

City of Hermiston
Request for Proposals
“RFP - Project Manager”
For Various Construction Projects

Issued: October 17, 2022

Due: By 1:00 pm, November 17, 2022

For further information contact:

Byron Smith, City Manager
City of Hermiston
bsmith@hermiston.or.us

CITY OF HERMISTON
RFP - Project Manager for Various Construction Projects

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INTRODUCTION AND BACKGROUND

The City of Hermiston invites written sealed proposals for project management services for Various Construction Projects.

City of Hermiston currently has a population of 19,696.

The intended scope of this RFP for Various Construction Projects includes renovations to the Hermiston Public Library, buildout of the Harkenrider Center basement, as well as upgrades to several other City facilities. The contract period is expected to begin immediately upon selection and extend through completion and close-out of the projects in the fall of 2025.

The City may, for good cause, reject any or all proposals upon a finding it is in the public interest to do so and to rescind the award of any contract at any time before the execution of said contract by all parties with no liability against the City.

NOTICE TO PROPOSERS ALL SOLICITATIONS SHALL BE:

- Submitted to the City of Hermiston in a sealed envelope and delivered to:
City of Hermiston
Attn: Byron Smith, City Manager
180 NE 2nd Street
Hermiston OR 97838
- Sealed proposals will be received until: **November 17, 2022 at 1:00 PM PT**
- The outside of the envelope shall be clearly marked:
“RFP - Project Management”
- All bids shall be clearly and distinctly typed or written with ink. No erasures are permitted.
 - Mistakes shall be crossed out and correction typewritten or written in ink adjacent thereto and initialed in ink by the party signing the bid or a confirmed authorized representative.
 - If a response is not legible, the City of Hermiston may determine that the bid is non-responsive.
- All bids shall be in the format requested and/or furnished by the City of Hermiston, herein after referred to as City, or they may be rejected by the City.
- It shall be the proposer’s responsibility to ensure that the bid is delivered to the City at the specified address above before the time and date set for bid closing as noted in the solicitation.
- City will not be responsible for bids delivered to any location other than the address listed above. Bids delivered to another address will be considered non-responsive.
- Each bid package will consist of:
 1. Schedule, Scope of Work and Specifications
 2. Proposal Terms and Conditions
 3. Bid Forms and Attachments
 4. Vendor Checklist
- Bid documents may be obtained via an email request to Byron Smith, City Manager or email bsmith@hermiston.or.us and for questions call 541-567-5521.

PROJECT BUDGET AND FUNDING

BID AND AWARD TIMELINE:	
October 17, 2022	RFP issued
November 8, 2022	Last Day for submittal of questions
November 17, 2022	Proposals due by 1:00 pm PT
November 30, 2022	Finalists invited to interview (optional)
December 7, 2022	Selection Committee's interview panel (optional)
December 13, 2022	Intent to Award Published
December 20, 2022	Notice to Proceed

The City reserves the right to modify this schedule at its discretion. Proper notification of changes in the response schedule will be made via addendum.

SCOPE OF SERVICES

The project management firm, partnership, or individual may provide, under the direction of the City Manager or designee, management services for the projects listed in the project description section of this proposal request. The firm or individual will represent the City's interests throughout all phases of the work. The City expects that representative(s) of the management firm, partnership, or individual will develop and maintain a cooperative team approach with all other parties associated with the projects throughout all phases of the work.

1. Services Required

- a. Act as City's representative during all designated phases of the capital projects.
- b. Provide and distribute, throughout all phases, management reports detailing project progress, schedule and financial status.
- c. Attend public meetings as a representative of the City.
- d. Establish an in-City capital construction office, including maintenance of related records, documentation, design data, drawings, correspondence, etc., pertaining to the construction program.
- e. Provide management to ensure compliance with all public entity rules and regulations.
- f. Develop material specification criteria consistent with City facilities management standards.
- g. Provide periodic presentations/tours as directed by the City.

