

July 19, 2018

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval of Professional Services Contract with Scott Edwards Architecture (SEA) for  
Master Planning Services at Hillside Park

<b>Purpose/Outcomes</b>	Approve Contract between Housing Authority of Clackamas County and Scott Edwards Architecture Contract for Master Planning Services
<b>Dollar Amount and Fiscal Impact</b>	Not to exceed \$203,000
<b>Funding Source(s)</b>	Metro 2040 Planning and Development Grant No County General Funds
<b>Duration</b>	June 21 <sup>st</sup> , 2018 - June 30 <sup>th</sup> , 2020
<b>Previous Board Action</b>	On March 15 <sup>th</sup> , 2018 the Board approved an Intergovernmental Government Agreement with Metro to fund the Master Plan of Hillside Park.
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li>1. Efficient &amp; effective services</li> <li>2. Ensure safe, healthy and secure communities</li> </ol>
<b>Contact Person</b>	Chuck Robbins, HACC Executive Director (503) 650-5666

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, requests approval to execute a Contract with Scott Edwards Architecture (SEA) to provide Master Planning Services for Hillside Park, a 16 acre public housing community in Milwaukie, Oregon. This team was selected from a pool of qualified responses resulting from a competitive Request for Proposal (RFP) process.

HACC was awarded funding from Metro in November of 2017 to complete a community plan for the Hillside. The Plan will include:

- Outreach/Communications (public involvement) Strategy
- Detailed site analysis
- Development capacity and market analysis
- Preferred Concept Design
- Financial Feasibility and Pro Forma Analysis
- Financing Plan for Federal, State, and local funding applications
- Economic Impact Analysis for job creation and economic opportunities
- Health Impact Analysis

SEA will provide and coordinate Master Planning services for the redevelopment plan. The final product will be a plan that establishes the preferred concept design for the future of the site. The Housing Authority seeks to redevelop the site to provide greater housing opportunities in a

mixed income, mixed use community. The plan will provide the foundation for seeking funding from the State of Oregon and the U.S. Department of Housing and Urban Development (HUD).

This was review and approved by Counsel on July 9, 2018.

**RECOMMENDATION:**

Staff recommends the Board approve the contract and authorize Richard Swift, H3S Director to sign on behalf of the Housing Authority of Clackamas County Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard Swift", is written over the typed name and title.

Richard Swift, Director  
Health, Housing and Human Services

*Healthy Families. Strong Communities.*

2051 Kaen Road, Oregon City, OR 97045 • Phone (503) 650-5697 • Fax (503) 655-8677

[www.clackamas.us](http://www.clackamas.us)

PROFESSIONAL SERVICES CONTRACT

FOR  
Scott Edwards Architecture LLP  
For Master Planning Services

BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY

Jim Bernard, Chair

Sonya Fischer, Commissioner

Ken Humberston, Commissioner

Martha Schraeder, Commissioner

Paul Savas, Commissioner

Paul Reynolds, Resident Commissioner

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## PROFESSIONAL SERVICES CONTRACT FOR MASTER PLANNING SERVICES

This "Contract" for professional services is entered into by and between the Housing Authority of Clackamas County, hereinafter referred to as HACC, and Scott Edwards Architecture LLP, hereinafter called the CONTRACTOR. HACC and CONTRACTOR, in consideration of the mutual promises, terms and conditions provided herein, agree to the following:

### **I. SCOPE OF WORK and TERM OF CONTRACT:**

This Contract covers the services as described in Attachment "A" which by this reference is hereby incorporated into and made a part of this contract. Work shall be performed in accordance with a schedule approved by the HACC. The term of the contract shall commence upon Contract Execution and continue through July 1<sup>st</sup>, 2020. Passage of the Contract expiration date shall not extinguish or prejudice HACC's right to enforce this Contract with respect to any default or defect in performance that has not been cured.

### **II. COMPENSATION:**

**A.** HACC agrees to compensate the CONTRACTOR on a fee-for-services basis as provided for in Attachment "B" which by this reference is hereby incorporated into and made a part of this contract. Invoices submitted for payment in connection with this contract shall be properly documented and shall indicate pertinent HACC contract and/or purchase order numbers. All charges shall be billed monthly and will be paid net 30 days from receipt of invoice. The maximum compensation authorized under this contract shall be \$203,000.

**B.** CONTRACTOR bears the risk of non-payment for services in excess of the amount stated above without prior HACC approval; but HACC reserves the right to ratify and pay for such services in its sole discretion.

**C.** The CONTRACTOR is engaged hereby as an independent contractor and will be so deemed for purposes of the following:

**1.** The CONTRACTOR will be solely responsible for payment of any Federal or State taxes required as a result of this agreement.

**2.** This contract is not intended to entitle the CONTRACTOR to any benefits generally granted to HACC employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this contract to the CONTRACTOR are vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the CONTRACTOR is presently a member of the Public Employees Retirement System).

**3.** If the CONTRACTOR has the assistance of other persons in the performance of this contract, and the CONTRACTOR is a subject employer, the CONTRACTOR shall qualify and remain qualified for the term of this contract as an insured employer under ORS 656.

