

**CITY OF OREGON CITY
INVITATION TO QUOTE**

Sound Quotes for the 2023 Oregon City Summer Concert Series



Quote Name: Sound Quotes for the 2023 OC Summer Concert Series

Tentative Timeline:

Quote Due Date: March 5, 2023

Quote Review: March 6-10, 2023

Interviews: March 13-24, 2023

Award of Contracts: no later than March 31, 2023

Contact: Melissa Sebastian, Aquatic and Recreation Manager

Email: mtierney@orc-city.org

Phone: 503-974-5516

INVITATION TO QUOTE

Attention:

City of Oregon City Parks and Recreation is inviting you provide a quote for sound, sound technician and lights for the 2023-2025 Oregon City Summer Concert Series.

The City of Oregon City is soliciting quotes, from sound companies, to run sound for the 2023-2025 Oregon City Summer Concert Series at the End of the Trail Interpretive Center, 1726 Washington St, Oregon City, OR 97045.

The contract period will be for three consecutive summers. Dates include every Thursday evening: July 13, 2023 – August 24, 2023 | July 11, 2024 – August 22, 2024 | July 10, 2025 – August 21, 2025.

The full Quote packet has been emailed directly to the interested sound companies.

Quotes must be received via email to mtierney@orcify.org by quote closing **12 pm on March 5, 2022**. Quotes emailed after due date and time will not be accepted.

The City of Oregon City reserves the right to reject any quote not in conformity with the quote requirements, or the right to reject all quotes if it is in the best interest of the City of Oregon City. Contact person is Melissa Sebastian, Aquatic and Recreation Manager, mtierney@orcify.org

All Quotes become part of the public file, without obligation to the City of Oregon City. The City reserves the right to reject any Quotes for good cause if it is in the best interest of the public and is not liable for any costs incurred by the consultant in the proposal preparation or follow-up scope of work or fee negotiations.

Authorized by: Melissa Sebastian, Aquatic and Recreation Manager

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SECTION I

INSTRUCTION TO QUOTE

SECTION I A
INSTRUCTIONS TO QUOTE

1. Contact Information

1.1 Owner Contact Information: Bidders should direct all questions concerning the Contract Documents and/or Specifications in writing, through email, no later than seven (7) calendar days prior to sue date, to Melissa Sebastian, Aquatic and Recreation Supervisor, email: mtierney@orc.org. The City of Oregon City herein used synonymously with the term “Owner” as used in the General Conditions.

2. General Information

2.1 Scope of Work: The work contemplated under this contract includes all labor, tools, machinery, materials, transportation, equipment, and services necessary for and reasonably incidental to, the completion of all work in connection with the project described in the Contract Documents. Contractor recommended to visit the site to understand current site prior to submitting a bid.

2.2 Preparation: Special care should be exercised in the preparations of bids. Bidders must make their own estimates of the facilities and difficulties attending the performance of the work, including local conditions, uncertainty of weather, and all other contingencies.

2.3 Discrepancies: If a bidder finds discrepancies in, or omissions from the specifications, contract documents, or has doubt as to their meaning; the bidder shall at once notify the Owner. The Owner will then investigate and determine if an addendum will be issued.

3. Bid Preparation

3.1 Bids are Offers: The quote is the bidder’s offer to enter into a contract which, if the quote is accepted for award, binds the bidder to a contract and the terms and conditions contained in the Invitation to quote. A bidder shall not make the quote contingent upon the Owner’s acceptance of specifications or contract terms that conflict with or are in addition to those advertised in the Invitation to Quote.

3.2 Quote Form: The quote response shall be made on the form provided in the Invitation to Quote as prescribed by the Owner. The bidder may not alter, modify or change the quote form except as directed by quote addendum. Bidders are required to provide the information requested on the Quote Form. Quotes may be rejected if they contain any recapitulation or restating of the work to be done, disclaimers, exceptions or other limitations. All quotes must contain required information to be considered a reasonable responsible submittal. No oral, telegraphic, telephone or facsimile quotes will be accepted. Only submittals via email will be accepted and either by emailing the quote form or guaranteeing the quote contains the required quote information via email.

