



THE CITY OF
TROUTDALE
— OREGON —
EST. 1907

**Sandy Riverfront Park – Depot Park Trail Connection
Engineering Services**

CITY PROJECT MANAGER:

Arini Farrell, Associate Planner
arini.farrell@troutdaleoregon.gov
(503)-671-7261

PROPOSAL SUBMITTAL DUE:

October 8, 2020, 4:00 pm

**MANDATORY
PRE-PROPOSAL CONFERENCE:**

10:00 a.m., September 25, 2020
Meet in the parking lot of Depot Park,
473 E. Historic Columbia River Hwy
Troutdale, OR

PROJECT DURATION:

8 months (estimated)

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Section 1. General Information About the Project

Project Background

The City of Troutdale is seeking the professional services of a qualified structural engineer, licensed in the State of Oregon, to design and prepare plans, specifications and bidding documents, and assist with project administration for The Sandy Riverfront Park – Depot Park Trail Connection. Depot Park is an existing park located in downtown Troutdale between the Union Pacific Railroad tracks, East Historic Columbia River Highway, and the Beaver Creek confluence with the Sandy River. This 2.25-acre park is southerly adjacent to the Union Pacific Railroad (UPRR) line and bridge over the Sandy River. Facilities at the park include a historic train depot, which is now a railroad museum; a parking area; and a picnic spot and viewpoint along Beaver Creek and a trail that travels above Beaver creek down to its confluence with the Sandy river. The Sandy Riverfront Park is a proposed park, currently in design, located just north of Depot Park, northerly adjacent to the UPRR, and bounded by the Sandy River, Interstate 84, and the Columbia Gorge Outlet Mall. See Appendix A.

The primary goal of the project is to design an elevated multi-use trail connection between Depot Park and the Sandy Riverfront park, passing under the UPRR bridge. This connection is a segment of a trail extension that will ultimately connect northward to existing trails at the south side of the I-84 bridge. To meet ADA standards, it is presently assumed that the trail beneath the RR bridge will be an elevated bicycle and pedestrian (multi-use) trail. In addition, per Union Pacific requirements, the trail will need an impervious protective cover where the trail is within 30' horizontally of the elevated track and bridge.

The City of Troutdale has developed a 30% civil and landscape design for the Sandy Riverfront Park that will be used as the basis for this project which will be available to proposers online. The City has contracted to continue the design work with the landscape/civil team in tandem with the structural team retained through this RFQ/RFP process. The civil/landscape team's work will include overall trail alignment, preliminary grading, stormwater and erosion control plans, preliminary work on the No Rise Analysis, lighting plan, conceptual planting, conceptual nature play, and irrigation including POC.

A topographical survey was completed in 2019 and will be provided to the selected structural team. No geotechnical work has been completed to date – this work must be included in the proposed team and scope for this RFQ.

The City of Troutdale is now seeking a qualified Professional Structural Engineer, licensed in the State of Oregon, to create a design for the elevated walkway and protective cover that integrates with the City's approved 30% plans and the Union Pacific Railroad's guidelines for development, while also addressing the aesthetic desires of the City to the extent practicable. The selected Consultant team will review the existing 30% set and related reports, maps and documentation; meet and coordinate with the landscape/civil team and the City of Troutdale's project manager and pertinent City staff; consult and coordinate with the railroad regarding design requirements, study the site geotechnical conditions and their effect on design and constructability; identify and incorporate related regulatory requirements; and prepare 30% and 60% plans and cost estimates and 60% specifications.

The City will screen and select prospective consultants as provided in ORS 279C.110(5). The City estimates the engineering consultant fees for this project, including design, bidding services, and services during construction, will be approximately \$150,000. A prospective Proposer may withdraw from consideration for this procurement if the prospective consultant does not wish to provide a price proposal.

Schedule

The City anticipates the following general timeline for receiving and evaluating the proposal for the 60% design of the Sandy Riverfront Park – Depot Park Trail Connection. This schedule is subject to change if the City determines it is in the public interest to do so.

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|--|--------------------------------|
| • Request for Proposal initiated | September 18, 2020 |
| • Deadline for protests of this procurement process | September 28, 2020 |
| • Addenda, Submittal Deadline (if Any) | September 30, 2020 |
| • Mandatory pre-proposal conference | September 25, 2020 at 10:00 am |
| • Proposals Due | October 8, 2020 at 4:00pm |
| • Evaluation of Proposals | October 14, 2020 |
| • Notice of Intent to Award (NOIA) | October 16, 2020 |
| • Protest of Notice of Intent to Award, Submittal Deadline | 7 calendar days following NOIA |
| • Notice of Award | October 26, 2020 |

The following are project milestones the City desires to meet or exceed. The consultant is encouraged to realistically consider its ability to meet these milestones and to submit a schedule that it is confident it can meet.

