



**REQUEST FOR QUALIFICATIONS No. 2017-20**

**FOR**

**Consulting Engineering Services for  
McLoughlin Blvd. Street Lighting Project**

**BOARD OF COUNTY COMMISSIONERS**

**JIM BERNARD, Chair**

**SONYA FISCHER, Commissioner**

**KEN HUMBERSTON, Commissioner**

**PAUL SAVAS, Commissioner**

**MARTHA SCHRADER, Commissioner**

---

**Donald Krupp  
County Administrator**

**George Marlton  
Procurement Division Director**

**Guy Melton  
Procurement & Contract Analyst, Sr.**

**PROPOSAL CLOSING DATE, TIME AND LOCATION**

**DATE: April 13, 2017**

**TIME: 2:00 PM, Pacific Time**

**PLACE: Clackamas County Procurement  
Clackamas County Public Services Building  
2051 Kaen Road, Oregon City, OR 97045**

**SCHEDULE**

Request for Qualifications Issued.....	March 23, 2017
Protest of Specifications Deadline.....	March 30, 2017 5:00 PM, PT
Deadline to Submit Clarifying Questions.....	April 5, 2017, 5:00 PM, PT
Request for Qualifications Closing Date and Time.....	April 13, 2017, 2:00 PM, PT
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award
Anticipated contract start date.....	May, 2017

## TABLE OF CONTENTS

	Page
Section 1 – Notice of Request for Qualifications.....	1
Section 2 – Instructions to Proposers.....	2
Section 3 – Scope of Work .....	7
Section 4 – Evaluation and Selection Criteria .....	9
Section 5 – Proposal Content (Including Proposal Certification).....	13
Section 6 – Sample Contract.....	15

## SECTION 1 NOTICE OF REQUEST FOR QUALIFICATIONS

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, April 13, 2017** (“Closing”), to provide: **Consulting Engineering Services for McLoughlin Blvd. Street Lighting Project**. No Proposals will be received or considered after that time.

Proposal packets are available from 7:00 AM to 6:00 PM Monday through Thursday at Clackamas County Procurement Division, Clackamas County Public Services Building, 2051 Kaen Road, Oregon City, OR 97045, telephone (503) 742-5444 or may be obtained at <http://www.clackamas.us/bids/>. Sealed Proposals are to be sent to Clackamas County Procurement Division at the above Kaen Road address.

### Contact Information

Technical Specifications: Terry Mungenast, 503.742.4656, [TerryMun@co.clackamas.or.us](mailto:TerryMun@co.clackamas.or.us)

Procurement Process Questions: Guy Melton, 503.742.5453, [gmelton@clackamas.us](mailto:gmelton@clackamas.us)

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Dated: March 23, 2017

---

George Marlton, Procurement Division Director

## SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFQ. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

**2.1 Modification or Withdrawal of Proposal:** Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

**2.2 Requests for Clarification and Requests for Change:** Proposers may submit questions regarding the specifications of the RFQ. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFQ. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFQ terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFQ. County will provide reasonable notice of its decision to all Proposers that have provided an address to the Procurement Division for this procurement. No oral or written instructions or information concerning this RFQ from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFQ.

**2.3 Protests of the RFQ/Specifications:** Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFQ. Protests may not be faxed. Protests of the RFQ specifications must include the reason for the protest and any proposed changes to the requirements.

**2.4 Addenda:** If any part of this RFQ is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check the Bids and Contract Information page at <http://www.clackamas.us/bids/> for any published Addenda or response to clarifying questions.

**2.5 Submission of Proposals:** All Proposals must be submitted in a sealed envelope bearing on the outside, the name and address of the proposer, the project title, and Closing date/time. Deliveries to be sent to:

**Clackamas County  
Procurement Division  
2051 Kaen Road,  
Oregon City, OR 97045**

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFQ. Proposals that include orders, conditions, or qualifications may be rejected as irregular. All Proposals shall be signed in ink in the blank spaces provided herein (Section 4). If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone, email, or fax.

