 279B.405 and ORS 279B.410. A proposer who wishes to object or protest any aspect of this procurement must deliver a written protest to:

Joel B. Komarek, P.E.
City of Lake Oswego
380 ‘A’ Avenue
P.O. Box 369
Lake Oswego, Oregon 97034

A protest is delivered when it is actually received by the aforementioned addressee.

A protest shall be deemed to include only the documents timely delivered pursuant to this Section. It must clearly state all of the grounds for the protest and must include all arguments and evidence in support of the protest. Testimonial evidence may be submitted by affidavit. The City may investigate as it deems appropriate in reviewing the protest and will issue a written response to the protest. The City may proceed with Contract Award, execution, and performance while a protest is pending.

If the protest relates to matters that are apparent on the face of the solicitation documents or that are otherwise known of should have been known to the protestor, the protest must be delivered no later than ten (10) calendar days prior to the deadline for the City’s receipt of proposals.

If the protest relates to other matters, including but not limited to the City’s intent to award a Personal Services Contract, it must be delivered as soon as possible, and in no event later than seven (7) calendar days, after the protestor knows or reasonably should have known of the City’s intent to award the contract or other matters to which the protest is addressed.

The City will decline to review a late protest.

D. Form of Contract

1. Proposing firms are advised to carefully review the Form of Contract, which is a part of this Request for Proposals and attached as Appendix C.

2. Any comments, questions, concerns, or objections to the terms of the Form of Contract must be delivered in writing to Joel B. Komarek, P.E., City of Lake Oswego, 380 ‘A’ Avenue, P.O. Box 369, Lake Oswego, Oregon 97034 by close of business on June 16, 2017. The City reserves the right, in its sole discretion, to make changes to the contract based upon comments received from proposing firms.
Section 5 – Submittal Requirements

A. General

Technical proposals shall be bound with major proposal sections named and tabbed for easy reference. To be considered responsive to this solicitation, one (1) original and five (5) copies, plus one electronic version in pdf format (delivered on disk or flashdrive) of the technical proposal must be delivered at the location identified below, on or before the date and time set for the closing of this solicitation.

For purposes of review and in the interest of the City’s sustainability goals, the City encourages the use of submittal materials (i.e., paper, dividers, binders, brochures, etc.) that contain post-consumer recycled content and are readily recyclable. The City discourages the use of materials that cannot be readily recycled such as PVC (vinyl) binders, spiral bindings, and plastic or glossy covers or dividers. Alternate bindings such as reusable/recyclable binding posts, reusable binder clips or binder rings, and recyclable cardboard/paperboard binders are examples of preferable submittal materials. Proposers are encouraged to print on both sides of a single sheet of paper wherever applicable; if sheets are printed on both sides, it is considered to be two pages. Color is acceptable, but content should not be lost by black-and-white printing or copying.

All submittals will be evaluated on completeness and quality of the content. Only those proposers providing complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail. The information requested shall be submitted in a clear and concise manner and organized according to the general outline below:

Proposal Outline

a. Introductory letter - from the prime respondent written and signed by the individual proposed as the Construction Manager.

b. Appendix A – Proposal Certification.

c. Appendix B – Proposer’s Certification of Non-Discrimination.

d. Title page - Include the subject of the RFP, the responding firm’s name, the contact person’s name, address, telephone number, email address and date of the response.

e. Table of Contents – Organized by section titles and referenced to the information requested in Section 2, above.

f. Proposal.

g. Appendix C.
B. Submittal Location

1. Deliver six bound copies of the proposal to:
   Joel B. Komarek, P.E.
   380 ‘A’ Avenue
   P.O. Box 369
   Lake Oswego, Oregon 97034
   Telephone: 503.697.6588 (direct)

2. Proposals shall be sealed in an opaque envelop or shipping container and be clearly marked “Proposal: Boones Ferry Road Improvements Project – Construction Management Services, Phase 1”.

C. Notice

1. The City shall provide electronic notification of the following actions to proposing firms or teams being considered at the time the action is taken:
   a. Notice of final rankings.
   b. Notice of Intent to Award a Personal Services Contract.
   c. Cancellation of the Construction Manager procurement process.