2. Conceptual Planning Phase

- a. Assist the City in the selection of architects and other professional services required for the projects.
- b. Develop an overall management plan for the projects to include a preliminary master schedule, critical dates, preliminary contracting strategy, and other pertinent issues.
- c. Assist City and/or project architects in the development of educational specifications for each project and convert program information into design criteria to be used by the consultants.
- d. Review projects and develop a program master budget including cost projections for each project. Provide a financial management system including a cost model to maximize value within available funding through all phases of the work. Study and report on financial feasibility.
- e. Develop a project reporting, communications, and documentation system to include progress, schedule, financial, and other information to be distributed to appropriate parties throughout all phases of the work.
- f. Develop procedures for administration of the projects.
- g. Develop and negotiate consultant contracts in conjunction with City's staff.

- h. Obtain required survey and soil tests.
- i. Assist in site selection and evaluation as required.

3. Schematic Design Phase

- a. Provide general direction to the project consultants and architects. Monitor their activities, and review all consultant products. Review and recommend the payment of consultant billings.
- b. Provide a detailed design schedule. Monitor the design process by reviewing design documents for thoroughness, code compliance. Review cost estimates for each project in each phase of the design process.
- c. Assist with value engineering and energy efficiency design protocols. Assist with constructability analysis.
- d. Coordinate the design process with the master schedule.
- e. Work with the City and the consultants in the development of construction contract specifications.
- f. Assist with bid package format (designation of additive and deductive alternates, etc.).
- g. Identify long lead items and collaborate on processes to insure timely delivery in alignment with the master project schedules.
- h. Begin permitting processes.
- i. Prepare local Planning or Zoning Board applications.
- j. Update master construction schedule.

4. Design Development Phase

- a. Confirm final selection of components and systems.
- b. Assist with establishment of bidding schedule.
- c. Establish general conditions planning.
- d. Coordinate with governmental agencies and utilities.
- e. Refine project budgets.
- f. Evaluate and identify prospective responsible general contractors available to bid on projects.

5. Contract Document Review

- a. Conduct final pre-bid review of project manual(s), plans, and specifications.
- b. Assist in preparation of instructions to bidders.
- c. Prepare cash flow schedule based on updated master project schedule.

6. Bidding and Contract Award Phase

- a. Consult with the City and its consultants regarding bid document preparation, bidding strategies, evaluation of bids, and notification of qualified bidders.
- b. Take part in pre-bid conference.
- c. Assist City in evaluation of bid responses and bid award in alignment with project master budgets.
- d. Set disbursement schedules with contractor(s).

7. Construction Phase

- a. Attend periodic construction meetings. Monitor general and subcontractor's work to assure conformance to codes and project design specifications.

- b. Prepare and coordinate preparation of periodic progress and financial information reports required by the City; periodically brief City staff and the City Council on project status, progress, and financial aspects. Update construction schedule(s) as required.
- c. Confirm work completed and materials received and approve general contractor progress payments.
- d. Track and respond to RFI's on the City's behalf.
- e. Communicate change orders and construction change directives to the City Manager or designee for authorization.
- f. Work with general contractor to assure construction site safety and security during course of construction.
- g. Track and communicate the City occupancy schedule(s).
- h. Assist with punch list development. Confirm completion of identified punch list items.
- i. Confirm substantial completion, temporary occupancy, and final occupancy.

8. Post Construction Phase

- a. Participate in construction contract close-out activities including final payment and release of retainage.
- b. Assist with documentation of warranty issues for ongoing administration by City staff.
- c. Provide final project close-out financial information with comparator(s) to master project budget(s).

9. Energy Incentives Coordination

- a. Consultant shall provide analysis and documentation necessary for the City to obtain the maximum amount of energy incentives available through the State of Oregon, through the Oregon Department of Energy (ODOE), utility incentives available through an appropriate local utility, and energy incentives available through the Energy Trust of Oregon (ETO).
- b. Consultant's responsibilities shall include, but are not limited to: determining requirements for available incentives through cooperation with ODOE, the local utility, and ETO; completing all required documentation for submission; and ensuring that all required documentation is submitted in the required timeline.
- c. Consultant shall coordinate with the City to resolve any potential issues to ensure that documentation is submitted when required.

10. Other Services

- a. Assist the City in coordination, research, report preparation, and other tasks required for project execution.
- b. Assist the City in communicating with its staff, community, and news media to enhance understanding and develop ongoing support for the projects.