**2.6 Post-Selection Review and Protest of Award:** County will name the apparent successful Proposer in a “Notice of Intent to Award” letter. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers will be notified in writing of the selection of the apparent successful Proposer(s) and shall be given seven (7) calendar days from the date on the “Notice of Intent to Award” letter to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFQ.

Only actual proposers may protest if they believe they have been adversely affected because the proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an adversely affected proposer with a right to submit a written protest, a proposer must be next in line for award, i.e. the protester must claim that all higher rated proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

**2.7 Acceptance of Contractual Requirements:** Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

**2.8 Public Records:** Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFQ and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.501(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

**“This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”**

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” ORS 192.500(1). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

**2.9 Investigation of References:** County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its

completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFQ. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

**2.10 RFQ Proposal Preparation Costs and Other Costs:** Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

**2.11 Clarification and Clarity:** County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

**2.12 Right to Reject Proposals:** County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

**2.13 Cancellation:** County reserves the right to cancel or postpone this RFQ at any time or to award no contract.

**2.14 Proposal Terms:** All Proposals, including any price quotations, will be valid and firm through a period of ninety (90) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

**2.15 Oral Presentations:** At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

**2.16 Usage:** It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

**2.17 Sample Contract:** Submission of a Proposal in response to this RFQ indicates Proposer's willingness to enter into a contract containing substantially the same terms listed in Exhibit A – Sample Contract, attached hereto and made a part hereof. No action or response to the sample contract is required under this RFQ. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of the Instructions to Proposers Section of this RFQ, pertaining to requests for clarification or change or protest of the RFQ/specifications, and as otherwise provided for in this RFQ. This RFQ and all supplemental information in response to this RFQ will be a binding part of the final contract.

**2.18 Review for Responsiveness:** Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

**2.19 RFQ Incorporated into Contract:** This RFQ will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFQ, their Proposal(s), and the terms of the Sample Contract.

**2.20 Communication Blackout Period:** Except as called for in this RFQ, Proposers may not communicate with members of the Evaluation Committee about the RFQ until the apparent successful Proposer is selected, and all protests, if any, have been resolved.

**2.21 Prohibition on Commissions and Subcontractors:** County will contract directly with persons/entities capable of performing the requirements of this RFQ. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

**2.22 Ownership of Proposals:** All Proposals in response to this RFQ are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

**2.23 Clerical Errors in Awards:** County reserves the right to correct inaccurate awards resulting from its clerical errors.

**2.24 Rejection of Qualified Proposals:** Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFQ or the Sample Contract.

**2.25 Collusion:** By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFQ, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

**2.26 Evaluation Committee:** Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

**2.27 Commencement of Work:** The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

**2.28 Best and Final Offer:** County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFQ.

**2.29 Nondiscrimination:** The successful proposer agrees that, in performing the work called for by this RFQ and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.



## **SECTION 3**

### **SCOPE OF WORK**

#### **3.1. INTRODUCTION**

The County is seeking the services of a qualified Consultant to prepare street lighting design plans, specifications and cost estimates for the project. The successful Proposer is expected to work closely with County staff, ODOT staff and PGE staff as required, and satisfy all Clackamas County, ODOT and PGE standards. For a copy of the PGE project plan set, please contact Terry Mungenast at 503-742-4656 or TerryMun@clackamas.us.

**Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals.**

#### **3.2 BACKGROUND**

The purpose of the McLoughlin Blvd. Street Lighting Project is to provide street lighting on the east side only of SE McLoughlin Blvd. between SE Meldrum Ave. and SE Park Ave. in Clackamas County. The construction will include bored and open trench installation of conduit, installation of pole foundations, junction boxes and vaults, all in the general locations shown on the PGE project plan set. The exact proposed pole locations will be based on the PGE design and the existing conditions. Although some existing poles will be used, new conduit may be required to provide power to the existing poles. All work will occur within ODOT right of way and will require ODOT coordination, permitting and approvals. The ODOT approval process is underway but final approval has not yet been granted. Note: it is imperative that this project avoid any impacts that might trigger ADA upgrades.