- | | |
|---|-------------------|
| • Design Kickoff Meeting | November 2, 2020 |
| • 30% Design Review Meeting | January 20, 2021 |
| • Pre-Application Conference | February 18, 2021 |
| • Preliminary 60% design | April 16, 2021 |
| • Final 60% plans, specifications and cost estimate | June 26, 2021 |

Questions and Clarifications

The City reserves the right to make changes to this RFP by written addendum. No addenda will be issued later than the date set in Section 1.2 above without a complementary addendum postponing the due date for Proposals.

A prospective proposer may request a clarification or correction to the RFP by submitting an email request to the Project Manager, Arini Farrell (arini.farrell@troutdaleoregon.gov) by the addenda submittal deadline set forth in Section 1.2. The request must specify the provision of the RFP in question and contain a clear explanation of the requested clarification or correction. Requests for clarifications or corrections to the RFP received after the deadline will not be considered. The City will evaluate any request submitted by the specified date but reserves the right to determine whether to accept the requested correction.

Protests of this solicitation, if any, must be submitted in writing not later than the deadline set forth in Section 1.2 above and shall be administered in accordance with Section 2.24.160 of the Troutdale Municipal Code. Protests of award of this contract must be submitted no later than seven days following the Notice of Intent to Award and shall be administered in accordance with Section 2.24.170 of the Troutdale Municipal Code.

Business License Required

The selected Consultant must have or acquire a City of Troutdale business license prior to conducting any work under this contract.

Contracting

The selected consultant will be required to enter into a written contract in the form attached to this RFP (Appendix B). The proposal shall indicate acceptance of the City's contract provisions. If the consultant desires any revisions to the contract terms, the prospective consultant shall indicate so in the proposal.

Insurance Requirements

The Consultant shall provide the following insurance at its own expense:

- a. **Worker's Compensation** insurance in compliance with ORS 656.017. All employers, including Consultant, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage. Consultant shall ensure that each of its subcontractors complies with these requirements. Consultant is exempt in accordance with ORS 656.126 (temporary worker from another state) or ORS 656.027 (casual work, independent contractors that are sole proprietors, partnerships or corporations, etc.).
- b. **Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 for each claim, incident, or occurrence. This is to cover damages caused by error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for two years after the Agreement is completed.
- c. **Commercial General Liability** insurance, on an occurrence basis, with a combined single limit of not less than \$2,000,000 for each occurrence of bodily injury, personal injury and property damage. It shall include coverage for broad form contractual liability; broad form property damage; personal and advertising injury; owners and contractor protective; premises/operations; and products/completed operations. Coverage shall not exclude excavation, collapse, underground, or explosion hazards.
- d. **Commercial Automobile Liability** insurance with a combined single limit, or the equivalent of not less than \$2,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired and non-owned vehicles. "Symbol One" coverage shall be designated.
- e. **Notice of Cancellation or Change**. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from the Consultant or its insurer(s) to the City. This notice provision shall be by endorsement physically attached to the certificate of insurance.
- f. **Additional Insured**. For general liability insurance and automobile liability insurance the City, and its agents, officers, and employees will be Additional Insureds by endorsement, but only with respect to Consultant's services to be provided under this Agreement. This coverage shall be by endorsement physically attached to the certificate of insurance.
- g. **Certificates of Insurance**. Consultant shall furnish insurance certificates acceptable to City prior to commencing work. The certificate will include the deductible or retention level and required endorsements. Insuring companies or entities are subject to City approval. If requested, copies of insurance policies shall be provided to the City. Consultant shall be responsible for all deductibles, self-insured retention's, and/or self-insurance.

Proposal Submittal

Please submit your proposal to: Arini Farrell (arini.farrell@troutdaleoregon.gov) no later than **4:00 p.m. on Thursday, October 8, 2020**. Proposals arriving after that time will not be considered. Proposals must be delivered in pdf format via email. The project manager will send an email confirmation upon receipt.