**4.** CONTRACTOR represents and warrants that CONTRACTOR is not an employee of HACC or of the Federal Government, meets the independent contractor standards of ORS 670.600, and is not an "officer", "employee", or "agent" of HACC, as those terms are used in ORS 30.260 et.

seq.

### III. CONSTRAINTS

The CONTRACTOR agrees:

**A.** CONTRACTOR shall not delegate the responsibility for providing services under this contract to any other individual or agency without the express written permission of HACC.

**1.** CONTRACTOR shall:

- a. Make payments promptly, as due, to all persons supplying to the CONTRACTOR labor or materials for the prosecution of the work provided for in this agreement.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such CONTRACTOR or subcontractor incurred in the performance of this agreement.
- c. Not permit any lien or claim to be filed or prosecuted against the HACC on account of any labor or material furnished.
- d. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

**2.** 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 this agreement as such claim becomes due, the proper officer representing HACC 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 the CONTRACTOR by reason of this agreement.

**3.** Tax Laws

- a. The CONTRACTOR represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Agreement, has faithfully complied with:
  - i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318;
  - ii. 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;
  - iii. 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
  - iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

4. CONTRACTOR must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Agreement. Further, any violation of the CONTRACTOR's warranty in this Agreement that CONTRACTOR has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle HACC to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all remedies available under this Agreement, at law, or in equity, including but not limited to:
  - a. Termination of this Agreement, in whole or in part;
  - b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to CONTRACTOR, in an amount equal to HACC's setoff right, without penalty; and
  - c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. HACC shall be entitled to recover any and all damages suffered as the result of CONTRACTOR's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.
  - d. These remedies are cumulative to the extent that remedies are not inconsistent, and HACC may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.
5. The CONTRACTOR shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which are incorporated herein by this reference.

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.
6. The CONTRACTOR shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the CONTRACTOR, of all sums which the CONTRACTOR agrees to pay for such services and all moneys and sums which the CONTRACTOR collected or deducted from the wages of the CONTRACTOR'S employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
7. The CONTRACTOR shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this contract.
8. The CONTRACTOR shall indemnify, save harmless and defend the HACC, its officers, commissioners, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the negligent acts, errors, omissions, or fault of the CONTRACTOR or the CONTRACTOR'S employees, subcontractors, or agents.
9. Services performed by CONTRACTOR shall be performed in a comparable manner and with the same degree of care, skill, diligence, competency, and knowledge which is ordinarily exhibited and possessed by other professionals in good standing in the same or similar field in

the same community as CONTRACTOR.

#### **IV. INSURANCE REQUIREMENTS**

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the CONTRACTOR, its agents, representatives, employees, or sub-contractors.

##### **A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0 01 10 01).
2. Insurance Services Office Additional Insured form (CG 20 37 or CG 20 26).
3. Insurance Services Office form number CA 00 01 06 92 covering Automobile Liability, Code 1 (*any auto*) [*require if scope of work includes driving on HACC property*].
4. Workers' Compensation insurance as required by state law and Employer's Liability Insurance.
5. Professional Errors and Omissions Liability insurance appropriate to the CONTRACTOR's profession.

##### **B. MINIMUM LIMITS OF INSURANCE**

CONTRACTOR shall maintain insurance limits of no less than:

1. General Liability: \$1,000,000 per occurrence for Bodily Injury, Personal Injury, and Property Damage. (*including coverages for discrimination, ADA violations, and sexual molestation*). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for Bodily Injury and Property Damage.
3. Workers' Compensation (*statutory*) and Employer's Liability: \$1,000,000 per accident for Bodily Injury or Disease.
4. Professional Errors and Omissions Liability insurance: \$1,000,000 per occurrence.

***NOTE: These limits can be attained by individual policies or by combining primary and umbrella policies.***

##### **C. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by HACC. At the option of HACC, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects HACC, its officers, officials, employees, and volunteers; or the CONTRACTOR shall provide a financial guarantee satisfactory to HACC guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

##### **D. OTHER INSURANCE PROVISIONS**

The General Liability and Automobile Liability policies are to contain, or endorsed to contain, the following provisions:

1. HACC, its officers, officials, employees, and volunteers are to be covered as additional insured with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR; or automobiles owned, leased, hired, or borrowed by the CONTRACTOR.
2. The CONTRACTOR's insurance coverage shall be primary insurance as respects HACC, its

officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by HACC, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance.

3. Each insurance policy required by these specifications shall be endorsed to state that coverage shall not be cancelled or materially changed, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to HACC.

4. Maintenance of the proper insurance for the duration of the contract is a material element of the contract. Material changes in the required coverage or cancellation of the coverage shall constitute a material breach of the contract by the CONTRACTOR.

#### **E. ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than B+; CONTRACTOR must provide written verification of their insurer's rating.