#### **3.3. SCOPE OF WORK**

The successful Proposer will be required to prepare a detailed schedule of all tasks and design elements listed in this RFQ. Throughout the duration of the professional services contract, the Consultant will be required to update the schedule monthly using Microsoft Project. If the County determines that any deliverables are not acceptable and that any deficiencies are the responsibility of the Consultant, the County shall prepare a detailed written description of any deficiencies and an associated time frame for correction, and deliver such notice to the Consultant. The Consultant will correct any deficiencies at no cost to the County. If the corrective work causes any project delays, the Consultant will submit a plan for regaining the project schedule for remaining work under the contract, unless otherwise allowed by the County. If the County determines the contract schedule must be modified, a contract amendment will be initiated.

A detailed scope of work shall be included in the proposal to address the following Consultant tasks:

##### **TASK 1: Project Management and Coordination**

- A. Designate and coordinate the Consultant project team.
- B. Schedule, prepare for, attend and document project team meetings to be held at the County's office at 150 Beaver Creek Road in Oregon City. These meetings will be held as needed and will include the Consultant, County staff and other project stakeholders. A project kickoff meeting will also be held at the County office.
- C. Prepare a detailed schedule showing all major tasks, meetings, and review milestones.
- D. Prepare detailed monthly progress reports and progress billings and submit to the County for approval and payment.
- E. Monitor and manage the project budget.

##### **TASK 2: Survey and Mapping**

- A. Obtain necessary permits for survey within ODOT right of way.
- B. Research and compile available survey data.
- C. Check for any existing easements that may conflict with the proposed improvements.

- D. Obtain any required permissions and/or rights-of-entry on private property to perform surveys.
- E. Establish horizontal and vertical control points.
- F. Complete field topography and base map of area affected by improvements. Locate all existing features including fences, buildings, signs, driveways, trees, curbs, culverts, catch basins, manholes, utilities above and below ground, road improvements, and any other relevant features.
- G. Tie horizontal locations of all utilities. In instances where there may be a major conflict with utilities, tie the vertical location as well.
- H. Tie all relevant existing property lines, right of way, easements and monuments.
- I. Survey shall include a 40' (+/-) wide strip of land being 12' into the paved portion of McLoughlin Blvd. and extending 150 feet north and south of the project limits. Total project length is estimated at 19,000 linear feet.
- J. Provide notifications to adjoining land owners and tenants per ORS 672.047.

**TASK 3: Utility Coordination**

- A. Identify and locate all existing utilities and utility easements within the project limits.
- B. Determine possible utility conflicts.
- C. Initiate contact with the utilities and coordinate any required relocations.

**TASK 4: Plans, Specifications and Estimate (PS&E)**

- A. Provide all plan drawings including title sheet, plan sheets, details, erosion control details, temporary protection and direction of traffic, and other drawings as required on 11" X 17" sheets at 1"=40' scale.
- B. Prepare 100% specifications based on the 2015 Oregon Standard Specifications for Construction and PGE Standards. Use the County's boilerplate special provisions to the specifications in Part 00100 – General Requirements.
- C. Provide 75% and 100% review packages.
- D. Prepare final detailed estimate of construction costs.
- E. Provide plan and base map drawings in AutoCAD 2013 format.
- F. Provide bid assistance.

**TASK 5: Public Involvement**

- A. Prepare one informational mailing to educate citizens regarding the purpose of the project. Consultant will produce copies, pay postage, and mail them to approximately 300 residents and businesses.

**TASK 6: Contingency Tasks**

- A. Construction Engineering Services
- B. Pre-flagging of monuments to protect during construction. This will require multiple trips with timing determined by contractor schedule.
- C. Monument restoration per ORS 209.150. Assume four (4) monuments total.