Proposers should not assume that any action has been taken unless they receive specific notification from the City. The City will attempt to notify all firms of any changes to the schedule herein. If any firm has reason to doubt whether the City is aware of the firm’s interest, it is the responsibility of the firm to notify the City to be sure that addenda are received. Mail or call such notice to the City at the address identified in this RFP.
Appendix A

PROPOSAL CERTIFICATION

To: City of Lake Oswego  For: Boones Ferry Road Improvements: Phase 1 - Work Order 183.
c/o City Engineer
380 ‘A’ Avenue; 3rd Floor
Lake Oswego, Oregon 97034

The undersigned, having fully examined the Request for Proposals and any Addenda thereto, Personal Services Contract, Appendices, and the Construction Contract Drawings prepared by WHPacific, Consultants, Inc., dated September 29, 2016 (185 pages), and all other related material and information, hereby certifies that this Proposal shall be irrevocable for at least sixty (60) calendar days after the date and time set for receipt of Proposals, and if accepted agrees to negotiate in good faith to agree and thereafter enter into a Personal Services Contract for Boones Ferry Road Improvements: Phase 1 - Work Order 183.

Date: _______________  Name of Firm: ____________________________________________________

Street Address: ________________________________________________________________

City: ___________________________  State: ___________________________  Zip: ___________________________

By: _______________________________  _______________________________
     (Original Signature)  (Title)

Phone: _______________________________  Fax: _______________________________

Construction Contractors Board Registration #: _______________________________

Firm is a Corporation ____________  Partnership ____________  Proprietorship ____________

If Incorporated, Registered in the State of: _______________________________

If a Partnership, list the partners: ___________________________________________

If a Proprietorship, name of Principal: ___________________________  Business License No: ______

Federal ID No: ___________________________  SIC or type of Business: ___________________________

END OF APPENDIX A
Exhibit ‘B’

Proposer’s Certification of Non-Discrimination

I, _______________________________ as an authorized representative of the firm _______________________________,

Do hereby certify that our firm has not discriminated and will not discriminate, in violation of ORS 279A.110(1), against any minority, women or emerging small business enterprise in obtaining any required subcontract.

END OF APPENDIX B
Exhibit ‘C’

FORM OF CONTRACT

The City of Lake Oswego’s Personal Services Contract for Construction Management is included under this cover. Firms intending to respond to this Request for Proposals are encouraged to carefully review the terms and conditions of the contract and submit any questions or concerns regarding this contract to the City as previously discussed.
CITY OF LAKE OSWEGO

PERSONAL SERVICE CONTRACT

FOR

CONSTRUCTION MANAGEMENT SERVICES

FOR

WORK ORDER 183

BOONES FERRY ROAD IMPROVEMENTS PROJECT – PHASE 1

Contractor: Contractor Name

Date of Contract: Begin date

Mailing Address: Mailing Address

City, State Zip

Date of Completion: March 30, 2020*

*(Date of Completion to be refined during Project)

WITNESSETH:

Contractor and the City of Lake Oswego, a municipal corporation, mutually covenant and agree to and with each other as follows:

1. SCOPE OF WORK AND CONTRACT DOCUMENTS. The Contractor shall perform the Project as outlined in this Contract. The contract documents shall consist of, and any conflicts shall be resolved in the following priority:

   A. This Contract;
   B. The City of Lake Oswego Standard Public Contract Provisions, which are attached and hereby incorporated by reference;
   C. The exhibit(s) to this Contract in the following order of priority: Exhibits.
   D. Contractor’s proposal.

This contract shall supersede any prior representation or contract, written or oral.

2. DURATION OF CONTRACT. This Contract shall become effective on the date this Contract has been signed by every party hereto. Contractor acknowledges that no work has been or will be performed for the project under this Contract until this Contract is fully executed and effective. Contractor shall complete performance of this contract on or before the Date of Completion stated above.