3.3 Addenda: The Owner reserves the right to make changes to the Invitation to Quote and the resulting contract, by written addenda, prior to the closing time and date. Addenda notification will be e-mailed to all parties. The Owner is not responsible for a bidder’s failure

to receive notice of addenda. Addenda shall only be issued by the Owner and upon issuance are incorporated into the Contract Documents or the resulting contract. If required by addendum, bidders shall sign and return the addendum prior to the quote closing time and date.

3.4 Examination of Specifications and Work Site: It is understood that a bidder, before submitting its quote, has made a careful examination of specifications, and contract documents; that the bidder is fully informed as to the quality and quantity of materials and character of work required; and that the bidder had made a careful examination of the location and conditions of the work and the sources of supply for materials. The Owner will in no case be responsible for any loss of any unanticipated costs that may be suffered by the contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the work.

3.5 Oregon City Business License or Metro Business License: The bidder awarded the contract shall obtain an Oregon City Business License or Metro Business License and provide proof to consider the contract fully executed.

3.6 Unit and Total Price: All designations and prices shall be fully and clearly set forth. The written quote price shall prevail over the numerical quote price.

3.7 Protest of Quote Requirements: Bidders may, in writing protest or request changes of any specifications or contract terms. This written protest or request must be received by the Owner unless stated differently in the quoting documents no later than ten (10) calendar days prior to the Quote Closing date. The written protest or request shall include the reasons for the protest or request, and any proposed changes to the quote specifications or contract terms. Envelopes containing quote protests shall be marked identifying the project name, closing date, time and include the words "Quote Protest".

4. Required Quote Forms

4.1 Required Quote forms: Each quote must contain the following items on the forms provided in this quote packet:

- a) Section II A Quote Form
- b) Section II J Business Licenses

5. Quote Submission

5.1 Submission Instructions: Quotes must be received via email to mtierney@orccity.org by quote closing **12 pm on March, 5, 2023**. Quotes emailed after the due date and time will not be accepted.

5.2 Quote Modification: Once submitted, quotes may be modified in writing prior to the time and date set for closing. Modifications shall be prepared on the bidder's letterhead, signed by an authorized representative of the bidder, state that the new document supersedes or modifies the prior to the due date and be submitted via email to mtierney@orccity.org, telegraphic and facsimile modifications are not acceptable.

5.3 Quote Withdrawals: A quote may be withdrawn prior to the quote closing time and date. Quotes may be withdrawn in writing via email to mtierney@orccity.org.

5.4 Late Quotes: No quote received after closing time will be considered. The Owner shall not be responsible for the proper identification and handling of any quote not submitted in the proper form or specified location.

6. Quote Results

6.1 Quote Notification: Awarded quote files are public records and available for review upon request to the Owner.

6.2 Quote Tabulation: Bidders may request tabulations of quotes from the Owner. Each request for quote tabulation must be written indicating the project name, closing date, your name and mailing address.

7. Quote Evaluation and Award

7.1 Quote Award: A contract may be awarded to the highest ranked Responsible/Responsive Bidder, subject to the provisions of the quote requirements. The competency and responsibility of the bidders and of their proposed quote will be considered in making the award.

7.2 Quote Evaluation and Award: Quote Award will be based on the grading criteria set forth by the Owner referenced in this Invitation to Quote. The grading criteria will be used a reference check to help determine the most reasonable/responsive bidder. The contract will be awarded as follows: highest ranked per grading criteria laid out in this Invitation to Quote.

7.3 Method of Award: Quote award will follow the procedure set forth in the Contract Documents, the Owner's Personal Services Agreement.

7.4 Unit and Total Price: The price per item shall be clearly shown in the space provided. The pricing shall be extended to show the total when required. In case of errors in extension the unit price shall prevail. The written unit price shall prevail over the numerical unit price.