It is assumed for the purpose of developing this Statement of Qualifications that a pre-bid meeting will not be conducted. An allowance for two bid addenda is to be provided for.

### **3.4     SCHEDULE**

The County has prepared the following anticipated schedule for this project:

<b><u>Item</u></b>	<b><u>Date</u></b>
Notice to Proceed for Consultant	May 2017
Submit 100% PS&E	August 2017
Open Construction Bids	September 2017
Begin Construction	October 2017

### **3.5     CONTRACT TERM**

The term of the Contract shall be from the effective date through December 31, 2018. The Contract may be renewed or extended as allowed in County Local Contract Review Board Rules.

### **3.6     METHOD OF PAYMENT**

Contract payment will be based on a unit price (hourly billing rate) reimbursement. The performance will be based on deliverable products and outcomes. The selected proposer and the County will negotiate the final description of work tasks, deliverables, and schedule for inclusion in the contract.

## **SECTION 4 EVALUATION PROCEDURE**

### **4.1 Proposal Evaluation**

An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFQ.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

### **4.2 Evaluation Criteria**

<b><u>Category</u></b>	<b><u>Points available:</u></b>
Consultant Team Qualifications	0-35
Project Understanding and Approach	0-40
Communication and Availability	0-20
Supportive Information	0-05
<b>Total Points Available</b>	<b>0-100</b>

- 4.3** Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

## SECTION 5 PROPOSAL CONTENTS

### 5.1 Vendors must observe submission instructions and be advised as follows:

**5.1.1** One original (clearly indicated) and four (4) copies of the Proposal, and an electronic copy (on compact disk or jump drive) of the complete Proposal must be received by the Closing date and time indicated in Section 1 of the RFQ. The sealed envelope or package must have the vendor name, name of the project, and date/time of the Closing clearly indicated on outside of the package. ]

### 5.1.2 Mailing address including Hand Delivery, UPS and FEDEX:

Clackamas County Procurement Division  
Clackamas County Public Services Building  
2051 Kaen Road  
Oregon City, OR 97045

**5.1.3** County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

### 5.2 PROPOSAL FORMAT BY SECTION:

Proposals shall be submitted in the format shown below and address the requirements in Sections 4 and 5 of this RFQ.

<u>Section</u>	<u>Maximum No. Pages</u> (8.5"x11" paper size,each side counts as one page. – 11 pt. minimum font)
Signed Proposal Response Form	Form Provided
Cover Letter	1
Consultant Team Qualifications	4
Project Understanding and Approach	4
Communication and Availability	2
<u>Supportive information (references, resumes, licenses, etc.)</u>	<u>5</u>
Maximum Total Number of Pages:	16

**(Sections where pages are in excess of the total maximum number of pages allowed will have 5 points per extra page deducted.)**

### DETAILED SUBMITTAL REQUIREMENTS

All proposals shall be bound with staples and be on 8 ½" X 11" paper with a minimum font size of 11 point (including tables). All Proposals must be submitted in the format shown below:

#### 1. Proposal Response- Form provided in this RFQ.

The Proposal Response Form is required with the RFQ submittal. Failure to submit this signed form will make the submitted proposal non-responsive.