Section 2. Scope of Work

Scope of Work

The firm that is selected by the City shall perform the following tasks involved in the design of this project:

1. Perform necessary site reconnaissance and geotechnical investigations and review existing reports, documents, topographical survey provided by the City, land use rules, and the Sandy Riverfront Park 30% design to determine existing conditions and design parameters.
2. Perform geotechnical investigation to provide sufficient data on the existing soils and ground conditions to inform the structural design for the elevated multi-use trail, trail canopy coverings and trail alignment.
3. Perform infiltration testing to inform the design of pervious paving for applicable trail sections.
4. Communicate regularly with City staff regarding project issues via telephone, electronic mail, and online meeting platforms.
5. Coordinate and communicate regularly with the landscape/civil team.
6. Coordinate with UPRR early in the project and throughout the design process.
7. Attend meetings as described in Section 2.3 below. All meetings shall be presented and/or facilitated by the Consultant.
8. Design and provide a 30% trail design that is based on the layout from the 30% Sandy Riverfront Park design developed by the landscape/civil team. If the trail alignment provided in that design does not work due to geotechnical or structural engineering reasons, coordinate with landscape/civil team to develop workable design solution.
9. Review preliminary design with City staff. Modify concept as needed to prepare 30% drawings for Pre-Application Conference submittal package.
10. Attend Pre-Application Conference.
11. Coordinate with landscape/civil team on evolution of the trail design.
12. Prepare preliminary 60% drawings including plans, elevations and profiles.
13. Review 60% design with City and landscape/civil team.
14. Modify drawing based on City comments and finalize 60% plans, specifications and cost estimate. Provide to City in electronic format.

Products

The Consultant shall provide the following products associated with the Sandy Riverfront Park – Depot Park Trail Connection:

1. Monthly design progress reports submitted to the City's project manager.
2. One electronic (.pdf format) copy of Preliminary Design/30% construction drawings and 30% cost estimate for City review:
 - a. 30% construction drawings will, at minimum, include:

- (1) Preliminary plan views at an appropriate scale
- (2) Preliminary profile views at an appropriate scale
- (3) Preliminary detail drawings specific to this project

3. Electronic (.pdf format) copy of preliminary 60% construction drawings, specifications and cost estimate for City review:
 - a. 60% construction drawings will, at minimum, include:
 - (1) Plan views at an appropriate scale
 - (2) Profile views at an appropriate scale
 - (3) Detail drawings specific to this project
 - b. 60% specifications. Specifications shall be based on the Oregon Standard Specifications and supplemented as needed by specifications provided by the consultant.
4. Electronic (.pdf format) copy of final 60% construction drawings, specifications and cost estimate.

Meetings

The firm selected shall be required to attend, as a minimum, a design kickoff meeting, preliminary design/30% review meeting, a Pre-Application conference with the City of Troutdale, a 60% design review meeting, and other such meetings as necessary to complete the Scope of Work. The city may require additional meetings, as needed, to resolve unforeseen issues or to discuss problematic design obstacles that arise. Meetings will typically be conducted online.

Communication

The Consultant selected will be required to communicate with the City regularly concerning project-related issues via telephone, virtual meetings and email.

Section 3. Proposal Submittal and Review

Proposal Format

The proposal shall contain the following:

1. A cover letter reaffirming your firm's interest in performing these services, the primary person(s) who will be working on this project, and the firm's primary contact person for this project (with his/her phone number and email address). A statement in the letter shall specifically stipulate that the consultant accepts the terms and conditions contained in the RFP and model Personal Services Agreement. The letter shall must include a statement that the hourly rates specified in Consultant's pricing proposal constitute an offer that is irrevocable for anticipated duration of the contract. The letter shall name the person(s) authorized to represent the consultant in any negotiations and the name of the person(s) authorized to sign any contract or agreement that may result.
2. Project Understanding and Approach: A project understanding and approach section describing what your firm understands the requirements for the project to be, what the major issues specific to this project will be, and clearly defining the tasks and activities, and their order, necessary to meet the objectives outlined in the scope of work listed in Section 2.1 for the fees indicated in Section 6 below.
3. Project Team Experience and Qualifications: A section identifying and describing the roles of the individuals that will be assigned to the project and their qualifications. At a minimum, this section shall include roles and responsibilities of key staff on this project, experience and credentials, current assignments and locations of those staff, and the proportion of time key staff will devote to this project for the duration of the project relative to their other assignments. Information from the Consultant's original SOQ may be incorporated by reference, save that if any changes have been made to the Consultant's proposed team, those changes must be identified and applicable new qualifications information provided.
4. Project Schedule: Proposer shall include a proposed project design schedule, in Gantt chart format, identifying key tasks, their sequence, and their associated durations; and key project milestone dates, that the consultant is confident he/she can meet. At a minimum, the following milestones must be clearly shown with the date of each milestone clearly indicated:
 1. 30% Design Review Meeting
 2. Pre-Application Conference
 3. Submittal of 60% design, specifications, and cost estimate
5. Past Projects: Proposer shall provide project descriptions of up to five completed projects that involved elevated trail and trail cover designs for public agencies, preferably those involving work within Union Pacific Railroad ROW. Proposer shall include a list of references associated with each of these projects

including the contact name, title, agency, phone number, email address; the final construction cost; and project completion date.