7.5 Protest of Award: An adversely affected or aggrieved bidder may protest contract award within the time stipulated in the bidding documents. Unsuccessful bidders are not generally notified that a contract is awarded. In order to be an adversely affected or aggrieved bidder, the bidder must claim to be eligible for award of the contract as the lowest responsible and responsive bidder and that any and all lower sum and lower graded bidders are ineligible to receive contract award. An actual bidder who is adversely affected or aggrieved by the award of the contract to another bidder may protest award, in writing, within the timeline established. The written protest shall state the grounds upon which the protest is based. No protest of award shall be considered after the established timelines.

7.6 Award: After expiration of the ten (10) calendar-day intent-to-award protest period, and resolution of all protests, the Owner will proceed with final award. (If the Owner receives only one Quote, the Owner may dispense with the intent-to-award protest period and proceed with award of a Contract.)

7.7 Commencement of Work: Contractor shall not commence Work under this Contract until the Notice to Proceed has been issued.

7.8 Review of Awarded Quote Files: Awarded Quote files are public records and available for review at the Owner’s office by appointment during regular business hours (Monday through Friday).

8. Contract Period and Notice to Proceed

8.1 Contract Performance Period: The bidder shall note the contract period in calendar days which begins with the Notice to Proceed and ends with the Final Completion Date. **Anticipated Notice to Proceed date is approximately 10 days after quote due date.**

8.2 Insurance: The apparent successful Bidder shall provide all required proofs of insurance to the Owner within ten (10) calendar days of notification of intent to award. Failure to present the required documents within the ten (10) calendar-day period may result in Offer rejection. Bidders are encouraged to consult their insurance agent(s) about the insurance requirements as identified in Standard Condition in the contract provided.

Bidders must satisfy these insurance requirements by obtaining insurance coverage from insurance companies or entities acceptable to State that are allowed to provide such insurance under Oregon law. Eligible insurers include admitted insurers that have been issued a certificate of authority from the Oregon Department of Consumer and Business Services authorizing them to provide insurance in the state of Oregon, and certain non-admitted surplus lines insurers that satisfy the requirements of applicable Oregon law and are approved by the Owner. The Owner's approval will be based on its assessment of the non-admitted surplus lines insurer and the suitability of surplus lines insurance for this particular procurement.

9. Anticipated Schedule

<u>Date</u>	<u>Event</u>
January 30, 2023	Solicitation for Quotes
March 5th at 12:00 pm	Quote Closing date and time
March 6th - March 10th	Quote evaluation and start grading evaluation
Within 2 week	Review grading criteria and reference checks
Within 3 weeks copies of	Send Notice of Intent to Award letter with The agreement to the apparent lowest responsible/responsive bidder
Within 4 weeks	Contractor to submit all required paperwork (signed contract agreement, business license and insurance). Review the paperwork submitted by the Contractor
Within 6 weeks	Contractor. Execute the agreement and distribute to the contractor. Contract period begins.

End of Instruction to Bidder

SECTION II

QUOTE SUBMITTAL REQUIREMENTS

SECTION II A

QUOTE FORM/SUBMITTAL RQUIRED INFORMATION

To: City of Oregon City Parks and Recreation
Attn: Melissa Sebastian,

Project: Sound Quotes 2023- 2025 Oregon City Summer Concerts

Quote Closing Date and Time: **March 5, 2023, 12:00 PM**

The quote should declare:

That the only persons or parties interested in this Quote as principals are those named herein; and

That this Quote is made without collusion with any other person, firm or corporation; and

That the Bidder has carefully examined the Contract Documents, Addenda (if any), and Specifications. Form of Agreement and all other Contract Documents; and

In submitting this Quote, Bidder proposes and agrees that:

The Bidder acknowledges receipt, has read and understands all Contract Documents in existence at the date the Quote Form is signed. The Bidder waives all rights to plead any misunderstanding regarding the same; and

The Bidder has personally inspected the actual location of the work and all other local conditions affecting it; and

Description of Item/Quote should include:

1. Cover letter including: name of business, address, phone and email, years of experience providing sound for outdoor concert events and two examples of similar work completed.
2. Submit a lump sum quote and include a breakdown of what the lump sum quote includes. Equipment Manifest and system overview and all necessary labor, tools, materials, equipment and services to provide sound, sound technician and lights for the Oregon City Summer Concert Series. See specifications for details.