2. **Cover Letter**- (not to exceed 1 page)  
The cover letter should identify the proposing entity, the contact for issues about the proposal, and be signed by an authorized representative or official.
3. **Consultant Team Qualifications**- (not to exceed 4 pages)  
This criterion relates to the Proposer's qualifications, capabilities, and experience. Elements to be considered include the following:
  - Proposer's experience with similar projects.
  - Previous experience of key staff working together as a team
  - Comprehensive expertise to cover all phases of the project.
  - Experience with affected local, state, and federal agencies.
  - Team or individual experience within or near the project vicinity.
  - Similar work within the past three years that best characterize work quality and cost control (references will be submitted for County contact).
4. **Project Understanding and Approach**- (not to exceed 4 pages)  
This criterion relates to the Proposer's understanding of the project and the methodology and course of action used to meet the goals and objectives of the project. The issue is whether the Proposer has a clear and concise understanding of the project based on existing information. Elements to be considered include the following:
  - Proposer's understanding of the project as demonstrated in the RFQ.
  - Proposer's awareness of key issues.
  - Proposer's awareness of project requirements to produce the necessary project deliverables on schedule and within budget.
  - At least one page (11" X 17" allowed) of this section shall be dedicated to providing a detailed matrix illustrating tasks, subtasks and percent of overall project resources on one axis, and a timeline on the other axis.
  - Proposer's understanding of their role in the public involvement process and ability to incorporate comments from the general public and stakeholders into the overall project.
5. **Communication and Availability**- (not to exceed 2 pages)  
This criterion relates to accessibility and availability for project work, meetings, and other interaction with the County. Elements to be considered include the following:
  - Ongoing projects for key staff and percent contracting availability for assignment to this project.
  - Resources available to perform the work for the duration of the project.
  - Ability to include Clackamas County's concerns into project development.
  - Accessibility for interaction with the County for meetings and other project tasks.
  - Ability to establish and maintain functional, productive working relationships.
6. **Supportive Information**- (not to exceed 5 pages)  
Supportive material may include graphs, charts, photographs, resumes, references, etc., and is completely discretionary. Please note that the material included as supportive information will not be considered when scoring any sections of the proposal other than "Supportive Information".

## **PROPOSAL RESPONSE**

### **RFQ No. 2017-20 Consulting Engineering Services for McLoughlin Blvd. Street Lighting Project**

Submitted by: \_\_\_\_\_  
(Must be entity's full legal name, and State of Formation)

The undersigned, through the formal submittal of this Proposal response, declares that he/she has examined all related documents and read the instruction and conditions, and hereby proposes to provide the services as specified, for the project entitled, **CONSULTING ENGINEERING SERVICES FOR MCLOUGHLIN BLVD. STREET LIGHTING PROJECT**, in accordance with the RFQ.

Contractor, by signature below, hereby represents as follows:

- (a) That no County elected official, officer, agency or employee of the County is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the County, its elected officials, officers, agents, or employees had induced it to enter into this contract and the papers made a part hereof by its terms;
- (b) The Proposer, and each person signing on behalf of any Proposer certifies, in the case of a joint Proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
  - 1. The prices in the Proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other proposer or with any competitor;
  - 2. Unless otherwise required by law, the prices which have been quoted in the Proposal have not been knowingly disclosed by the Proposer prior to the Proposal deadline, either directly or indirectly, to any other proposer or competitor;
  - 3. No attempt has been made nor will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restraining trade;
- (c) The proposer fully understands and submits its Proposal with the specific knowledge that:
  - 1. The selected Proposal must be approved by the Board of Commissioners.
  - 2. This offer to provide services will remain in effect at the prices proposed for a period of not less than ninety (90) calendar days from the date that Proposals are due, and that this offer may not be withdrawn or modified during that time.
- (d) That this Proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.
- (e) That the Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

- (f) That the Proposer accepts all terms and conditions contained in this RFQ and that the RFQ and the Proposal, and any modifications, will be made part of the contract documents. It is understood that all Proposals will become part of the public file on this matter. The County reserves the right to reject any or all Proposals.
- (g) That the Proposer holds current licenses that businesses or services professionals operating in this state must hold in order to undertake or perform the work specified in these contract documents.
- (h) That the Proposer is covered by liability insurance and other insurance in the amount(s) required by the solicitation and in addition that the Proposer qualifies as a carrier insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
- (i) That the Proposer is legally qualified to contract with the County.
- (j) That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emergency small business that is certified under ORS 200.055.