- 6. **Design Fee Summary:** A design fee summary indicating for each individual or each labor classification utilized on the project, the hourly rate, amount of time, and total cost projected for each task or division of work, as well as a list of billable expenses, including travel expenses, that the prospective consultant expects to incur in connection with providing the professional services. Design fees shall be on a *not-to-exceed* basis.

This proposal shall not exceed twelve (12) pages from cover to cover. The City reserves the right to obtain clarification of any information in a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal.

Proposal Selection

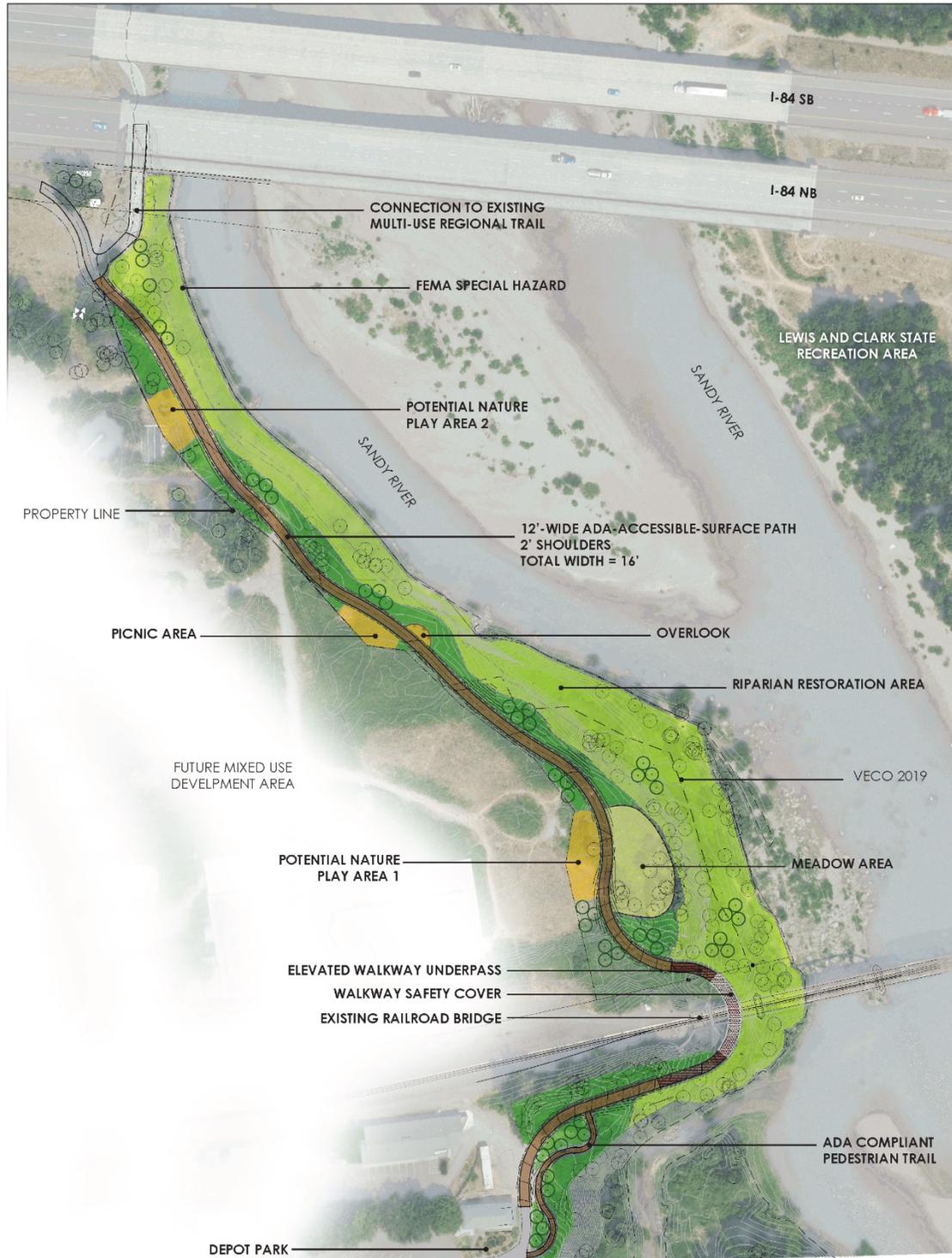
Each proposal will be judged on its completeness and quality of its content. The City reserves the right to seek clarifications of the proposed project approach, projected costs, or the assignment of resources, and reserves the right to negotiate a final contract which is in the best interest of the city, as well as the right to reject any or all proposals and and/or to cancel the RFP at any time if doing either would be in the public interest as determined by the City. Proposers respond to the RFP solely at their expense and the City is not responsible for any Proposer expenses associated with the proposal preparation.