3. PAYMENT.

   A. Amount of Payment. Contractor shall be compensated for all goods, materials, expenses, and services as follows: Payment based on lump-sum payment tasks, reimbursement of expense costs, and Contractor’s rate schedule, as set forth on Exhibit ____; provided however
that the contract amount shall not exceed $___________.

B. **Manner of Payment.** Payment shall be due to the contractor, in accordance with the subsection C below, upon the following: Monthly, with an invoice being submitted by contractor within the first 30 days of the start of Work and continuing each month thereafter until completion or termination.

C. **Taxpayer Identification Report / Date and Method of Payment.** No payment shall be due to the Contractor until the Contractor has submitted to the City’s Finance Department IRS Form W-9 Request for Taxpayer Identification and Certification ([http://www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf)). The City prefers to pay contractors by electronic fund transfer; the contractor may submit the EFT agreement ([http://tinyurl.com/LO-EFT](http://tinyurl.com/LO-EFT)) to the City’s Finance Department. Payment shall be tendered, when due within 30 days from the date of receipt of the invoice.

4. **TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.

5. **TERMINATION.**

   A. **Parties' Right to Terminate for Convenience.** This Contract may be terminated at any time by mutual written consent of the parties.

   B. **City's Right to Terminate for Convenience.** City may, at its sole discretion, terminate this Contract, in whole or in part, upon 10 days notice to Contractor.

   C. **City's Right to Terminate for Cause.** City may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as Public Contracting Officer may establish in such notice, upon the occurrence of any of the following events:
      
      (i) City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work;
      
      (ii) 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;
      
      (iii) Contractor no longer holds any license or certificate that is required to perform the Work; or
      
      (iv) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 5 business days after delivery of Public Contracting Officer's notice, or such longer period as Public Contracting Officer may specify in such notice.
D. **Contractor's Right to Terminate for Cause.** Contractor may terminate this Contract upon 30 days' notice to Public Contracting Officer if City fails to pay Contractor pursuant to the terms of this Contract and City fails to cure within 30 business days after receipt of Contractor's notice, or such longer period of cure as Contractor may specify in such notice.

E. **Remedies.** In the event of termination pursuant to subsections B, C(i), C(ii) or D, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Work multiplied by the percentage of Work completed and accepted by Public Contracting Officer, less previous amounts paid and any claim(s) which City has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to the City upon demand.

In the event of termination pursuant to subsection C(iii) or C(iv), City shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under subsection C(iii) or C(iv), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to subsection B.

F. **Contractor's Tender upon Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Public Contracting Officer expressly directs otherwise in such notice of termination.

Upon termination of this Contract, Contractor shall deliver to Public Contracting Officer all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon Public Contracting Officer's request, Contractor shall surrender to anyone Public Contracting Officer designates, all documents, research or objects or other tangible things needed to complete the Work.

6. **INSURANCE.** The Contractor will not perform any work under this contract until the City has received copies of applicable insurance policies or acceptable evidence that the insurance indicated as required in subsection D below is in force.

A. **Scope of Insurance.** The Contractor shall obtain prior to the commencement of the Contract, and shall maintain in full force and effect for the term of this contract, at the Contractor's expense, the policies indicated below in subsection D for the protection of the Contractor. The Contractor shall not undertake any acts that shall affect the coverage afforded by the above policy. If the insurance policy is issued on a “claims made” basis, then the Contractor shall continue to obtain and maintain coverage for not less than three years following the completion of the contract.

If no automobile liability insurance policy is required in subsection D, Contractor expressly acknowledges and agrees that City is not providing any automobile insurance to Contractor and that as to the City and any third parties, Contractor bears sole liability for claims, damages, injury (including death) and losses, arising out of or resulting from
Contractor's operation of Contractor's automobile or any other automobile, whether or not such use is related to Contractor's work under this contract, and Contractor shall make no claim against the City for any claim, damage, injury, or loss resulting thereby.