PROPOSAL CONTENT FOR EVALUATION

The Proposers shall provide the following information, clearly separated by tabs, in the order listed below. Each point will be scored by the number of points listed next to the information. The points listed are the maximum amount that can be given during evaluation.

1. Firm Background (10 points)

Describe your firm including ownership structure, service area, volume of project management services, and length of time in the industry, financial stability, and availability to the project locale.

2. Local Involvement (20 points)

Describe your understanding of the locality of the project site, geographic proximity to the project site, and the unique considerations of the Eastern Oregon area. Describe your firm's plan to help maximize the economic impact on the local community. Provide specific example of your track record.

3. Local Government Experience and Past Performance (25 points)

Provide experience over the past five (5) years in similar local government facilities, clearly noting work performed solely and directly by proposing firm and work performed by staff while employed at a previous firm. Provide reference contact person and telephone number for these projects.

4. Staffing Plan/Approach (15 Points)

This section should contain a detailed and specific discussion of your firm's proposed staffing plan. Include an organizational chart, description of staff roles, resume and other relevant biographical information as deemed necessary. Describe your plan to effectively provide services on several concurrent projects as described in the attached project phasing schedule.

Provide a general discussion of your management philosophy. Include a description of your firm's involvement from the planning phase through the completion of municipal construction projects. Provide specific examples of your methods to insure quality, budget and schedule control utilizing inclusive, team-oriented processes.

5. Staff Hourly Rates (10 points)

Provide the City with the hourly rates for all staff involved in the process.

6. Justification (10 points)

Provide a demonstrated reason why your firm wants to assist the City of Hermiston and why the City should place their trust in your firm.

7. Energy Trust Experience (10 points)

Provide experience over the past five (5) years noting work performed to that enabled municipal construction projects to access available utility and energy incentives through local utilities, the Energy Trust of Oregon (ETO) and Oregon Department of Energy (ODOE). Describe your firm's plan on determining requirements and available incentives and providing the proper documentation within the required timeline. Provide reference contact person and telephone number for these projects. Preference in selection may be given to companies that are officially registered as an Energy Trust New Buildings Ally and/or Trade Ally.

8. Certification (Yes/No)

Provide fully executed copies of Certificate of Compliance, Bidder/Proposer Residency Statement and Certificate of Non-Discrimination

EVALUATION AND SELECTION PROCESS

The proposals shall be subjectively evaluated by the Selection Committee with points assigned based upon the criteria in this RFP. Those proposals submitted that do not meet mandatory requirements outlined in the Instructions to Proposers will not be evaluated.

The role of the Selection Committee shall include a complete review of all documents submitted. The Selection Committee will invite recommended finalists for interviews based solely upon its evaluation of the selection criteria. The Selection Committee, at its sole discretion may forego the interview process.

The Selection Committee will forward a recommendation for selection of one firm to the City Council for consideration of award. Selection of the successful firm will be entirely at the discretion of the City, and the City reserves the right to waive minor irregularities in the selection process and to reject any and all proposals.

Selection Committee members may not be contacted or solicited by any firm or individual submitting proposals during the proposal solicitation and review process, with the exception of the facilitator in accordance with the directions herein.

PROPOSAL REQUIREMENTS AND CONTENTS

Proposals shall comply with the following, and where the Proposer is asked to provide information there shall be a full discussion (and attachments where necessary):

1. Format

Proposals, including attachments shall not exceed thirty (30) standard size (8 1/2" x 11") pages in length, single sided, minimum 11-point font. Proposers shall provide one (1) original and three (3) bound copies of the proposal. Divider sheets, void of specifics related to the proposal content and evaluation, are required. Divider sheets will not be included in the page count. Facsimile or e-mailed transmissions will not be accepted. The title page or cover letter must include the date, the solicitation name, the Proposer's name, contact person, telephone number, email address and complete mailing and street address.

2. Acceptance of Proposal Specifications, Terms and Conditions

The successful Proposer acknowledges and accepts that the specifications listed in this RFP and no others will control any contract awarded unless the successful Proposer expressly states, in whole or by reference, alternate terms or conditions which the successful Proposer wishes the City to consider. Any such alternate terms or conditions will constitute a variance and if found material, may subject the Proposal to rejection. Any referenced alternate terms or conditions shall be attached to the Proposal for consideration by the City.