The Proposal Evaluation Panel will evaluate the proposal and will consist of: Arini Farrell a representative of the landscape and civil team, and members of the City’s Community Development and Public Works Departments to be determined. If additional information is deemed necessary as part of the evaluations, such information will be solicited in order to allow the panel to complete the evaluation process.

Proposal Scoring and Evaluation Criteria

Criteria	Score
Project Understanding & Approach	25 %
Project Team Experience & Qualifications	45 %
Project Schedule	15 %
Pricing/Fees	15 %
Total	100 %

Appendix A
- 30%
Design Plan



SANDY RIVER ACCESS TRAIL : 30% DESIGN PLAN

Appendix B – Personal Services Agreement

Contract No. _____

PERSONAL SERVICES AGREEMENT FOR _____

This Agreement is between the CITY OF TROUTDALE, a municipal corporation of the State of Oregon (the “City”) and _____ (the “Consultant”) (collectively, the “Parties”).

The Parties mutually covenant and agree as follows:

1. Effective Date and Duration.

This Agreement is effective on _____, 20__, or on the date at which every party has signed this Agreement, Exhibit D and Exhibit E, whichever is later. The work under this Agreement shall be completed, unless otherwise terminated or extended, on or before _____, 20__.

2. Scope of Work.

The City is engaging the Consultant to provide _____ services. The scope of work the Consultant shall provide, including the delivery schedule, is contained in Exhibit A. Consultant shall, at its own risk and expense, perform the scope of work and furnish all labor, equipment, materials and permits that are required to properly perform the work. The risk of loss for Consultant’s services shall not shift to the City until the City provides written acceptance of the services.

3. Consideration.

a. City agrees to pay Consultant for actual labor and authorized expenses a sum not to exceed \$ _____ for performing the work required by this Agreement.

b. Any interim payments to Consultant shall be made only in accordance with the schedule and requirements in Exhibit A.

c. City certifies that sufficient funds have been appropriated to make payments required by this Agreement during the current fiscal year. Payment for work performed after June 30 of any given year is subject to funds being appropriated by the Troutdale City Council. If funds are not appropriated, the City may terminate this Agreement upon providing written notice to the Consultant.

4. Standard Terms and Conditions

a. Independent Contractor.

(i) Consultant shall perform the work required by this Agreement as an independent contractor. Although the City reserves the right (i) to specify the desired results; (ii) to determine (and modify) the delivery schedule for the work to be performed; and (iii) to evaluate the quality of the completed performance, the City cannot and will not control the means or manner of the Consultant's performance. The Consultant is responsible for determining the appropriate means and manner of performing the work.

(ii) The Consultant represents and warrants that Consultant (i) is not currently an employee of the federal government or the State of Oregon, and (ii) meets the specific independent contractor standards of ORS 670.600, as certified on the Certification Statement for Corporation or Independent Contractor attached as Exhibit D.

(iii) Consultant will be responsible for any federal or state taxes applicable to any compensation or payment paid to Consultant under this Agreement.

(iv) Consultant is not eligible for any federal Social Security, unemployment insurance, state Public Employees' Retirement System, or workers' compensation benefits from compensation or payments to Consultant under this Agreement.

b. Subcontracts and Assignment. Consultant shall not subcontract any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement, without the prior written consent of the City. Consultant agrees that if subcontractors are employed in the performance of this Agreement, the Consultant and its subcontractors are subject to the requirements and sanction of ORS Chapter 656, Workers' Compensation.

c. Third Party Beneficiaries. City and Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives or provides any benefit or right, whether directly, 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 Agreement.

d. Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and approved assigns, if any.

e. Early Termination.

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

(ii) The City, on 30 days written notice to the Consultant, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(iii) Either the City or the Consultant may terminate this Agreement in the event of a breach of the Agreement 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 or submitted an acceptable plan to cure the breach within 15 days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

f. Payment on Early Termination.

(i) If this Agreement is terminated under 4(e)(i) or (ii), the City shall pay the Consultant for work performed in accordance with the Agreement prior to the termination date.

(ii) If this Agreement is terminated under 4(e)(iii), by the Consultant due to a breach by the City, then the City shall pay the Consultant as provided in subsection (i) of this section.