That if this Quote is accepted, the Bidder will Contract with the Owner, in the said form of Contract.

Dated this _____ day of _____, 20 _____

Signature: _____

Typed Name: _____ Title: _____

Company Name: _____

Address: _____

Telephone: _____

SECTION II B
BUSINESS LICENSES

BUSINES LICENSES
(OCMC 05.04)

In accordance with Oregon City Municipal Code 05.04 (<http://www.orcity.org/finance/business-licenses>), no person shall carry on any business within the city without first obtaining an applicable City **or** Metro business license.

Contractor Name _____

Oregon City Business License No. _____

Metro Business License No. _____ *

I CERTIFY THAT THE CONTRACTOR LISTED ABOVE (CHECK ONE):

- Is in possession of a current City of Oregon City business license.
- Will apply for and obtain an Oregon City Business License if awarded the contract and required by the City to do so.

Signature of Bidder _____

Title _____

*Note: A Metro business license is sufficient to perform work for the City provided the Contractor has or will be earning \$250,000 or less in gross receipts from the City of Oregon City for the fiscal year (July 1 to June 30). Contractors earning more than \$250,000 must have a City of Oregon City Business License.

SECTION III
SPECIFICATIONS

SECTION III A
SPECIFICATIONS
PROJECT SPECIFICATIONS

A. Specifications

The City of Oregon City is soliciting quotes, from sound companies, to run sound for the 2023- 2025 Oregon City Summer Concert Series at the End of the Trail Interpretive Center, 1726 Washington St, Oregon City, OR 97045.

1. Average crowd size is 4,000.

B. Detailed Specifications:

1. Scope of Work

The scope of work for this project includes all labor, equipment, and materials necessary to: Run sound for a 7-week concert series for three consecutive summers (summer 2023, 2024 and 2025) at the End of the Oregon Trail Interpretive Center in Oregon City. Address: 1726 Washington St, Oregon City, OR 97045. Music starts at 6:30pm and goes until 8:30pm.

2. Contract Schedule

- a. Entertainment Schedule:

- Summer 2023, every Thursday starting July 13, 2023 – August 24, 2023 (7 concerts total)
- Summer 2024, every Thursday starting July 11, 2024 – August 22, 2024 (7 concerts total)
- Summer 2025, every Thursday starting July 10, 2025 – August 21, 2025 (7 concerts total)

3. Project Start

This contract may begin as soon as the successful party has met all of the requirements of this contract, and the City has issued a letter to proceed. The designated time for the work in this contract is **July 13, 2022 to August 21, 2025**.

C. Detailed Specifications

1. Scope of Work

The scope of work for this project includes all labor, equipment, and materials process necessary to:

- a. Secure and pay for any required permits.
- b. It is the responsibility of the bidder to quote a sound system and skilled sound technician to provide sound engineering services for the above dates and entertainment. It is also the responsibility of the bidder to quote a sound system to accommodate a crowd of 3000-4000 people

2. Acceptable Equipment and Requirements

- a. Equipment equal to or greater than what is specified below is acceptable
- b. Example of 2023 equipment manifest:

- (4) JBL VRX932LA Line Array Speaker Elements
- (4) JBL SRX718S Single 18” Subwoofers
- 9,000 Watts Subwoofer Power via Crown MacroTech 12000i Amplifier
- 7,000 Watts Power for JBL VRX932LA’s via Crown MacroTech 9000i Amplifier DBX Driverack 260 Stereo Three-Way Processor
- (6) JBL SRX7112M High Power 12” Monitors on six mixes
- (1) Two-way Drum Monitor
- 2 x 32 Channel X-32 Digital Mixer w/integrated digital snake
- All necessary wires, mics DI’s stands and cables
- (2) Full time sound techs (Front of House & Monitor)
- Basic LED lighting system (2) 10’ tall trees w/ 4 LED lights each

D. General Conditions

1. Permits

The Contractor will be responsible for obtaining and paying for any required permits or licenses.