3. Anti-Discrimination

In connection with this RFP and in the performance of any subsequent contract, Proposers shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, sexual preference, and/or being physically challenged. Proposers shall take action to ensure that all applicants are treated equally during employment without regard to such status.

4. Commitment to enter into Contract

At the beginning of the Proposal there shall appear the following statement endorsed by a person authorized to bind the Proposer in contract: "If this Proposal is accepted by the City [insert name of Proposer] , covenants to execute the contract documents for the work upon completion of negotiations."

5. Compliance with Applicable Laws

In connection with this RFP and the contract, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of this project and the performance of the contract whether such laws are stated herein or not.

6. Contract and Insurance Coverage

Dependent upon City approval of the project manager selection, the City and selected firm will negotiate the Fixed Sum Agreement for Project Management Services, and the Project Manager shall furnish Certificates of Insurance meeting contract specifications. If the selected firm and the City cannot come to agreement within a reasonable time, the City, without penalty will release the selected firm and begin negotiation with the second ranked firm.

7. Contract detail

Attached are the contract forms that shall be used for the selected Proposer's engagement. A Proposer may suggest additions to be considered as part of the Proposal. However, it will be considered a positive thing for a Proposal to contain no suggested additions. By submitting a Proposal a Proposer conclusively agrees to the use of such forms and to confine negotiations to the spaces indicated by City as "to be determined" or to those terms for which the Proposer indicates a suggested change in the Proposal. No other negotiations over the form of the contract shall be allowed.

Price is not requested at this phase of the selection process. In fact, no price figure shall be stated in the Response. Price will be negotiated with the selected firm on each of the projects selected by the City.

8. Delayed Proposal Closing Time/Proposal Opening

The time and date set for the proposal closing and proposal opening will advance to the same time on the City's next business day in the event that weather or other contingency causes the City to be officially closed at the time and date set for the proposal closing and proposal opening.

9. Investigation

The Proposer shall make all investigations necessary to be informed regarding the service(s) to be furnished.

10. Late Proposals

Proposals received after the time and date set for proposal closing will be returned to the proposer unopened.

11. Limitation of Liability

The City will not accept a proposal that includes any attempt to limit a Proposer's liability for damages to the cost of services rendered. However, the City will consider a limit of liability if it is based upon the reasonable limits of Proposer's insurance policies for liability and malpractice. Each Proposal shall state the limits of applicable liability and malpractice coverage, and shall be accompanied with a certificate of such insurance or the declarations page of each policy providing the

coverage; coverage limits shall not be less than that stated in the Section 10 of the attached Terms and Conditions for Personal Service Contract. Submitting a Proposal shall be conclusive acceptance that there shall be no negotiations on limitations of liability except to the extent that the parties negotiate as to the limits of the insurance coverage to be provided by the Proposer.

12. Mistakes, errors and omissions in solicitation

Any mistakes, errors and omissions in this solicitation must be reported immediately to the City.

13. Modification of Proposal After Award

An offer to modify the proposal which is received from the successful proposer after award of contract which makes the terms of the proposal more favorable or advantageous to the City will be considered, and may thereafter be accepted. To be effective, every modification must be made in writing on company letterhead, signed by the party signing the proposal or a confirmed authorized representative and must thereafter be accepted by the City in writing. The envelope containing any modification to a proposal shall be marked as follows:

- "Proposal Modification"
- Proposal Number
- Proposal Title
- Letter must be addressed to: City of Hermiston, Attn: Byron Smith; City Manager; 180 NE 2nd Street; Hermiston, OR; 97838

14. Modifications of Proposal Before Award

Proposals, once submitted, may be modified in writing if the modification is received in the Office of the City Manager prior to the time and date set for proposal closing (see page 1). Any modifications shall be prepared on a Company letterhead, signed by the party signing the proposal or a confirmed authorized representative and state that the new document supersedes the prior proposal. This modification document must thereafter be accepted by the City in writing. The envelope containing any modification to a proposal shall be marked as follows:

- "Proposal Modification"
- Proposal Number
- Proposal Title
- Letter must be addressed to: City of Hermiston, Attn: Byron Smith; City Manager; 180 NE 2nd Street; Hermiston, OR; 97838

15. Oregon business registration.

ORS 60.701 requires that foreign corporations be registered in the State of Oregon, through the Office of the Secretary of State, before conducting business in Oregon. A foreign corporation (see ORS 60.001) means a for-profit corporation incorporated under a law other than the laws of the state of Oregon. This registration must be accomplished prior to Contract execution. The current status of the Proposer in this regard shall be stated in the Proposal.