(iii) If this Agreement is terminated under 4(e)(iii), by the City due to a breach by the Consultant, then the City shall pay the Consultant as provided in subsection (i) of this section, subject to set off of excess costs, as provided for in section 4(g), Remedies.

g. Remedies.

(i) In the event of termination under 4(e)(iii), by the City due to a breach by the Consultant, then the City may complete the work either itself, by agreement 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 Agreement, then the Consultant shall pay to the City the amount in excess of 125% of the remaining unpaid balance.

(ii) The remedies provided to the City under section 4(e) and (g) 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.

(iii) In the event of breach of this Agreement by the City, then the Consultant's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 4(e)(iii) and 4(f)(ii).

h. Access to Records. Consultant shall maintain, and the City and its authorized representatives shall have access to all books, documents, papers and records of Consultant which relate to this Agreement 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 request. Payment for cost of copies is reimbursable by the City.

i. Ownership of Work. All work products of the Consultant that result from this Agreement, including but not limited to background data, documentation and staff work that is preliminary to final reports, are the property of City. Draft documents and preliminary work submitted to the City for review and comment shall not be considered as owned, used or retained by the City until the final document is submitted. The City shall own all proprietary rights, including but not limited to copyrights, trade secrets, patents and all other intellectual or other property rights in and to such work products. Preexisting trade secrets of the Consultant shall be noted as such and shall not be considered as a work product of this Agreement. All such work products shall be considered "works made for hire" under the provisions of the United States Copyright Act and all other equivalent laws. Use of any work product of the Consultant by the City for any purpose other than the use intended by this Agreement is at the risk of the City. Use of any work product by Consultant is prohibited without the written consent of the City, which the City shall not unreasonably withhold.

j. Compliance with Applicable Laws. Consultant shall comply with all federal, state, and local laws and ordinances applicable to the work under this Agreement, including, without limitation, ORS 279A.110, ORS 279B.220, 279B.225, 279B.230, 279B.235, 279C.515, 279C.520, and 279C.530, as set forth on Exhibit B. Without limiting the foregoing, Consultant expressly agrees to comply with: (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, (iv) ORS 659.425, (v) all regulations and administrative rules established pursuant to those laws; and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. A condition or clause required by law to be in this Agreement shall be considered included by these references.

k. Indemnity and Hold Harmless.

(i) Consultant and City shall defend, save, hold harmless, and indemnify each other, their officers, agents, and employees from all claims, suits, or actions of whatsoever nature, resulting from or arising out of the activities of Consultant or City or their officers, employees, subcontractors, or agents under this Agreement.

(ii) Consultant shall defend, save, hold harmless, and indemnify the City, its officers, agents, and employees from all claims, suits, or actions arising out of the professional negligent acts, errors, or omissions of Consultant or its officers, employees, subcontractors, or agents under this Agreement.

(iii) Consultant waives any and all statutory or common law rights of defense and indemnification by the City.

l. Insurance. Consultant shall provide insurance in accordance with Exhibit C.

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

n. Professional Standards. Work under this Agreement shall be performed in a good and workmanlike manner and in accordance with the professional standards of professionals doing similar work in the State of Oregon. At all times during the term of this Agreement, Consultant shall be qualified, professionally competent, and duly licensed to perform the services. In addition to any other remedies, Consultant shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

o. Governing Law. The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon and ordinances of the City of Troutdale, Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court in Multnomah County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon.

p. Severability. If any term or provision of this Agreement 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 Agreement did not contain the particular term or provision held invalid.

q. Merger Clause. THIS AGREEMENT AND EXHIBITS A, B, C, D AND E , WHICH ARE AN INTEGRAL PART OF THIS AGREEMENT, CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT 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 THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS,

AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. BY ITS SIGNATURE, CONSULTANT ACKNOWLEDGES IT HAS READ AND UNDERSTANDS THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Signed by Consultant this ____ day of _____, 20 ____:

Authorized Consultant Signature

Printed Name & Title

NOTICE TO CONSULTANT: This Agreement does not bind the City unless and until the City Manager or the Manager's Designee has executed it.

Approved by City this ____ day of _____, 20 ____:

Authorized City Signature; Manager or Designee

Printed Name & Title

EXHIBIT A

SCOPE OF WORK, DELIVERY SCHEDULE & PAYMENT SCHEDULE

[describe work, due dates for work components and payment schedule]

Background:

Objective/Purpose:

Scope of Work/Tasks/Activities:

Performance Timeframe:

Deliverable:

Additional Performance Expectations:

Fees and payment schedule:]

EXHIBIT B
COMPLIANCE WITH APPLICABLE LAW
for
PERSONAL SERVICES AGREEMENTS

WHERE APPLICABLE, ALL CONTRACTORS SHALL COMPLY WITH THE FOLLOWING STATUTORILY REQUIRED PROVISIONS:

279A.110 Discrimination in subcontracting prohibited; remedies.