2. Changes

The City may from time to time request changes in the scope of the services and the time of performance as set forth herein. Such changes, including any increase or decrease in the amount of compensation to the Contractor, shall be mutually agreed upon by and between the parties hereto and shall be incorporated as written amendments to the Contract Agreement.

3. Quality Assurance

All work is to be completed by competent engineer experienced in the trade in a quality manner acceptable to the Owner. Provide at least two people who shall be present at all times during the execution of any Work who shall be thoroughly familiar with the type of equipment being used and the best methods for their use.

4. Responsibility

Each Contractor shall:

- a. Keep the premises clean and free of excess materials and rubbish incidental to his Work.
- b. Any work performed by the contractor outside the provisions of the contract must be approved in advance by the Owner.
- c. Protect all Work and existing site features at all times. CONTRACTOR is responsible for repairs, restoration of established grades, replacement or compensation of any damage inflicted on existing structures, existing landscape, or other site features to a state equal to or better than that, which existed prior to the commencement of this contract. All repairs shall conform to the City of Oregon City codes, regulations and industry standards.
- d. After each event, contractor shall return the site to its original condition. All equipment and debris are to be removed from the site at the conclusion of work.
- e. Contractor to stay within defined work area due. The facility will still be open to the public during all phases.
- f. Contractor is responsible for the security of their equipment and materials. Defined storage area must be approved by the City.

g. Any lift used on the interior must be approved by the city.

5. Clean Up

Upon completion of work, remove all excess material, equipment and debris and leave the area in a neat and acceptable condition. Maintain all walks and paved areas free of litter and debris.

End of Specifications

SECTION III B
GRADING CRITERIA

Quotes submitted will be evaluated and graded on the following information. The bidder that rates the highest will be awarded the contract to provide sound and sound engineering for the Oregon City Summer Concerts in the Park.

Sound Company: _____

Address: _____

#1) TO BE COMPLETED BY 2-3 OREGON CITY PARKS AND RECREATION REPRESENTATIVES:

1.) Quote submitted contained all required information listed on the quote form. (max 10 points)

Lump Sum (1/pnt)	Equip Manifest (1/pnt)	System Overview (1/pnt)	Labor details (1/pnt)	Light details (1/pnt)	Yrs. Exp. Listed (1/pnt)

Cover letter (1/pnt)	Name of business (1/pnt)	Address/phone/email (1/pnt)	2 examples of previous work (1/pnt)

2.) Lowest to highest quote. (max 3 points/min 1 point)

Lowest (3 points)	Middle (2 points)	Highest (1 point)

3.) Years' experience providing sound for outdoor concert events.

10+ years (3 points)	5 -10 years (2 points)	1-5 years (1 point)

TOTAL #1: _____

TOTAL #2: _____

FINAL EVALUATION TOTAL: _____

#2) TO BE COMPLETED BY 4 ENTERTAINMENT BOOKING AGENTS AND/OR

BANDS:

Not for bidders use.

Only agents and musicians booked for the upcoming season are eligible to evaluate submitted quotes.

Sound Company: _____

Address: _____

1.) Have you worked with the sound company listed above? (max 1/point)

Yes (1 point)	No (0 points)

2.) Have you found the company to be professional in appearance? (Max 5 points)
 (1 = unacceptable, 2 = marginal, 3 = satisfactory, 4 = Commendable, 5 = Superior, NE = No Exp. w/ company listed)

NE	1	2	3	4	5

3.) Does the company consistently provide knowledgeable sound technicians? (Max 5 points)
 (1 = unacceptable, 2 = marginal, 3 = satisfactory, 4 = Commendable, 5 = Superior, NE = No Exp. w/ company listed)

NE	1	2	3	4	5

4.) Please rate their customer service in regard to relations with the band? (Max 5 points)
 (1 = unacceptable, 2 = marginal, 3 = satisfactory, 4 = Commendable, 5 = Superior, NE = No Exp. w/ company listed)