16. City's Rights

The City may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the work described in this RFP.

The City reserves the right, in its sole and absolute discretion and without recourse by Proposers, to take any of the following actions:

- a. Reject any or all Proposals;
- b. Issue a new RFP;
- c. Cancel, modify, or withdraw the RFP;
- d. Issue addenda, supplements, and modifications to this RFP;
- e. Modify the RFP process (with appropriate notice to proposers);
- f. Appoint a selection committee and evaluation teams to review RFP's and seek the assistance of outside technical experts in the response evaluations;
- g. Hold meetings and exchange correspondence with the Proposers to seek an improved understanding and evaluation of the responses;
- h. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses;
- i. Waive minor irregularities in responses;
- j. In the negotiations for the contract with the selected proposer to change the dates for performance from that set forth in Section III hereof; and/or
- k. Refuse to issue a contract at all.

The City is not obligated to enter into any contract, and under no circumstances shall it have any obligation to pay for any costs or expenses incurred by any Proposer in the preparation or submission of a response to this RFP or in anticipation of a contract.

Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFP, attending briefing(s), providing supplemental information, and all subsequent costs and expenses. By submitting a response to this RFP, a Proposer disclaims any right to be paid for such costs by the City or anyone else.

17. Proposal Validity

All proposals shall remain valid for a period of 90 days following the RFP deadline.

18. Protest of Proposal Specifications of Terms and Conditions*

Protests of proposal specifications or terms and conditions shall be presented to the City Manager in writing five (5) calendar days prior to proposal closing. Such protest shall include the reason(s) for protest and any proposed changes. If, in the opinion of the City, a change is required for the Request for Proposals (RFP), an addendum will be issued. Envelopes containing protests shall be marked as follows:

- "Protest RFP"
- Proposal Number
- Proposal Title
- Letter must be addressed to: City of Hermiston, Attn: Byron Smith; City Manager; 180 NE 2nd Street; Hermiston, OR; 97838

19. Protest of Proposal Award*

Protests of proposal award shall be presented to the City Manager in writing ten (10) calendar days after notice of Intent to Award is published. Such protest shall include the reason(s) and evidence for protest, alleged damages and remedial action requested. The City shall consider and respond in writing in a timely manner. If, in the opinion of the City, a change is required for the Request for

Proposals (RFP), an addendum will be issued. Envelopes containing protests shall be marked as follows:

- “Protest Award”
- Proposal Number
- Proposal Title
- Letter must be addressed to: City of Hermiston, Attn: Byron Smith; City Manager; 180 NE 2nd Street; Hermiston, OR; 97838

** A written protest that is not specific enough to comply with the terms of this Section will not be considered.*

Any protest not set forth in writing within the time limits specified in this RFP shall not be considered.

Except as otherwise stated above, Proposer’s are directed to OAR 137-048-0240 for additional protest procedures.

20. Publicity

News releases relating to this RFP will not be made without prior approval by, and in coordination with the City.

21. Written Questions, Comments and Addenda, Rules of Contact

- Questions and comments pertaining to this solicitation must be submitted in writing according to the Bid and Award Timeline to: City of Hermiston, Attn: Byron Smith; City Manager; 180 NE 2nd Street; Hermiston, OR; 97838

If, in the City’s opinion, additional information or interpretation is necessary, such information will be supplied in the form of Addenda. Addenda shall have the same binding effect as though contained in the main body of the Request for Proposals. The successful Proposer shall acknowledge Receipt of all addenda issued, either with the proposal, or separately, in writing, prior to the time and date set for proposal closing. Addenda shall be sent within a reasonable time to allow prospective proposers to consider them in preparing their proposals.