* * * * *

(4) A bidder or proposer shall certify . . . that the bidder or proposer has not discriminated and will not discriminate, in violation of subsection (1) of this section, against any minority, women or emerging small business enterprise in obtaining any required subcontract.

* * * * *

279B.110 Contractor’s Representations and Warranties. Contractor represents and warrants to City that:

- (1) Contractor has the power and authority to enter into and perform this Contract.
- (2) This Contract, when executed and delivered, is a valid and binding obligation of Contractor, enforceable in accordance with its terms.
- (3) Contractor (to the best of Contractor’s knowledge), after due inquiry), for a period of no fewer than six calendar years preceding the effective date of this Contract, faithfully has complied with:
 - (a). All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318;
 - (b). Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;
 - (c). Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
 - (d). Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- (4) Any Goods or Intellectual Property Rights delivered to the City under this Contract, and Contractor’s Services rendered in the performance of Contractor’s obligations under this Contract, shall be provided to the City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assessment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

* * * * *

279B.110 Contractor’s Compliance with Tax Laws.

- (1) Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, “tax laws” includes all the provisions described in the above section (3)(a) through (d) of the immediately prior section (279B.110. Contractor’s Representations and Warranties.) of this Exhibit B to this Contract.
- (2) Any violation of subsection 1 of this section shall constitute a material breach of this Contract. Further any violation of Contractor’s warranty, in the above section (3) of Exhibit B to this Contract, that the Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state shall also constitute a material breach of this Contract. Any violation shall entitle the City to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any and all of the remedies available under this Contract, at law, or in equity, including but not limited to:
 - (a). Termination of this Contract, in whole or in part;
 - (b). Exercise the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s setoff right, without penalty; and
 - (c). Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The City shall be entitled to recover any and all damages suffered as a result of Contractor’s breach of this Contract, including but

not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

These remedies are cumulative to the extent the remedies are not inconsistent, and City may pursue any remedy or remedies singly, collectively, successively, or in any other whatsoever.

279B.220 Conditions concerning payment, contributions, liens, withholding. Every public contract shall contain a condition that the Consultant shall:

(1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.

(2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the 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.

279B.225 Condition concerning salvaging, recycling, composting or mulching yard waste material. Every public contract for lawn and landscape maintenance shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

279B.230 Condition concerning payment for medical care and providing workers compensation.

(1) Every public contract shall contain a condition that the contractor 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 the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

(2) Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

279B.235 Condition concerning hours of labor.

(1) Every public contract, other than a contract for services at a county fair or for other events authorized by a county fair board, must contain a condition that 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 U.S.C. 201 et seq.).

279C.515 Conditions concerning payment of claims by public officers, payment to persons furnishing labor or materials and complaints.

(1) Every public contract shall contain a clause or condition that, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as the claim becomes due, the proper officer or officers representing the state or a county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the contractor by reason of the contract.

* * * * *

(4) The payment of a claim in the manner authorized in this section does not relieve the contractor or the contractor’s surety from obligation with respect to any unpaid claims.

279C.520 Condition concerning hours of labor. (1) Every public contract subject to this chapter must contain a condition that a person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:

- (a)(A) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
- (B) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- (b) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

(2) An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the 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.

(3) In the case of contracts for personal services as described in ORS 279A.055, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, 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.

* * * * *

(5)(a) Except as provided in subsection (4) of this section, contracts for services must contain a provision that requires the persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540 (1) (b) (B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater.

(b) An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the 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.

279C.530 Condition concerning payment for medical care and providing workers' compensation. (1) Every public contract shall contain a condition that the contractor 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 the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

(2) Every public contract shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

EXHIBIT C

PERSONAL SERVICES AGREEMENT INSURANCE REQUIREMENTS

To: Insurance Agent. Please provide Certificates of Insurance to the City. During the term of the Agreement, please provide Certificates of Insurance prior to each renewal.

During the term of this Agreement, Consultant shall maintain in force at its own expense all insurance noted below:

(Required) Commercial General Liability insurance, on an occurrence basis, with a combined single limit of not less than \$2,000,000 for each occurrence of bodily injury, personal injury and property damage. It shall include coverage for broad form contractual liability; broad form property damage; personal and advertising injury; owners and contractor protective; premises/operations; and products/completed operations. Coverage shall not exclude excavation, collapse, underground, or explosion hazards.