B. **Coverage Amount.** The policies shall be issued by a company authorized to do business in the State of Oregon, protecting the Contractor or subcontractor or anyone directly or indirectly employed by either of them against liability for the loss or damage of personal and bodily injury, contractual liability, death and property damage, and any other losses or damages above mentioned with limits not less than as stated in subsection D below or the limit of public liability contained in ORS 30.260 to 30.300 for any policy, whichever is greater.

C. **Certificate of Insurance / Additional Insured and Waiver of Subrogation Endorsement.** The Contractor shall cause the insurance company to provide the City with: (i) a certificate of insurance and, (ii) if an additional insured endorsement is indicated as required in subsection D below, an endorsement thereto naming the City, its officers, agents, and employees as an additional insured for those policies indicated. The policies will be endorsed to provide a waiver of subrogation in favor of the City and all additional insureds. The Contractor shall provide the City written notice of cancellation or material modification (change in limits or coverages) of the insurance contract for not less than the following notice for the purposes stated: 30 days prior notice for reasons other than non-payment; 10 days prior notice for non-payment.

The Contractor shall further cause a certificate of insurance to be issued not less than 5 days prior to any policy expiration date by the Contractor’s insurance company or companies during the term of the Work, to assure that the required insurance is maintained.

D. **Insurance Policy Requirements.**

<table>
<thead>
<tr>
<th>Required?</th>
<th>Type of Insurance</th>
<th>Minimum Coverage</th>
<th>City named as Additional Insured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Comprehensive general or commercial general liability</td>
<td>$2,000,000 per occurrence and $3,000,000 in the aggregate</td>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
<td>Protection and Indemnity US L&amp;H</td>
<td>$2 million per accident</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$2 million per person per accident</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>Automobile liability</td>
<td>$2,000,000 per accident-combined single limit or $2,000,000 bodily injury and $1,000,000 property damage</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes</td>
<td>Professional liability</td>
<td>$2,000,000 per claim/aggregate</td>
<td>No</td>
</tr>
</tbody>
</table>
### Required? | Type of Insurance | Minimum Coverage | City named as Additional Insured
---|---|---|---
Yes Or No (if initialed) | Workers Compensation Employer’s Liability | Statutory Coverage $1 million per person per accident | No

* The amounts may be achieved by a combination of base coverage and umbrella coverage.

**CONTRACTOR**

By: ____________________________
Name: ____________________________
Title: ____________________________
Date: ____________________________

Check one:
- Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Limited Liability Partnership
- Other: ____________________________

Domicile, if other than Oregon: ____________________________

---

**CITY OF LAKE OSWEGO, an Oregon Municipal Corporation**

PCO Name
Date: ____________________________
Public Contracting Officer
380 A Avenue
PO Box 369
Lake Oswego, OR 97034

Date Authorized by Council, if applicable:
____________________________________.

APPROVED AS TO FORM:

____________________________________.

Evan P. Boone,
Deputy City Attorney
The following City of Lake Oswego Standard Public Contract provisions are made a part of the Contract between City and Contractor by reference. Where the Lake Oswego Redevelopment Agency (LORA) is the contracting party, “City” shall refer to LORA.

CHANGES
This contract, including all attachments and exhibits annexed hereto, shall not be subject to modification or amendment except in writing, executed by both parties. This contract and any substantive changes to the scope of work or changes to the contract costs will not be effective until approved in writing by the City’s Public Contracting Officer (PCO).

INDEPENDENT CONTRACTOR STATUS
The Contractor agrees and certifies that:
A. The Contractor is engaged as an independent contractor. Although the PCO reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, City cannot and will not control the means or manner of Contractor’s performance, nor provide any tools or equipment for the performance of the Work, except as provided elsewhere in this Contract. Contractor is responsible for determining the appropriate means and manner of performing the Work.
B. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, City will not withhold from such compensation or payments any amount(s) to cover Contractor’s federal or state tax obligations.
C. The Contractor will not, on account of any payments made under this contract, be eligible for any benefit from federal social security, workers’ compensation, unemployment insurance, or the Public Employee’s Retirement System, except as a self-employed individual;
D. Contractor is not currently an employee of the federal government or the State of Oregon; and
E. The Contractor is not a contributing member of the Public Employee’s Retirement System.
F. Contractor is not an "officer," "employee," or "agent" of the City, as those terms are used in ORS 30.265.