NE	1	2	3	4	5

5.) Does the sound company listed above provide quality and reliable equipment? (Max 5 points)
 (1 = unacceptable, 2 = marginal, 3 = satisfactory, 4 = Commendable, 5 = Superior, NE = No Exp. w/ company listed)

NE	1	2	3	4	5

6.) As a band member or entertainment booking agent would you work with or recommend this company to other people in the industry? (Max 3 points)
 (1 = no, 2 = maybe, 3 = yes)

NE	1	2	3

TOTAL: _____

SECTION IV

CONTRACT FORMS

SECTION IV A
CONTRACT AGREEMENT
CITY OF OREGON CITY
PERSONAL SERVICES AGREEMENT

This PERSONAL SERVICES AGREEMENT (“Agreement”) is entered into between the CITY OF OREGON CITY (“City”) and _____ (“Contractor”).

RECITALS

A. City requires services that Contractor is capable of providing under the terms and conditions hereinafter described.

B. Contractor is able and prepared to provide such services as City requires under the terms and conditions hereinafter described.

The parties agree as follows:

AGREEMENT

1. Term. The term of this Agreement shall be from the date the contract is fully executed until _____, unless sooner terminated pursuant to provisions set forth below. However, such expiration shall not extinguish or prejudice City’s right to enforce this Agreement with respect to (i) breach of any warranty; or (ii) any default or defect in Contractor’s performance that has not been cured.

2. Compensation. City agrees to pay Contractor on a time-and-materials basis for the services required. Total compensation, including reimbursement for expenses incurred, shall not exceed \$ _____.

3. Scope of Services. Contractor’s services under this Agreement shall consist of services as detailed in Exhibit A, attached hereto and by this reference incorporated herein.

4. Standard Conditions. This Agreement shall include all of the standard conditions as detailed in Exhibit B, attached hereto and by this reference incorporated herein.

5. Integration. This Agreement, along with the description of services to be performed attached as Exhibit A and the Standard Conditions to Oregon City Personal Services Agreement attached as Exhibit B, contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

6. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

To the City:

City of Oregon City
PO Box 3040
625 Center Street
Oregon City, OR 97045
Attention: City Manager

To Contractor:

-

-

-

-

Contractor shall be responsible for providing the City with a current address. Either party may change the address set forth above for purposes of notices under this Agreement by providing notice to the other party in the manner set forth above.

7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction’s conflicts of law, rules or doctrines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on this _____ day of _____, 20_____.

CITY OF OREGON CITY

(CONTRACTOR)

By: _____
Department Representative
Title: Oregon City Parks and Recreation

By: _____
Title: _____

DATED: _____, 20_____.

DATED: _____, 20_____.

SECTION IV B
STANDARD CONDITIONS TO OREGON CITY
PERSONAL SERVICES AGREEMENT

1. Contractor Identification. Contractor shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Contractor's social security number, as City deems applicable.

2. Payment.

(a) Invoices submitted in connection with this Agreement shall be properly documented and shall identify the pertinent agreement and/or purchase order numbers.

(b) City agrees to pay Contractor within thirty (30) days after receipt of Contractor's itemized statement. Amounts disputed by City may be withheld pending settlement.

(c) City certifies that sufficient funds are available and authorized for expenditure to finance the cost of the services to be provided pursuant to this Agreement.

(d) City shall not pay any amount in excess of the compensation amounts set forth in this Agreement, nor shall City pay Contractor any fees or costs that City reasonably disputes.

3. Independent Contractor Status.

(a) Contractor is an independent contractor and is free from direction and control over the means and manner of providing labor or services, subject only to the specifications of the desired results.

(b) Contractor represents that it is customarily engaged in an independently established business and is licensed under ORS chapter 671 or 701, if the services provided require such a license. Contractor maintains a business location that is separate from the offices of the City and bears the risk of loss related to the business as demonstrated by the fixed price nature of the contract, requirement to fix defective work, warranties provided and indemnification and insurance provisions of this Agreement. Contractor provides services for two or more persons within a 12 month period or routinely engages in advertising, solicitation or other marketing efforts. Contractor makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and Contractor has the authority to hire or fire persons to provide or assist in providing the services required under this Agreement.