(Required, unless Consultant and City initials on line below) Workers Compensation insurance in compliance with ORS 656.017. All employers, including Consultant, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage. Consultant shall ensure that each of its subcontractors complies with these requirements. Consultant is exempt in accordance with ORS 656.126 (temporary worker from another state) or ORS 656.027 (casual work, independent contractors that are sole proprietors, partnerships or corporations, etc.) City ___ Consultant ___

(Check Here if Required) { } Professional Liability insurance with a combined single limit of not less than \$2,000,000 for each claim, incident, or occurrence. This is to cover damages caused by error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for two years after the Agreement is completed.

(Check Here if Required){ } Commercial Automobile Liability insurance with a combined single limit, or the equivalent of not less than \$2,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired and non-owned vehicles. "Symbol One" coverage shall be designated.

Notice of Cancellation or Change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from the Consultant or its insurer(s) to the City. This notice provision shall be by endorsement physically attached to the certificate of insurance.

Additional Insured. For general liability insurance and automobile liability insurance the City, and its agents, officers, and employees will be Additional Insureds by endorsement, but only with respect to Consultant's services to be provided under this Agreement. This coverage shall be by endorsement physically attached to the certificate of insurance.

Certificates of Insurance. Consultant shall furnish insurance certificates acceptable to City prior to commencing work. The certificate will include the deductible or retention level and required endorsements. Insuring companies or entities are subject to City approval. If requested, copies of insurance policies shall be provided to the City. Consultant shall be responsible for all deductibles, self-insured retention's, and/or self-insurance.

EXHIBIT D

CERTIFICATION STATEMENT FOR CORPORATION

OR INDEPENDENT CONTRACTOR

A. CONSULTANT IS A CORPORATION

CORPORATION CERTIFICATION: I am authorized to act on behalf of the entity named below, and certify under penalty of perjury that it is a corporation.

Entity Name

Authorized Corporate Signature

Printed Name & Title

Date

B. CONSULTANT IS INDEPENDENT CONTRACTOR. . (Complete Part B *if* Consultant *is not* a corporation.)

Independent Consultant Standards. As used in various provisions of ORS Chapters including but not limited to 448, 656, 657, 671, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an “independent Consultant” if the standards of ORS 670.600 are met

Consultant certifies that the Consultant meets the following standards:

1. Consultant is free from direction and control over the means and manner of providing the labor or services, subject only to the specifications of the desired results.
2. Consultant is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local ordinances.
3. Consultant furnishes the tools or equipment necessary for performance of the contracted labor or services.
4. Consultant has the authority to hire and fire employees to perform the labor or services.
5. **Payment to the Consultant is made upon completion of the performance or is made on the basis of a periodic retainer.**
6. Consultant is registered under ORS Chapter 701, if the Consultant provides labor or services for which such registration is required.
7. Consultant has filed federal and state income tax returns in the name of the business or a business Schedule C as part of the personal income tax return, for the previous year, for labor or services performed as an independent Consultant in the previous year.

8. Consultant represent to the public that the labor or services are to be provided by an independently established business as four or more of the following circumstances exist.

(Check four or more of the following:)

- A.** The labor or services are primarily carried out at a location that is separate from Consultants residence or is primarily carried out in a specific portion of Consultants residence, which is set aside as the location of the business.
- B.** Commercial advertising or business cards are purchased for the business, or Consultant has a trade association membership.
- C.** Telephone listing is used for the business that is separate from the personal residence listing.
- D.** Labor or services are performed only pursuant to written contracts.
- E.** Labor or services are performed for two or more different persons within a period of one year.
- F.** Consultant assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

If any action is taken by a person or enforcement agency relating to Consultant’s independent Consultant status in connection with this Agreement, Consultant shall defend, hold harmless and indemnify the City of Troutdale, its elected and appointed officials, employees, volunteers and agents from any such action, claim, judgment, fine, penalty, or order to pay. Consultant shall pay any additional costs incurred by the City in defending such action or incurred as a result of such action. This indemnification is in addition to any indemnification otherwise in this agreement.

Consultant Signature Date

Printed Name & Title

EXHIBIT E

CONSULTANT DATA, CERTIFICATION, AND SIGNATURE

Business Name (please print): _____

Contact Name: _____ Phone: _____

Email: _____

Address: _____

Social Security #: _____

Federal Tax ID #: _____ State Tax ID #: _____

Citizenship: Nonresident alien Yes No

Business Designation (check one): Individual Sole Proprietorship

Partnership Corporation Government/Nonprofit Limited Liability Company

The above information must be provided prior to approving this Agreement. Payment information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer I.D. number provided above. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Consultant to 31 percent backup withholding.

Signed by Consultant:

Signature Date

Printed Name & Title