OTHER CONTRACTORS
The City may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with such other contractors and with any City employees concerned with such additional or related work, and shall coordinate its performance under this contract with such additional or related work. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by City employees.

SUBCONTRACTORS AND ASSIGNMENT
Except as set forth in Contractor’s proposal or otherwise in this Contract, no subcontract shall be made by the Contractor with any other party for furnishing any of the work or services herein contracted without obtaining the prior written consent of the City, which City may withhold without cause. In addition to any other provisions PCO may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by the following sections of this Contract as if the subcontractor were the Contractor: Independent Contractor Status; Other Contractors; Hours of Labor; Ownership of Work; Indemnity and Hold Harmless; Records; Attorney Fees; Compliance with Laws. PCO’s consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

This contract is not assignable by the Contractor, either whole or in part, unless Contractor has obtained the prior written consent of the City. City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any enforceable benefit or right, whether directly, indirectly or otherwise, to third persons.

HOURS OF LABOR
For those employees of Contractor covered or subject to Oregon employment laws, the Contractor shall pay employees for overtime work performed under the public contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201 et seq.).

ERRORS
The Contractor shall perform such additional work as may be necessary to correct Contractor’s errors in the work required under this contract without undue delays and without additional cost.

REPRESENTATIONS AND COVENANTS
A. Contractor’s Representations. Contractor represents and covenants to City that:
(1) Contractor has the power and authority to enter into and perform this Contract,
(2) This Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and if Contractor is a partnership, corporation or other form of business entity, this contract was duly approved and executed pursuant to authority of the governing body or parties of the Contractor,
(3) Contractor is not in violation of any Oregon tax laws.
(4) Upon acceptance of each project, the Contractor warrants that it will carefully examine, as necessary, the site of the work contemplated and any plans, specifications, and contract documents pertaining to work, with the exception of unknown physical conditions at the work site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided herein.
(5) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work.
(6) Contractor will accomplish the work using a standard of performance and care that is currently accepted by other contractors engaged in similar work, under similar conditions and at the date the services are provided in the Portland metropolitan area (Standard of Care).
(7) Contractor’s invoices shall describe all work performed with particularity, by whom it was performed, and
shall itemize and explain all expenses for which reimbursement is claimed. Contractor shall send invoices to City’s Project Manager.

(8) Contractor’s completion shall not extinguish or prejudice City’s right to enforce this Contract with respect to any breach of Contractor warranty or any default or defect in Contractor performance (defect is defined herein as services that do not conform to the Standard of Care (Section 6) in the performance of the Contract).

(9) Contractor has no present interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Work, and that in the performance of this contract no person having any such interest shall be employed.

(10) Contractor has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of contractor’s services, and in the performance of this contract no person having any such interest shall be employed.

B. Cumulative. The representations and covenants set forth in this section are in addition to, and not in lieu of, any other representations and covenants provided.

OWNERSHIP OF WORK
All work products of the Contractor, including background data, documentation and staff work that is preliminary to final reports, which result from this contract are the exclusive property of the City. If this contract is terminated by either party or by default, the City following payment as required by the Contract, in addition to any other rights provided by this contract, may require the Contractor to transfer and deliver such partially completed reports or other documentation that the Contractor has specifically developed or specifically acquired for the performance of this contract.

The reports and all material contained in the reports (graphics, photos, etc.) shall become the property of the City; the City may reproduce and distribute the reports, or any part thereof, in such form as the City desires.

ELECTRONIC CONTRACTING AND REPORTS
This contract and any amendments may be executed by a party electronically by use of a digital signature issued by a city-recognized certification authority (such as Symantec Digital ID), pursuant to the Oregon Uniform Electronic Transactions Act, ORS Ch. 84.001 – 84.063. Upon execution of this contract electronically, the party consents to conduct further communications and transactions under this Contract by electronic means.