(c) Contractor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law (including applicable City or Metro business licenses as per Oregon City Municipal Code Chapter 5.04). Contractor shall furnish the tools or equipment necessary for the contracted labor or services. Contractor agrees and certifies that:

(d) Contractor is not eligible for any federal social security or unemployment insurance payments. Contractor is not eligible for any PERS or workers' compensation benefits from compensation or payments made to Contractor under this Agreement.

(e) Contractor agrees and certifies that it is licensed to do business in the State of Oregon and that, if Contractor is a corporation, it is in good standing within the State of Oregon.

4. Early Termination.

(a) This Agreement may be terminated without cause prior to the expiration of the agreed-upon term by mutual written consent of the parties or by the City upon ten (10) days written notice to the Contractor, delivered by certified mail, email, or in person.

(b) Upon receipt of notice of early termination, Contractor shall immediately cease work and submit a final statement of services for all services performed and expenses incurred since the date of the last statement of services.

(c) Any early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

(d) The rights and remedies of the City provided in this Agreement and relating to defaults by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. No Third-Party Beneficiaries. City and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Payment of Laborers; Payment of Taxes.

(a) Contractor shall:

(i) Make payment promptly, as due, to all persons supplying to Contractor labor and materials for the prosecution of the services to be provided pursuant to this Agreement.

(ii) Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Agreement.

(iii) Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or materials furnished.

(iv) Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to the Contractor under this Agreement and, unless Contractor is subject to back-up withholding, the City will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligation.

(v) Pay all employees at least time and one-half for all overtime worked in excess of forty (40) hours in any one week, except for individuals excluded under ORS 653.100 to 653.261 or under 29 U.S.C. §§ 201 to 209 from receiving overtime.

(b) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Agreement as such claim becomes due, the City may pay such claim to the person furnishing the labor or services and shall charge the amount of the payment against funds due or to become due to the Contractor by reason of this Agreement.

(c) The payment of a claim in this manner shall not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims.

(d) Contractor and subcontractors, if any, are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires provision of workers' compensation coverage for all workers.

7. SubContractors and Assignment. Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from the City. The City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to the Contractor.

8. Access to Records. City shall have access to all books, documents, papers and records of Contractor that are pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

9. Ownership of Work Product; License. All work products of Contractor that result from this Agreement (the "Work Products") are the exclusive property of City. 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 City a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part (and to authorize others to do so), all such Work Products and any other information, designs, plans, or works provided or delivered to City or produced by Contractor under this Agreement. The parties expressly agree that all works produced (including, but not limited to, any taped or recorded items) pursuant to this Agreement are works specially commissioned by City, and that any and all such works shall be works made for hire in which all rights and copyrights belong exclusively to City. Contractor shall not publish, republish, display or otherwise use any work or Work Products resulting from this Agreement without the prior written agreement of City.

10. Compliance With Applicable Law. Contractor shall comply with all federal, state, and local laws and ordinances applicable to the services to be performed pursuant to this Agreement, including, without limitation, the provisions of ORS 279B.220, 279C.515, 279B.235, 279B.230 and 279B.270. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990 (Pub. L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation and other applicable statutes, rules and regulations.

11. Professional Standards. Contractor shall be responsible, to the level of competency presently maintained by others practicing in the same type of services in City's community,

for the professional and technical soundness, accuracy and adequacy of all services and materials furnished under this authorization.

12. Modification, Supplements or Amendments. No modification, change, supplement or amendment of the provisions of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

13. Indemnity and Insurance.

(a) **Indemnity.** Contractor acknowledges responsibility for liability arising out of Contractor's negligent performance of this Agreement and shall hold City, its officers, agents, Contractors, and employees harmless from, and indemnify them for, any and all liability, settlements, loss, costs, and expenses, including attorney fees, in connection with any action, suit, or claim caused or alleged to be caused by the negligent acts, omissions, activities or services by Contractor, or the agents, Contractors or employees of Contractor provided pursuant to this Agreement.