#### **F. VERIFICATION OF COVERAGE**

CONTRACTOR shall furnish HACC with original certificates and amendatory endorsements effecting coverage required by these specifications. The endorsements should conform fully to the requirements. All certificates and endorsements are to be received and approved by HACC in sufficient time before the agreement commences to permit CONTRACTOR to remedy any deficiencies. HACC reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

#### **G. SUB-CONTRACTORS' INSURANCE**

CONTRACTOR shall include all sub-contractors as insured's under its policies or shall furnish separate insurance certificates and endorsements for each sub-contractor in a manner and in such time as to permit HACC to approve them before sub-contractors' work begins. All insurance coverages for sub-contractors shall be subject to all of the requirements stated above.

Notwithstanding this provision, CONTRACTOR shall indemnify HACC for any claims resulting from the performance or non-performance of the CONTRACTOR's sub-contractors and/or their failure to be properly insured.

#### **V. SUBCONTRACTORS:**

Use of sub-contractors must be pre-approved in writing by HACC. The CONTRACTOR shall be responsible to HACC for the actions of persons and firms performing subcontract work. The CONTRACTOR certifies that the CONTRACTOR has not discriminated and will not discriminate against any minority, women or emerging small business enterprise in obtaining any subcontract.

#### **VI. OTHER TERMS:**

**Termination.** A. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the District for convenience upon thirty (30) days' written notice to the Contractor; (B) District may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the District, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the Work under this Contract is prohibited or the District is prohibited from paying for such Work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the District for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the Work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the District, fails to correct such failure within ten (10)



business days; or (D) If sufficient funds are not provided in future approved budgets of the District (or from applicable federal, state, or other sources) to permit the District in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, District may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**A.**

**B. Amendments.** This contract and any amendments to this contract will not be effective until approved in writing by an authorized representative of HACC.

**C. Governing Law/Venue.** This contract shall be governed by the laws of the State of Oregon. Any action or suit commenced in connection with this contract shall be commenced in the Circuit Court of Clackamas County. Provided, however, that if any action or suit must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

**D. Third Party Beneficiaries.** HACC and CONTRACTOR are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, or is intended to give, any right or benefit to any third persons unless such third persons are identified individually by name herein and expressly identified as intended beneficiaries of this contract.

**E. Force Majeure.** Neither HACC nor CONTRACTOR shall be held responsible for delay or default caused by fire, riot, terrorism, strikes, acts of god, or war, where such cause was beyond their reasonable control. The parties shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of their obligations under this contract.

**F. Survival.** The terms, conditions, representations, and all warranties contained in this contract shall survive the termination or expiration of this contract.

**G. Records.** CONTRACTOR shall maintain all fiscal records 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 hereunder. Contractor shall maintain any such records for a minimum of three years following final payment and termination of this contract, and CONTRACTOR shall allow HACC and its duly authorized representative's access to such records during that time or until the conclusion of any audit, controversy or litigation arising out of or related to this contract, whichever date is later. All subcontracts shall also comply with these provisions.

**H. Ownership and Use of Documents.** All work products of CONTRACTOR which result from this contract (the "work products"), except material previously and mutually identified as confidential, shall be provided to HACC upon request and shall be considered exclusive property of HACC. In addition, if any of the work products contain intellectual property of CONTRACTOR that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, CONTRACTOR hereby grants HACC a perpetual, royalty-free, fully paid-up, nonexclusive and irrevocable license to copy, reproduce, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so for HACC purposes, all such work products, including but not limited to any information, designs, plans or works provided or delivered to HACC or produced by CONTRACTOR under this contract.

**I. Whole Contract.** This contract constitutes the complete and exclusive statement of the contract

between the parties relevant to the purpose described herein and supersedes and cancels any prior contracts or proposals, oral or written, and all other communication between the parties relating to the subject matter of this contract. No waiver, consent, modification or change of terms of this contract will be binding on either party except as a written addendum signed by authorized agents of both parties.

**J. Representations and warranties.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (D) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**K. Limitation of Liabilities.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

**L. Severability.** If any provision of this Contract is declared by a court to be unenforceable, 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 provision held to be invalid.

**M. Waiver.** Failure of the Owner to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Owner of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

**N. Time is of the Essence.** Time is of the essence for this Contract.

**O. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together shall constitute an agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

By their signatures below, the parties to this contract agree to the terms, conditions, and content expressed herein.



\_\_\_\_\_  
Authorized Signature

Lisa McClellan, Principal  
Scott | Edwards Architecture, llp

\_\_\_\_\_  
Name / Title Printed

July 9, 2018

\_\_\_\_\_  
Date

503.226.3617 / 503.226.3715

\_\_\_\_\_  
Telephone / Fax Number

93-1255267

\_\_\_\_\_  
Federal Tax ID Number

**HOUSING AUTHORITY OF  
CLACKAMAS COUNTY BOARD**

Commissioner Jim Bernard, Chair  
Commissioner Sonya Fischer  
Commissioner Ken Humberston  
Commissioner Paul Savas  
Commissioner Martha Schrader  
Resident Commissioner Paul Reynolds

Signing on Behalf of the Housing Authority Board

\_\_\_\_\_  
Richard Swift, Director  
Health, Housing and Human Services Department

\_\_\_\_\_  
Date