[ ] Resident Bidder, as defined in ORS 279A.120

[ ] Non-Resident Bidder, Resident State \_\_\_\_\_

Oregon Business Registry Number \_\_\_\_\_

Contractor's Authorized Representative

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Phone: (     ) \_\_\_\_\_

e-mail: \_\_\_\_\_ Fax: \_\_\_\_\_

Contract Manager:

Name \_\_\_\_\_ Title: \_\_\_\_\_

Phone number: \_\_\_\_\_

Email Address: \_\_\_\_\_



**SECTION 6**  
***SAMPLE CONTRACT FORM***



## CLACKAMAS COUNTY PERSONAL/PROFESSIONAL SERVICES CONTRACT

This Personal/Professional Services Contract (this "Contract") is entered into between XXXX ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County").

### ARTICLE I.

**1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on \_\_\_\_\_. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.

**2. Scope of Work.** Contractor will provide the following personal/professional services: \_\_\_\_\_ ("Work"), further described in **Exhibit A**.

**3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed \$ \_\_\_\_\_, for accomplishing the Work required by this Contract. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit A.

**4. Travel and Other Expense.** Authorized: ☐ Yes ☐ No

If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <http://www.clackamas.us/bids/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

**5. Contract Documents.** This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibits A, B, and C.

### 6. Contractor Data.

**Address:**

**Contractor Contract Administrator:**

**Phone No.:**

**Email:**

**MWESB Certification:** ☐ DBE # ☐ MBE # ☐ WBE # ☐ ESB #

Payment information will be reported to the Internal Revenue Service ("IRS") under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to backup withholding.

## ARTICLE II.

1. **ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor 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.
2. **AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.
3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the Work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.
5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or

suit may 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.

7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, 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 errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, 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 Oregon Public Employees Retirement System); and (C) 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 Chapter 656. (Also see Exhibit C)

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

10. **INSURANCE.** Contractor shall provide insurance as indicated on **Exhibit B**, attached hereto and by this reference made a part hereof. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon.  
**A.**
11. **LIMITATION OF LIABILITIES.** Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. 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.

- 12. NOTICES.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, or mailing the same, postage prepaid, to the County at: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or [procurement@clackamas.us](mailto:procurement@clackamas.us), or to Contractor or at the address or number set forth in Section 1 of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.
- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 14. 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.
- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Paragraphs 1, 6, 8, 11, 13, 14, 15, and 21.
- 16. SEVERABILITY** 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.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Paragraphs 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

**19. TAX COMPLIANCE CERTIFICATION.** 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. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract 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 Contract. Any violation shall entitle County 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 or 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 of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the 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 performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, Contractor has faithfully 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.

**20. TERMINATIONS.** 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 County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, 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 County 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 County 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 County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

**21. REMEDIES.** (A) In the event of termination pursuant to Article II Section 20(A), (B)(i), 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 the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County 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 Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

- 22. NO THIRD PARTY BENEFICIARIES.** County 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 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 Contract.
- 23. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 24. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 25. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 26. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 27. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:
- (A) Contractor shall: (i) 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 Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished.
- (B) 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 Contract as such claim becomes due, the proper officer representing the County 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 this Contract.

(C) The Contractor shall pay employees for Work in accordance with ORS 279B.020 and ORS 279B.235, which is 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.

(D) The Contractor shall promptly, as due, make payment to any person or co-partnership, association or corporation furnishing medical, surgical and hospital care, or other needed care and attention incident to sickness and 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.

- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including



any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**29. KEY PERSONS.** Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

**30. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

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

Company Name

Clackamas County

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
XXXXXX

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name / Title (Printed)

\_\_\_\_\_  
Approved as to Form:

\_\_\_\_\_  
Oregon Business Registry #

\_\_\_\_\_  
County Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Entity Type / State of Formation

**EXHIBIT A**  
**PERSONAL/PROFESSIONAL SERVICES CONTRACT**

**SCOPE OF WORK**

Contractor shall

If the services under this Contract are on an “on-call” or “as-needed basis,” no Work may be performed until a detailed task scope of work is developed and agreed to by the parties for a specific project. Each task scope of work must minimally include: a detailed description of services to be provided, a schedule of key milestones for completion of the task, the maximum fee for completion of the task, and any obligations of the County to complete the task. No task scope of work may commence until an amendment is made to this Contract or an official County Purchase Order is issued and that specifically incorporates by reference this Contract and the agreed upon task scope of work. No task scope of work may modify this Contract and its terms and conditions unless an amendment is made to this Contract.

The County Contract administrator for this Contract is:

**CONSIDERATION**

- a. [Consideration Rates – Fixed Fee, T&M (list hourly rates and explain authorized expenses)]
- b. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the total maximum sum of **\$[AMOUNT]**. Invoices shall be submitted to:
- c. Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Payments shall be made to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.
- d. 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. The billings shall also include the total amount billed to date by Contractor prior to the current invoice.

## **EXHIBIT B INSURANCE**

During the term of this Contract, Contractor shall maintain in full force at its own expense, each insurance noted below:

**1. Required by County of Contractor with one or more workers, as defined by ORS 656.027.**

**Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon Workers' Compensation Law, and shall either comply with ORS 656.017, which requires said employers to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, or shall comply with the exemption set out in ORS 656.126.**

**2. ☒ Required by County    ☐ Not required by County**

**Professional Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. The policy must provide extending reporting period coverage for claims made within two years after the contract is completed.

**3. ☒ Required by County    ☐ Not required by County**

**General Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract.

**4. ☒ Required by County    ☐ Not required by County**

**Automobile Liability** insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

**5. Certificates of Insurance.** As evidence of the insurance coverage required by this Contract, the Contractor shall furnish an endorsement from the insurance company naming the County, its officers, elected officials, agents, and employees as additional insureds with respect to the Work under this Contract. Insuring companies or entities are subject to County acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the County. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

**6. 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 thirty (30) days written notice from the Contractor or its insurer(s) to the County at the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or [purchasing@clackamas.us](mailto:purchasing@clackamas.us).

**EXHIBIT C**  
**CERTIFICATION STATEMENT FOR INDEPENDENT CONTRACTOR**

(Contractor completes if Contractor is not a corporation or is a Professional Corporation)

Contractor certifies he/she is independent as defined in Oregon Revised Statutes 670.600 and meets the following standards that the Contractor is:

1. Free from direction and control, beyond the right of the County to specify the desired result; **AND**
2. Are licensed if licensure is required for the services; **AND**
3. Are responsible for other licenses or certificates necessary to provide the services **AND**
4. Are customarily engaged in an "independently established business."

To qualify under the law, an "independently established business" must meet three (3) out of the following five (5) criteria. **Check as applicable:**

- \_\_\_\_\_ A. Maintains a business location that is: (a) Separate from the business or work of the County; or (b) that is in a portion of their own residence that is used primarily for business.
- \_\_\_\_\_ B. Bears the risk of loss, shown by factors such as: (a) Entering into fixed price contracts; (b) Being required to correct defective work; (c) Warranting the services provided; or (d) Negotiating indemnification agreements or purchasing liability insurance, performance bonds, or errors and omissions insurance.
- \_\_\_\_\_ C. Provides contracted services for two or more different persons within a 12-month period, or routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
- \_\_\_\_\_ D. Makes significant investment in the business through means such as: (a) Purchasing tools or equipment necessary to provide the services; (b) Paying for the premises or facilities where the services are provided; or (c) Paying for licenses, certificates or specialized training required to provide the services.
- \_\_\_\_\_ E. Has the authority to hire and fire other persons to provide assistance in performing the services.

Additional provisions:

1. A person who files tax returns with a Schedule F and also performs agricultural services reportable on a Schedule C is not required to meet the independently established business requirements.
2. Establishing a business entity such as a corporation or limited liability company, does not, by itself, establish that the individual providing services will be considered an independent contractor.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_

**ATTACHMENT A**  
**CONSULTANT'S PROPOSAL**  
**(Successful Consultant's Proposal will become part of the Contract)**