(b) **Workers' Compensation Coverage.** Contractor certifies that Contractor has qualified for workers' compensation as required by the State of Oregon. Contractor shall provide the Owner, within ten (10) days after execution of this Agreement, a certificate of insurance evidencing coverage of all subject workers under Oregon's workers' compensation statutes. The insurance certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. All agents or Contractors of Contractor shall maintain such insurance.

(c) **Comprehensive, General, and Automobile Insurance.** Contractor shall maintain comprehensive general and automobile liability insurance for protection of Contractor and City and for their directors, officers, agents, and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad-form property damage, including loss of use, and occurring as a result of, or in any way related to, Contractor's operation, each in an amount not less than \$2,000,000 combined, single-limit, per-occurrence/annual aggregate. Such insurance shall name City as an additional insured, with the stipulation that this insurance, as to the interest of City, shall not be invalidated by any act or neglect or breach of this Agreement by Contractor.

14. Legal Expenses. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs, and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

15. Severability. The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

16. Number and Gender. In this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others or other whenever the context so requires.

17. Captions and Headings. The captions and headings of this Agreement are for convenience only and shall not be construed or referred to in resolving questions of interpretation or construction.

18. Hierarchy. The conditions contained in this document are applicable to every Personal Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. To the extent there is a conflict, the terms of the Personal Services Agreement will control over the terms of the standard conditions. To the extent there is a conflict between the terms of the standard conditions and any other document, including the scope of services, the terms of the standard conditions shall control those other terms.

19. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that, if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day that is not a Saturday, Sunday or legal holiday.

20. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses listed in the Agreement attached hereto. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

21. Nonwaiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights of any future occasion.

22. Information and Reports. Contractor shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims, and other information relative to the project as may be requested by City. Contractor shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as a part of the project. Working papers prepared in conjunction with the project are the property of City, but shall remain with Contractor. Copies as requested shall be provided free of cost to City.

23. City's Responsibilities. City shall furnish Contractor with all available necessary information, data, and materials pertinent to the execution of this Agreement. City shall cooperate with Contractor in carrying out the work herein and shall provide adequate staff for liaison with Contractor.

24. Arbitration.

All disputes arising out of or under this Agreement shall be timely submitted to nonbinding mediation prior to commencement of any other legal proceedings. The subsequent measures apply if disputes cannot be settled in this manner.

(a) Any dispute arising out of or under this Agreement shall be determined by binding arbitration.

(b) The party desiring such arbitration shall give written notice to that effect to the other party and shall in such notice appoint a disinterested person of recognized competence in the field as arbitrator on its behalf. Within fifteen (15) days thereafter, the other party may, by written notice to the original party, appoint a second disinterested person of recognized competence as arbitrator on its behalf. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence, and the three arbitrators shall, as promptly as possible, determine such matter, provided, however, that:

(i) If the second arbitrator is not appointed as described above, then the first arbitrator shall proceed to determine such matter; and

(ii) If the two arbitrators appointed by the parties are unable to agree, within fifteen (15) days after the second arbitrator is appointed, on the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties and, if the parties fail to agree on the selection of the third arbitrator within fifteen (15) days after the arbitrators appointed by the parties give notice, then, within ten (10) days thereafter, either of the parties, on written notice to the other party, may request such appointment by the presiding judge of the Clackamas County Circuit Court.

(c) Each party shall each be entitled to present evidence and argument to the arbitrators. The determination of the majority of the arbitrators or the sole arbitrator, as the case may be, shall be conclusive on the parties, and judgment on the same may be entered in any court having jurisdiction over the parties. The arbitrators or the sole arbitrator, as the case may be, shall give written notice to the parties, stating the arbitration determination, and shall furnish to each party a signed copy of such determination. Arbitration proceedings shall be conducted pursuant to ORS 33.210 et seq. and the rules of the American Arbitration Association, except as provided otherwise.

(d) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the fees and expenses of the third arbitrator, if any.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.