ORAL INSTRUCTION OR INFORMATION CONCERNING THE INVITATION FOR PROPOSALS OR THE PROJECT GIVEN OUT BY OFFICERS, EMPLOYEES OR AGENTS OF THE CITY TO PROSPECTIVE PROPOSERS SHALL NOT BIND THE CITY AND SHALL NOT BE RELIED UPON.

Other City employees or agents, including the Selection Committee shall not be contacted once the RFP is issued and until a final selection and award is made.

ATTACHMENTS & EXHIBITS PAGES 13-26

LIST OF ANTICIPATED PROJECTS

If approved, the City plans on upgrading a number of City facilities to improve efficiencies and add capacity to accomplish the vision of the City.

Specifically, the anticipated projects are as follows (with the possibility of others):

1. Finishing out the basement of the Harkenrider Center: Home of the Hermiston Senior Center.
2. Finishing out space in the basement of City Hall for the location of the IT Department.
3. Conducting Phase II of a renovation and modernization of the Hermiston Public Library.
4. Assist the City in working with the renovation of the Public Safety Center in conjunction with Umatilla County Fire District #1.
5. Expanding barn space at the Eastern Oregon Trade and Event Center (EOTEC)

**City of Hermiston
Certification of Compliance**

I/we have received and reviewed the RFP and any Addenda issued by the City of Hermiston and this submission is our entire proposal.

Firm Name: _____

Authorized Signature: _____

Printed Name: _____

Date: _____

Addenda Received: _____

City of Hermiston

Bidder/Proposer Residency Statement

Pursuant to ORS 279A.120, Oregon’s reciprocal Preference Law, public contracting agencies shall, for the purposes of determining the lowest responsible bidder/proposer and the awarding of a contract, add a percent increase on the bid of a non-resident bidder/proposer equal to the percent, if any, of the preference given to that bidder/proposer in the state in which the bidder/proposer resides.

As defined in ORS 279A.120, “Resident Bidder/proposer” means a bidder/proposer that has paid unemployment taxes or income taxes in this state in the twelve calendar months immediately preceding submission of the bid, has a business address in this state, and has stated in the bid whether the bidder/proposer is a “Resident Bidder/proposer”. A “non-resident Bidder/proposer” is a bidder/proposer who does not meet the definition of a “Resident Bidder/proposer” as stated above.

Bidder is Resident or Non-Resident and is a resident of _____ (State) as set forth above.

If a Resident Bidder/proposer, enter your Oregon Business address below:

Bidder/proposer/Proposer hereby certifies that the information provided is true and accurate.

Bidder Company Name:			
Street Address:			
	City:	State:	Zip Code:
Toll Free Telephone:	Telephone:	Fax:	
Federal I.D. or Social Security No.:		E-Mail:	
Type or Print Name of Person Signing:		Title:	
Authorized Signature:			

**City of Hermiston
Certificate of Non-discrimination**

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer/proposer, the bidder/proposer/proposer hereby certifies to City of Hermiston that this bidder/proposer/proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

Date: _____

Signature: _____

Printed or Typed Name: _____

Name of Firm: _____

Exhibit A - Sample
City of Hermiston
Project Management Proposal Evaluation Score Sheet

Firm Name: _____

Reviewer: _____

Date: _____

Required Submissions:

Conformance with RFP Requirements	Yes / No
Certificate of non-discrimination	Yes / No
Certificate of Compliance	Yes / No
Residency statement	Yes / No

Notes:

Review criteria:

1. Background (10 points maximum) _____

Comments: _____

2. Local Involvement (20 points maximum) _____

Comments: _____

3. Municipal Experience & Past Performance/References (25 points maximum) _____

Comments: _____

4. Staffing Plan (10 points maximum) _____

Comments: _____

5. Approach (15 points maximum) _____

Comments: _____

6. Justification (10 points maximum) _____

Comments: _____

7. Energy Trust Experience

(10 points maximum) _____

Comments: _____

TOTAL POINTS (100 possible) _____

Additional Notes:

Reviewer's Initials _____

Exhibit B - Sample
City of Hermiston
Personal Services Contract

This Contract is between the City of Hermiston hereinafter called City, and _____, hereinafter called Contractor. The City’s supervising representative for this Contract is Byron Smith, City Manager.

1. Effective date and duration.

This Contract shall become effective on the date at which every party has signed this Contract. Unless earlier terminated or extended, this Contract shall expire when Contractor's completed performance has been accepted by City or on the ____ day of _____, __ [if an end date is not applicable, insert “not applicable”]. However, such expiration shall not extinguish or prejudice City's right to enforce this Contract with respect to: (i) any breach of contract or warranty; (ii) any incomplete or remaining performance required of the Contractor under this Contract, or (iii) any default or defect in performance that has not been cured.

2. Statement of work

The statement of work is contained in Exhibit A attached hereto and by this reference made a part hereof.

3. Consideration

- a. City agrees to pay Contractor, from available and authorized funds [*check appropriate box*] the sum of \$_____ the monthly rate of \$_____, such rate as is set forth in the Addendum attached hereto, for accomplishing the work required by this Contract. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$_____ [if not applicable, insert “not applicable”].
- b. Any interim payments to Contractor shall be made only in accordance with the schedule and requirements in Exhibit A.

4. Terms and Conditions.

Attached hereto and incorporated as part of this Contract are: Exhibits A and B; the Terms and Conditions for Personal Service Contract; and any Addenda entered into by the parties.

5. Contractor Data and Certification

Name (tax filing): _____

Address: _____

Business designation (check one):

<input type="checkbox"/>	Corporation	<input type="checkbox"/>	General Partnership	<input type="checkbox"/>	Sole Proprietorship
<input type="checkbox"/>	Governmental/Non-Profit	<input type="checkbox"/>	LLC	<input type="checkbox"/>	LLP

Federal Tax ID # or SSN #: _____

[The above information must be provided prior to contract approval. This information will be reported to the Internal Revenue Service under the name and taxpayer I.D. number submitted. (See IRS 1099 for additional instructions regarding taxpayer numbers). Information not matching IRS records could subject Contractor to 31 percent back up withholding].

A. Contractor, under penalties of perjury, does hereby certify that (a) the business designation above is correct and the number shown on this form is the correct taxpayer I.D. number, and (b) Contractor is not subject to back up withholding because (i) Contractor is exempt from back up withholding or (ii) Contractor has not been notified by the Internal Revenue Service that Contractor is subject to back up withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to back up withholding.

B. Contractor, under penalty of perjury, does hereby certify that Contractor is not in violation of any Oregon tax laws, that Contractor is authorized to conduct business in the State of Oregon, and that all representations and certifications set forth in all Exhibits and Addenda attached hereto are truthful and accurate.

By signing below, the parties agree to all terms of this Contract and of any Exhibits, attachments, and addenda.

Signed by Contractor:	_____	
	Signature/Title	Date
Approved by City:	_____	
	Signature/Title	Date

City of Hermiston Terms and Conditions | Personal Services Contract

1. Independent contractor; responsibility for taxes and withholding; retirement system status.

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

- B. The Contractor represents and warrants that Contractor (i) is not an employee of the State of Oregon, (ii) is not currently employed by the federal government, and (iii) has truthfully completed that portion of Exhibit B which is related to contractor information. Contractor is not an "officer," "employee," or "agent" of the City, as those terms are used in ORS 30.265.

- C. Contractor shall be responsible for all federal or state taxes applicable to any compensation or payments paid to Contractor under this Contract. Contractor is not eligible to receive from City any payment or withholding for federal Social Security, unemployment insurance, workers compensation or public employee retirement system benefits.

2. Subcontracts and assignment

Contractor shall not enter into any subcontracts for any of the work required by this contract, or assign or transfer any of its interests in this contract, except as may be expressly authorized by the City in writing. In the event of a subcontract, it shall expressly state that it is subject to the terms and conditions hereof.

3. Termination.

- A. This contract may be terminated at any time by the City upon fifteen days' written notice, without cause.

- B. In addition, the City may terminate or modify this contract, in whole or in part, effective upon delivery of written notice to Contractor, or at such later date as may be established by the City, under any of the following conditions:
 - i. If City funding is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services;

 - ii. Contractor's failure to maintain any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract.

- A. Time is of the essence of Contractor's performance of each and every obligation and duty under this Contract. In the event of default or breach, the City may at any time terminate the whole or any part of this Contract by written notice to Contractor.

- B. In the event of termination by the City without cause, Contractor shall be paid in accordance with the terms of this Contract for services provided, together with all costs arising out of such termination.

- C. Under no circumstances shall Contractor be entitled to claim, or receive compensation for, anticipated profits or lost opportunity.
- D. Except as limited by the terms hereof, the rights and remedies of either party provided for in this Section are not exclusive and are in addition to any other rights and remedies provided to the parties by law or under this Contract.

4. Records maintenance; access

Contractor shall maintain all records pertinent to this Contract in such a manner as to clearly document Contractor's performance hereunder. Contractor acknowledges and agrees that the City, and its duly authorized representatives shall upon request have immediate access to all fiscal records and to all other books, documents, records, papers, time records, subcontractor's records, plans and writings that are pertinent to this Contract for the purpose of performing examinations and audits, and making excerpts and transcripts.

5. Compliance with applicable law

- A. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VII of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990; (iv) ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- B. Persons employed under this Contract shall receive at least time and a half pay for work performed on legal holidays and for all overtime work in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC 201 to 209 from receiving overtime.
- C. The parties enter this Contract with the expectation that prevailing wages do not apply to any of the work hereunder. However, if at any time it is determined that prevailing wages (whether state or federal) were, or are, required to be paid any persons, Contractor shall have the sole responsibility therefore, without reimbursement or other extra compensation from the City, and Contractor shall indemnify, defend, and hold harmless the City from any liability therefore.

6. Standard of care

The services provided by the Contractor to the City under this Contract will be performed in accordance with the Contract and in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the State of Oregon. Such standards are in lieu of any warranties not expressly set forth herein.

7. Contractor's registration

The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

8. Governing law

This Contract shall be governed and construed in accordance with the laws of the State of Oregon. Any and all litigation arising out of this contract shall be initiated and tried in the Circuit Court of the State of Oregon for Umatilla County.

9. Indemnity

Contractor shall indemnify and defend the City from, and reimburse the City for, any cost, claim, loss, or liability suffered directly or from a third-party claim arising out of or related to any activity of Contractor whether or not the activity is in breach of this Contract.

10. Insurance

During the term of this Contract, Contractor shall maintain in force at its own expense, insurance as follows:

- A. If Contractor has one or more workers, as defined by ORS 656.027, Contractor shall provide workers compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers compensation coverage for all their subject workers.
- B. Professional liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000.00 for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to any professional services to be provided under this Contract.
- C. General liability insurance with combined single limits, or the equivalent, of not less than \$2,000,000.00, for each occurrence for bodily injury and property damage. The policy shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the District and their officers, employees, and agents are additional insured but only with respect to the Contractor's services to be provided under this Contract.
- D. Automobile liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000.00 for each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable.
- E. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew any of the insurance coverage without thirty days' written notice from the Contractor or its insurer to the City.
- F. Certificates of insurance. As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to District prior to the commencement of services under this Contract. The certificate will specify all of the parties who are additional insured, and shall acknowledge the limitations on cancellation or change set forth in the preceding paragraph. If requested, complete copies of insurance policies shall be provided to the District. The Contractor shall be financially responsible for all pertinent deductibles.

11. Attorney's fees

In the event of any litigation, whether a trial or an arbitration, to interpret or enforce this Contract, the prevailing party shall be entitled to recover from the other party its costs, disbursements, expert witness fees, and attorney's fees at trial and on any appeal or review.

12. Severability

The parties agree that if any terms 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.

13. Waiver

The failure of a party to enforce any provision of this Contract shall not constitute a waiver by that party of that, or any other, provision.

14. Merger clause

THIS CONTRACT, THESE TERMS AND CONDITIONS, AND THE ATTACHED EXHIBITS AND ANY ADDENDA CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. No waiver, consent, modification or change of the terms of this Contract shall bind either party unless in writing and signed by both parties.