Unless otherwise stated in the Scope of Work or separately waived in writing, all final reports, including reports of phases of the project and of the entire project, shall be provided in both written and electronic format. Electronic format shall be in a format coordinated with the PCO and shall be fully compatible with such software programs specified by the PCO, e.g. Microsoft Word, Microsoft Excel, Microsoft PowerPoint, Microsoft Access, Microsoft Publisher, Adobe Creative Suite, Adobe PDF, or such other software program as specified by the PCO.

INDEMNITY AND HOLD HARMLESS
The Contractor shall defend, indemnify, and hold the City, its officers, agents and employees, harmless against all liability, loss, or expenses, including reasonable attorney's fees, and against all claims, actions or judgments based upon or arising out of damage or injury (including death) to persons or property, but only to the proportionate extent caused by or resulting from any act, error, or omission (excepting professional services performed under this Contract) of an act sustained in connection with the performance of this contract or by conditions created thereby, or based upon Contractor’s violation of any statute, ordinance or regulation.

With respect to professional services performed under this Contract, Contractor shall defend, indemnify, and hold the City, its officers, agents and employees, harmless against all liability, loss, or expenses, including reasonable attorney's fees, and against all claims, actions or judgments based upon or arising out of damage or injury (including death) to persons or property, but only to the proportionate extent caused by any negligent act, error, or omission of an act sustained in connection with the performance of this contract or by conditions created thereby, or based upon violation of any statute, ordinance or regulation.

RECORDS
Contractor shall have access to the books, documents, papers and records of the City as necessary for Contractor’s performance of the work. The Contractor shall not disclose all or any part of such records to any other person, firm, corporation, association or other entity except as reasonably necessary to carry out the Work, without the consent of the Public Contracting Officer.

The Contractor agrees that the City and its authorized representatives shall have access to the books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audits, examination, excerpts and transcripts.

Contractor shall maintain all fiscal records directly relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor’s performance. Contractor acknowledges and agrees that City’s duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

PUBLICATION RIGHTS/RIGHTS IN DATA
To the extent the Work Product consists of material capable of publication, all publication rights in the product produced by the Contractor in connection with the work provided for under this contract, whether in preliminary draft or final form, shall be vested in the City.
The Contractor shall not publish any of the results of the work without the prior written permission of the City.

All original written material and other documentation, including background data, documentation, and staff work that is preliminary to final reports, originated and prepared for the City pursuant to this contract, shall become exclusively the property of the City. The ideas, concepts, know-how or techniques relating to data processing development during the course of this contract by the Contractor or City personnel, or jointly by the Contractor and City personnel, can be used by either party in any way it may deem appropriate.

Material already in the Contractor’s possession, independently developed by the Contractor outside the scope of this contract or rightfully obtained by the Contractor from third parties, shall belong to the Contractor. However, the Contractor grants to the City a nonexclusive, irrevocable and royalty-free license to use such material to the extent such material is incorporated into the Work.

This contract shall not preclude the Contractor from developing materials that are competitive, irrespective of their similarity to materials which might be delivered to the City pursuant to this contract. The Contractor will not, however, use any written materials developed under this contract in developing materials for others, except as provided in this section.

CONFIDENTIALITY

No reports, information and/or data given to or prepared or assembled by the Contractor under this contract shall be made available to any individual or organization by the Contractor without the prior written approval of the City.

MEDIATION / VENUE

In the event a dispute shall arise between the parties to this contract, and prior to the commencement of any suit or action, the parties agree to participate in mediation in accordance with the mediation procedures of the Oregon Mediation Service, or such other procedures as the parties agree. The parties agree to share equally in the costs of the mediator. The mediator shall be selected by the parties, either upon mutual agreement within 15 days written notice by one party to the other requesting mediation, or if the parties are not able to agree upon a mediator within said period, the mediator shall be chosen by the City Manager from the list of mediators maintained by the Oregon Mediation Service (http://omediate.org).

Any action or suits involving any question arising under this contract must be brought in Clackamas County Circuit Court.

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.

COMPLIANCE WITH LAWS

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon.