

# City of Albany, Oregon

## REQUEST FOR PROPOSALS

### PUBLIC TREE MAINTENANCE SERVICES

**Issue Date: October 24, 2016**

**Due Date: November 22, 2016, 2:00 p.m.**

**Parks & Recreation Director..... Ed Hodney**  
**Project Manager ..... Rick Barnett**  
**Purchasing Coordinator..... Diane M. Murzynski, CPPO**

For more information regarding this Request for Proposals,  
contact Diane Murzynski (541) 917-7522.

## PARKS & RECREATION

CITY OF ALBANY

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## PROPOSER'S SUBMITTAL CHECKLIST

**Proposals must be submitted by the time designated and the address listed in the advertisement for the Request for Proposals at the City Hall Parks and Recreation Department/Information counter and marked received by City staff indicating the time and date as shown on the City Bid Clock in the Parks Department. Any proposals submitted after the designated closing time or to any other location will be determined nonresponsive and will not be opened. It is the responsibility of the Proposer to deliver the proposal by the indicated deadline to the designated location.**

**If the Proposer submits a proposal via a delivery service (FedEx, UPS, etc.) the required sealed envelope must be enclosed in the delivery service packaging and the Project Title of the proposal should be written on the outside delivery service packaging.**

Proposers should submit four (4) copies of their proposal. All proposals must include the following submittals to be considered responsive:

- Introductory Letter
- Experience and Qualifications
- References (Exhibit A)
- Employee Drug Testing Program Certification (Exhibit B)
- Employee Background Check Program Certification (Exhibit C)
- Non-Collusion and Conflict of Interest Certification (Exhibit D)
- Certification Statement for Corporation or Independent Contractor (Exhibit E)
- Proposer Representations and Certification Regarding Debarment, Suspension and Other Responsibility Matters (Exhibit F)
- Certification of Insurance Requirements (Exhibit G)
- Fee Schedule (Exhibit H)
- Signed Addenda (if applicable)



**CITY OF ALBANY, OREGON**  
**REQUEST FOR PROPOSALS (RFP)**  
**Public Tree Maintenance Services**  
**Proposals Due by 2:00 p.m., Tuesday, November 22, 2016**

Notice is hereby given that the City of Albany (City), Oregon, is requesting proposals for Public Tree Maintenance Services on an “as-needed” basis for a contract term of three years beginning, January 1, 2017 through December 31, 2019, with an option to extend the contract for two additional, one-year terms upon mutual agreement by the City and the Contractor.

The City desires to enter into a professional services agreement with a qualified Contractor that can demonstrate competency and experience providing the following scope of services:

- Routine tree pruning, tree takedown, stump grinding and removal
- Limb chipping, mulch removal, and other tree care related work
- Emergency mobilization
- Consultation
- Lift Truck for routine pruning services

Contract documents are available for review in the Finance Department, City Hall, 333 Broadalbin Street SW, Albany, Oregon, (541) 917-7522; or downloaded from the City of Albany website at <https://www.cityofalbany.net/departments/finance/city-purchasing/bids-rfps-rfqs>. For questions or clarifications regarding this RFP contact Diane Murzynski, CPPO, Purchasing Coordinator, at (541) 917-7522.

It is imperative that those who download the solicitation documents check the website regularly for addenda, clarifications, and other notifications that may be pertinent. In addition, all Proposers who are known by the City of Albany to have received a complete set of the contract documents will receive notification when additional items are posted. Please call (541) 917-7778 to be added to the Interested Proposer’s list.

Proposals shall be filed in sealed envelopes and received at the City of Albany Parks & Recreation counter, not later than 2:00 p.m., Tuesday, November 22, 2016, addressed to the attention of Diane M. Murzynski, CPPO, Purchasing Coordinator, at Albany City Hall, Finance Department, 333 Broadalbin Street SW, Albany, OR 97321. On the outside of the envelope, please reference “Request for Proposals for Public Tree Maintenance Services” along with the name and address of the Proposer. Faxed or electronic (e-mail) responses will not be accepted. Proposals received after the closing date and time will be determined nonresponsive and will not be opened or reviewed.

The City may reject any proposal not in compliance with all prescribed solicitation procedures and requirements and other applicable law, and may reject any or all proposals in whole or in part when the cancellation or rejection is in the best interest of the City, and at no cost to the City.

DATED THIS 24TH DAY OF OCTOBER 2016.

Diane M. Murzynski, CPPO, CPPB  
Purchasing Coordinator

PUBLISH: Daily Journal of Commerce, on Monday, October 24, 2016  
Albany Democrat-Herald on Monday, October 24, 2016

# **SECTION 1 – INTRODUCTION AND PROCUREMENT REQUIREMENTS**

## **1.1 INTRODUCTION**

The City of Albany is a municipal governmental entity providing a full range of services, including fire and police protection; sewer services; water services; construction and maintenance of highways, streets, and infrastructure; recreational activities, and cultural events. The City of Albany, with a population of 51,670, is the eleventh largest City in Oregon. Located at the confluence of the Willamette and Calapooia Rivers, the city of Albany lies within both Benton and Linn counties. Albany is the largest city in Linn County and serves as the county seat. Albany is also the second largest city in Benton County. From its river town beginnings, Albany has grown south and east with the railroads, state highways and Interstate 5, and across the Willamette into the farms and wooded hillsides of North Albany.

Albany is credited by historians and architects with having the most varied collection of historic buildings in Oregon. This collection includes styles from the 1840s through the late 1920s and is concentrated in an area of about 100 square blocks. Four historic districts are listed in the National Register of Historic Places by the United States Department of the Interior. Albany is known as the rare metals capital of the world. Several local industries produce zirconium, hafnium, and titanium. Wood products, food processing, and manufactured homes production are major employers also.

Albany operates under a home-rule charter in a Council-Manager form of government. Albany is led by an elected, non-partisan seven member Council. The Council consists of the Mayor and six Council members. The Mayor is elected at-large every two years; Councilors are elected for overlapping four-year terms within three City wards. The City Manager serves at the pleasure of the Council. The Council meets on the 2nd and 4th Wednesdays of each month and conducts work sessions the Monday prior to regularly scheduled Wednesday meetings (with some exceptions).

Albany employs approximately 392 regular-status employees and up to an additional 100 temporary employees seasonally. The City Manager, as the City's chief administrative officer, oversees ten department heads. The departments are: Police, Fire, Parks & Recreation, Library, Economic Development and Urban Renewal, Human Resources, Finance, Information Technology, Public Works Engineering & Community Development, and Public Works Operations. The 2017 fiscal year adopted budget is \$189,634,900, including a General Fund of \$36,627,700.

The City intends to enter into a professional services agreement with a qualified Contractor to provide the following scope of services:

- Routine tree pruning, tree takedown, stump grinding and removal
- Limb chipping, mulch removal, and other tree care related work
- Emergency mobilization
- Consultation
- Lift Truck for routine pruning services

## **1.2 ISSUING OFFICE AND SUBMITTAL LOCATION**

The City Purchasing Coordinator will issue the Request for Proposals document and will be the sole point of contact for the City for questions, concerns, and protests.

Proposals must be received at the City of Albany Parks & Recreation counter, not later than 2:00 p.m., on Tuesday, November 22, 2016.

**Submittal Address & Process Questions:**  
City of Albany  
Finance Department  
Diane Murzynski, CPPO, Purchasing Coordinator  
333 Broadalbin Street SW  
Albany, OR 97321  
E-mail: [diane.murzynski@cityofalbany.net](mailto:diane.murzynski@cityofalbany.net)  
Phone: (541) 917-7522

**Technical Questions/Scope of Work:**  
Rick Barnett, Park Operations Supervisor  
E-mail: [rick.barnett@cityofalbany.net](mailto:rick.barnett@cityofalbany.net)

Telephone, facsimile, or electronically transmitted Proposals will not be accepted. Proposals received after the specified date and time will not be given further consideration. Proposers submitting Proposals are solely responsible for the means and manner of their delivery, and are encouraged to confirm delivery prior to the deadline.

### **1.3 PROCUREMENT TIMELINE/RFP SCHEDULE**

The City anticipates the following general timeline for receiving and evaluating the proposals and selecting a Contractor for this RFP. The timeline listed below may be changed if it is in the City's best interest to do so.

RFP Advertised	October 24, 2016
Date to Submit Changes or Solicitation Protests	November 4, 2016, 2:00 p.m.
Last Date for Addenda	November 15, 2016, 12:00 p.m.
Proposal Due Date	November 22, 2016, 2:00 p.m.
Evaluate Proposals	November 28, 2016
Optional Interviews	November 30, 2016
Council	December 7, 2016
Notice of Intent to Award	December 8, 2016
Protest Period ends	December 15, 2016, 2:00 p.m.
Contract Award	December 16, 2016

### **1.4 CHANGES TO THE SOLICITATION BY CITY ADDENDA**

The City of Albany reserves the right to make changes to the RFP by written addenda, which shall be issued to all prospective Proposers known to the City of Albany to have received the Proposal Document.

A prospective Proposer may request a change in the RFP by submitting a written request to the address set forth above. The request must specify the provision of the RFP in question, and contain an explanation for the requested change. All requests for changes or additional information must be submitted to the City of Albany no later than the date set in the RFP Schedule.

The City of Albany will evaluate any request submitted, but reserves the right to determine whether to accept the requested change. If in the Purchasing Coordinator's opinion, additional information or interpretation is necessary; such information will be supplied in the form of an Addendum as stated above. Any addenda shall have the same binding effect as though contained in the main body of the RFP. Oral instructions or information concerning the scope of work of the project given out by City of Albany managers, employees, or agents to the prospective Proposers shall not bind the City of Albany.

1. All addenda, clarification, and interpretations will be posted on the City of Albany's website at City of [Albany Bids, RFPs, RFQs](#). It is imperative that those who download the solicitation documents check the website regularly for addenda, clarifications, and other notifications that may be pertinent. In addition, interested Proposers known by the City of Albany to have received

a complete set of the proposal documents will receive notification when additional items are posted.

2. No addenda will be issued later than the date set in the RFP Schedule, except an addendum, if necessary, postponing the date for receipt of Proposals, withdrawing the invitation, modifying elements of the proposal resulting from a delayed process, or requesting additional information, clarification.
3. Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued, and receipt of each Addendum shall be acknowledged in the appropriate location on each Addendum and included with the Proposal submittal.

## **1.5 TRADE SECRETS AND PUBLIC RECORDS LAW**

All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which Proposer requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the Proposal the Proposer requests exception from disclosure. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the City of Albany as a result of this RFP. Proposer should not mark the whole proposal document “confidential”.

If a Proposal contains any information that is considered a trade secret under ORS 192.501(2), Proposers must mark each sheet of such information with the following legend: **“This data 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.”**

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.” Therefore, non-disclosure of City documents or any portion of a City document submitted as part of a Proposal may depend upon official or judicial determination made pursuant to the Public Records Law.

In order to facilitate public inspection of the non-confidential portion of the Proposal, material designated as confidential shall accompany the Proposal, but shall be readily separable from it. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment shall be publicly available regardless of any designation to the contrary. Any Proposal marked as a trade secret in its entirety will be considered nonresponsive.

## **1.6 CANCELLATION**

ORS 279B.100 provides for cancellation, rejection, or delay of proposals when the cancellation or rejection is in the best interest of the Contracting Agency as determined by the Contracting Agency. The City of Albany reserves the right to cancel award of this contract at any time before execution of the contract by both parties if cancellation is deemed to be in the City of Albany’s best interest. In no event shall the City of Albany have any liability for the cancellation of award.

## **1.7 LATE PROPOSALS**

Proposals must be submitted by the time designated in the RFP Schedule at the City Hall Parks and Recreation Department/Information counter and marked received by City staff indicating the time and date as shown on the City Bid Clock in the Parks Department. Any Proposals submitted after the designated closing time or to any other location will be considered late and determined nonresponsive and will not be opened. Delays due to mail and/or delivery handling, including, but not limited to delays within City of Albany’s internal distribution systems, do not excuse the Proposer’s responsibility for submitting the Proposal to the correct location by the stated deadline.

## **1.8 CONDITIONS OF SUBMITTAL**

By the act of submitting a response to this RFP, the Proposer certifies that:

1. The Proposer and each person signing on behalf of any Proposer certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or in part by the City of Albany, has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof other than as fully described in the Proposer's response to this solicitation.
2. The Proposer has examined all parts of the Request for Proposal, including all requirements and contract terms and conditions thereof, and, if its Proposal is accepted, the Proposer shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Proposer.
3. The Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and that no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.
4. The Proposer has demonstrated quality experience providing the required goods and services.
5. The Proposer has examined the scope of services and conditions thoroughly and can provide the appropriate insurance, deposits, and bonds, if applicable.
6. The Proposer will comply fully with the scope of services for the agreed contract.
7. The Proposer can meet any and all registration and certification requirements as set forth and required in the Oregon Revised Statutes and this RFP.

## **1.9 PROPOSER REQUESTS INTERPRETATION OF RFP DOCUMENTS**

1. Proposers shall promptly notify the City of Albany of any ambiguity, inconsistency or error, which they may discover upon examination of the Proposal Documents.
2. Proposers requiring clarification or interpretation of the Proposal Documents shall make a written request for same to the Purchasing Coordinator at the submittal location listed above.
3. The City of Albany shall make interpretations, corrections, or changes of the Proposal Documents in writing by published Addenda. Interpretations, corrections, or changes of the Proposal Documents made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes.
4. Should any doubt or difference of opinion arise between the City of Albany and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this solicitation, the decision of the City of Albany shall be final and binding upon all parties.
5. To the maximum extent allowed by law, the City may waive proposal/bid irregularities or strict compliance with any requirement herein if it concludes such action to be in its best interest.

## **1.10 PROPOSER REQUESTS FOR ADDITIONAL INFORMATION**

Requests for information regarding City of Albany services, programs, or personnel, or any other information shall be submitted in writing directly to the Purchasing Coordinator at the address in the Request for Proposals. All requests for additional information shall be submitted in writing. Answers shall be provided to all Proposers of record on the date that answers are available.

## **1.11 COMPETITION**

Proposers are encouraged to comment, either with their Proposals or at any other time, in writing, on any specification or requirement within this RFP, which the Proposer believes, will inordinately limit competition.

## **1.12 SOLICITATION PROTESTS**

A protest of any provision in this RFP must be made in writing and directed to the Purchasing Coordinator at the address listed in the RFP and shall be received no later than the date listed in the RFP Schedule. Any protest must address the requirement, provision or feature of this RFP or its attachments, that the potential Proposer believes is ambiguous, unclear, unfair, contrary to law or likely to limit competition. Such submittals will be reviewed upon receipt and will be answered in writing. No such protests or requests will be considered if received after the deadline. No oral, telegraphic, telephone protests or requests will be accepted.

## **1.13 COST OF RFP AND ASSOCIATED RESPONSES**

This RFP does not commit the City of Albany to paying any costs incurred by any Proposer in the submission or presentation of a Proposal, or in making the necessary studies for the preparation thereof. Responses to this solicitation are purely voluntary. Proposers shall not include any such expenses as part of their Proposals.

## **1.14 CITY TO REQUEST CLARIFICATION, ADDITIONAL RESEARCH, AND REVISIONS**

1. The City of Albany reserves the right to obtain clarification of any point in a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in a finding that the Proposer is nonresponsive and consequent rejection of the Proposal.
2. The City of Albany may obtain information from any legal source for clarification of any Proposal or for information on any Proposer. The City of Albany need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.
3. The City of Albany may perform, at its sole option, investigations of the responsible Proposer. Information may include, but shall not necessarily be limited to credit history, recent financial statements, current litigation, bonding capacity and related history, and contacting references. All such documents, if requested by the City of Albany, become part of the public records and may be disclosed accordingly.
4. The City reserves the right to investigate references including customers other than those listed in the Proposer's submission. Investigation may include past performance with respect to its successful performance of similar projects, conformance to Owner's budget, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, and its lawful payment to employees and workers or other criteria as determined by the City.
5. The City of Albany reserves the right to request revisions of proposals after the submission of proposals and before award.
6. The City of Albany reserves the right to negotiate revisions to the final contract, as well as price, with the successful Proposer.

### **1.15 REJECTION OF PROPOSALS**

The City of Albany reserves the right to reject any or all Proposals received as a result of this request. Proposals may be rejected for one or more of the following reasons, including but not limited to:

1. Failure of the Proposer to adhere to one or more of the provisions established in this RFP.
2. Failure of the Proposer to submit a Proposal in the format specified herein.
3. Failure of the Proposer to submit a Proposal within the time requirements established herein.
4. Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.

The City of Albany may reject any Proposal not in compliance with all prescribed public procurement procedures and requirements, and may reject for good cause any or all Proposals upon a finding of the City of Albany that it is in the public interest to do so.

### **1.16 MODIFICATION OR WITHDRAWAL OF PROPOSAL BY PROPOSER**

1. A Proposal may not be modified, withdrawn, or canceled by the Proposer for 90 (ninety) calendar days following the time and date designated for the receipt of Proposals.
2. Proposals submitted early may be modified or withdrawn only by notice to the City of Albany Purchasing Coordinator, at the Proposal submittal location, prior to the time designated for receipt of Proposals. Such notice shall be in writing over the signature of the Proposer. All such communications shall be so worded as not to reveal the amount of the original Proposal or any other material contents of the original Proposal.
3. Withdrawn Proposals may be resubmitted up to the time designated for the receipt of Proposals provided that they are then fully in conformance with these Instructions to Proposers.
4. The City of Albany reserves the right to request revisions of proposals after the submission of proposals and before award for the purpose of obtaining best offers or best and final offers.

### **1.17 PROPOSAL OWNERSHIP**

1. All Proposals submitted become and remain the property of the City of Albany and, as such, are considered public information and subject to public disclosure within the context of the federal Freedom of Information Act and Oregon Revised Statutes (ORS) 192.501 and ORS 192.502, public records exempt from disclosure.
2. Unless certain pages or specific information are specifically marked “proprietary” and qualify as such within the context of the regulations stated in the preceding paragraph, the City of Albany shall make available to any person requesting information through the City of Albany’s processes for disclosure of public records, any and all information submitted as a result of this solicitation without obtaining permission from any Proposer to do so after the Notice of Intent to award has been released.

### **1.18 DURATION OF PROPOSAL**

Proposal prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of submittal. The successful proposal shall not be subject to future price escalation or changes of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

### **1.19 AFFIRMATIVE ACTION**

By submitting a proposal, the Proposer agrees to comply with the Fair Labor Standards Act (FLSA); Title VII of the Civil Rights Act of 1964; Executive Order 11246, (as amended); Fair Employment Practices; Equal Employment Opportunity Act; Section 503 of the Rehabilitation Act of 1973, as amended; Vietnam Era Veterans' Readjustment Assistance Act of 1974; Americans with Disabilities Act; Age Discrimination in Employment Act of 1967 (ADEA); and Oregon Revised Statutes (ORS).

### **1.20 DISADVANTAGED, MINORITY, WOMEN, & EMERGING SMALL BUSINESSES (DMWESB)**

Albany encourages the participation of Target Businesses. These businesses are defined as Disadvantaged, Minority-Owned, Women-Owned, and Emerging Small Businesses (DMWESB) certified by the State of Oregon (OMWESB), and businesses certified as Small Disadvantaged Businesses by the Small Business Administration. Proposers may not discriminate in the award of a subcontract because the subcontractor is a minority, women or emerging small business enterprise (MWESB) certified under ORS 200.055. By submitting a proposal, the Proposer specifically certifies, under penalty of perjury, that the Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, if applicable.

### **1.21 CONDITIONS CONCERNING PAYMENT, CONTRIBUTIONS, LIENS, WITHHOLDING**

All Proposers shall comply with ORS 279B.220:

1. Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of the contract.
3. Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
4. Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

### **1.22 CONDITION CONCERNING SALVAGING, RECYCLING, COMPOSTING OR MULCHING YARD WASTE MATERIAL**

All Proposers shall comply with ORS 279B.225:

Every public contract for lawn and landscape maintenance shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.

### **1.23 CONDITION CONCERNING PAYMENT FOR MEDICAL CARE AND PROVIDING WORKERS' COMPENSATION**

All Proposers shall comply with ORS 279B.230:

1. Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
2. 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.

## **1.24 CONDITION CONCERNING HOURS OF LABOR**

All Proposers shall comply with ORS 279B.235, (1) except as provided in subsections (3) to (5) of this section.

1. A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
  - a) (A) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or  
(B) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - b) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
2. An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.
3. Contracts for personal services, described in ORS 279A.055, Contractor's employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
4. Contracts for services require that persons employed under the contracts shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

## **1.25 NOTIFICATION OF INTENT TO AWARD**

All Proposers to this RFP will be notified of the Evaluation Committee's recommendation and the City's intent to award an agreement not less than seven (7) days prior to award of agreement. The notice of intent to award an agreement will be directed to the person who has signed the Proposal on behalf of the Proposer.

## **1.26 PROTEST OF AWARD**

A Proposer may protest the award of a contract or the intent to award such a contract, whichever occurs first, if the following conditions are satisfied: (1) The Proposer must be adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful; (2) The reason for the protest is that all the lower bids or higher ranked Proposals are nonresponsive; (3) The City has failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the Solicitation Document; (4) The City has abused its discretion in rejecting the protestor's bid as nonresponsive; (5) The City's evaluation of the Proposals or the subsequent determination of award is otherwise in violation of ORS 279B.410. The Proposer must deliver the written protest to the Purchasing Coordinator within seven days after issuance of Notice of Intent to Award. A Proposer's written protest shall specify the grounds for protest. The City shall not consider a Proposer's contract award protest submitted after the above time line.

### **1.27 NOTICE TO PROCEED**

Work under the Agreement may not begin until the Notice to Proceed has been issued. The City will issue the Notice to Proceed after execution of the Contract. The Notice to Proceed will state the date work under the Agreement shall begin.

### **1.28 RECIPROCAL PREFERENCE LAW**

Oregon's reciprocal preference law, ORS 279A.120 and ORS 279A.125, requires public contracting agencies, in determining the lowest responsible Proposer, to add a percent increase to each out-of-state Proposer's bid price which is equal to the percent of preference given to local Proposers in the Proposer's home state. That is, if the low Proposer is from a state that grants a 10 percent preference to its own in-state Proposers, the Oregon Agency must add 10 percent to that Proposer's price when evaluating the bid.

For details, check Oregon's Reciprocal Preference Law website at:  
<https://www.oregon.gov/das/Procurement/Pages/Recippref.aspx>

Proposers in need of any assistance in the application of this law should contact the State Procurement Office: State of Oregon, Department of Administrative Services, State Procurement Office, 1225 Ferry Street SE, U-140, Salem, OR 97301-4285. Telephone: (503) 378-4642

### **1.29 CITY REPRESENTATIVE AND CONTRACT ADMINISTRATOR**

The City's Representative or designee shall have full authority to act on behalf of the City with respect to administration of the provisions of this Contract, including the authority to stop the work whenever such stoppage may be necessary to ensure the proper execution of the Contract. The Representative or designee shall also have authority to reject all work that does not conform to the Contract Documents. For the purpose of administering this contract, the Contract Administrator will be Rick Barnett, Park Operations Supervisor, 541-917-7763.

### **1.30 NOTICES, INVOICES, AND PAYMENTS**

All notices, invoices, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail should be addressed as follows:

CITY OF ALBANY:           333 Broadalbin Street SW  
                                  P.O. Box 490  
                                  Albany, Oregon 97321

CONTRACTOR:            (Address), (City, State, Zip)

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this section.

### **1.31 DEFINITIONS (as used in these contract documents, except where the context otherwise clearly requires)**

CITY, OWNER means the City of Albany, Oregon.

CITY'S REPRESENTATIVE, CONTRACT ADMINISTRATOR means the person or persons designated by the City to administer this Contract and monitor compliance hereunder.

**CONTRACT DOCUMENTS** means all written documents existing at the time of execution of this Contract and setting forth the obligations of the parties, including the Request for Proposals, Professional Services Agreement, Scope of Services, Special Provisions, Non-Collusion and Conflict of Interest Certification, Certification Statement for Corporation or Independent Contractor, Proposer Representations and Certification Regarding Debarment, Suspension and Other Responsibility Matters, Certification of Insurance Requirements, References, Cost Proposal/Fee Schedule, Proposal Response, and other attachments, exhibits, or addenda applicable to the final Contract Documents. In addition, written amendments to the Contract Documents executed by the parties from time to time, and any documents expressly incorporated by reference elsewhere in the Contract Documents enumerated above.

**CONTRACTOR, CONSULTANT, PROPOSER, RESPONDENT** means the person or firm that has undertaken to perform the work subject of this contract and by whom or on whose behalf the contract was signed.

**DELIVERABLE** means the acceptable product or service as identified in the statement of work; received as requested at the right: time, place, quality, quantity, and price. A deliverable must be measurable to determine that all conditions and acceptable performance are met.

**RESPONSIBLE PROPOSER** means a Person that has submitted an Offer and meets the standards set forth in OAR 137-047-0640, and not debarred or disqualified by the Contracting Agency under OAR 137-047-0575. When used alone, Responsible means meeting the aforementioned standards and is also defined in ORS 279B.110.

**RESPONSIVE PROPOSAL** means an Offer or Proposal that substantially complies in all material respects with all prescribed procurement procedures and applicable solicitation requirements. When used alone, Responsive means having the characteristic of substantially complying in all material respects with applicable solicitation requirements.

**SPECIFICATIONS** means the directions, requirements, explanations, terms and provisions pertaining to the various features of the work, the manner and method of proposing for the work, the manner and method of performance of the work, and the manner and method of payment all as they appear in the contract documents.

**STATEMENT OF TIME** means a period of time, unless stated as a number of City business days, shall include Saturdays, Sundays, and holidays. The word “day” as used in this RFP document, and any resulting contract awarded as a result of this process, shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

**SUBSTANTIAL COMPLETION** means a stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or use the Work or a portion thereof for its intended use.

**WORK** means all tasks specified or necessarily implied in these Contract Documents to perform and complete their intended result. The term encompasses all labor, materials, supplies, tools, equipment, fuel, administrative and support services, overhead, and other direct and indirect expenses necessary to achieve the result intended by the Contract Documents.

## **SECTION 2 – SCOPE OF WORK GENERAL PROVISIONS**

The City of Albany is requesting proposals from qualified individuals to provide Public Tree Maintenance services in a safe, timely manner, and will be on an “as-needed” basis. The work to be performed may include routine tree pruning services, tree takedown, stump grinding and removal, limb chipping, mulch removal, and other work associated with the tree care profession. The City of Albany reserves the right to choose other Contractors for any public tree maintenance service when in the determination of the City it is in the organization’s best interest to do so or is a public safety concern.

### **2.1 SCOPE OF WORK – CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

The Proposer shall perform the anticipated services listed below within the scope of this Agreement. These will include, but are not limited to the following:

- Routine tree pruning, tree takedown, stump grinding and removal
- Limb chipping, mulch removal, and other tree care related work
- Emergency mobilization
- Consultation
- Lift Truck for routine pruning services

### **2.2 CERTIFICATIONS**

Contractor must have at least one arborist on staff certified by the International Society of Arboriculture (ISA) to oversee all removal and pruning work, and certify all work meets the City’s tree maintenance service’s scope of work. A copy of a current, valid ISA certification(s) must be submitted with the Contractor’s proposal. Contractor should also provide a copy of certifications upon renewal, if applicable, during term of contract.

### **2.3 TERM OF SERVICE**

The contract resulting from this RFP shall be for a contract term of three years beginning, January 1, 2017 through December 31, 2019, with an option to extend the contract for two additional, one-year terms upon mutual agreement by the City and the Contractor. If the City elects to renew the contract, a written notice shall be provided to the Contractor a minimum of thirty (30) days prior to the expiration of the current contract of its intent to do so. All contract extensions will result in a contract amendment.

### **2.4 PUBLIC SAFETY**

The Contractor shall comply with all rules and regulations of the City, State, and County authorities regarding the closing of public streets or highways to use of public traffic. No road shall be closed to the public except by express permission of the City’s Representative. The Contractor should conduct the work so as to ensure the least possible obstruction to traffic and normal commercial pursuits. The convenience of the general public and residents on and adjacent to the work site, and the protection of persons and property are of prime importance and should be provided for at all times.

All work shall conform to the safety requirements set forth by the American National Standards Institute, ANSI Z133.1-2012 and standard pruning practices set forth by the ANSI A300-2008.

Traffic, pedestrian, and parking control is the responsibility of the Contractor. If required by the City, the Contractor shall post “NO PARKING” signs in accordance with local laws. The signs shall be posted 24 hours in advance of scheduled tree services, and removed within five (5) hours of completion of work.

## **2.5 CLEANUP OF WASTE MATERIAL/RUBBISH**

The Contractor shall, at all times, be solely responsible for all expenses and keeping the property free from accumulations of waste material and rubbish caused by the Contractor's (and subcontractor's if applicable) employees or by the work. Accumulation of waste materials that might constitute a fire hazard shall not be permitted. Spillage from the Contractor's hauling vehicles on public or private roads shall be promptly cleaned up. The Contractor shall, upon completion of each day's work, remove all rubbish and waste material resulting from daily operations at Contractor's own expense. Recycling methods shall be utilized whenever possible.

## **2.6 PERSONNEL**

All personnel employed by the Contractor shall present a neat appearance and be courteous to the public. The City and the Contractor shall promptly notify the other of any complaints received about tree service operations. The Contractor shall utilize competent employees in performing the work described in these specifications. At the request of the City, the Contractor shall replace for just cause any incompetent, abusive, or disorderly person employed by the Contractor. The Contractor shall supply the City with the Employee Drug Testing Program Certification form, Employee Background Check Program Certification form, and proof of current, valid ISA certification with submission of Contractor's proposal, and with any subsequent new hires or renewals.

## **2.7 COMPLAINTS**

When a complaint is received, the Contractor shall investigate and resolve the complaint with the complainant within 24 hours. He/she shall then notify the City's Representative of the action taken on the next scheduled work day.

## **2.8 HOURS OF OPERATION**

Hours of operation shall be in accordance with the Albany Municipal Code (AMC) 7.08.050. Tree Services shall be provided only between the hours of 7:00 a.m. and 6:00 p.m. Any request for a change in these hours shall be submitted in writing for approval by the City's Representative prior to the change.

## **2.9 PROGRESS REPORTS**

The Contractor shall submit a monthly progress report of work completed during the preceding month to the City's Representative by the end of the first full week of each month.

The reports shall contain:

- Exact number of projects completed
- Actual number of hours worked with a breakdown of work performed
- Total hours worked
- Location of each project
- Any anticipated follow-up work
- All extra work needed

## **2.10 EMERGENCY CALL OUT**

Contractor shall provide 24-hour emergency response to City's Representative or designee within approximately two hours from the City's "call-out" request to the Contractor in the case of an emergency situation. Contractor must contact the emergency Park's after hour's phone number, 541-730-8554; or City's Representative, 541-917-7763; or Park's Department, 541-917-7777. The City of Albany reserves the right to choose other Contractors for any tree maintenance service issue when in the determination of the City it is in the organization's best interest to do so or is a public safety concern.

## **SECTION 3 – PROPOSAL SUBMITTAL REQUIREMENTS**

### **3.1 SUBMITTAL PROCESS**

Each Proposer should provide four (4) total copies of their proposal with one copy marked “Original”. The outside of the envelope should reference “PUBLIC TREE MAINTENANCE SERVICES RFP”. Proposals must be received by the City of Albany, at the Parks and Recreation Department Counter not later than **2:00 p.m., on Tuesday, November 22, 2016**, addressed to the City of Albany, Attention: Diane Murzynski, CPPO, Purchasing Coordinator, 333 Broadalbin SW, Albany, OR 97321.

Each proposal must include, at a minimum, the items listed in Section 2, Scope of Work. The proposal must contain all mandatory submittal content requirements. Proposals not including this information will be considered nonresponsive and will not be evaluated. A completeness check will be conducted for each proposal.

### **3.2 PROPOSAL FORMAT**

Proposals should be printed double-sided and prepared in a simple, economical manner, without stiff binders or covers, fastened in the top left-hand corner, with the sections tabbed to match those in the RFP, and with all pages numbered within each section. The proposal should be prepared succinctly, providing a straight forward, concise description of the Proposer’s ability to meet the requirements of the RFP. There should be no unnecessary attachments or exhibits. City reserves the right to reject Proposals that are deemed illegible or too difficult to read.

### **3.3 PROPOSER REPRESENTATIONS**

The Proposer further agrees to the following:

1. To examine the scope of services and conditions thoroughly.
2. To provide for appropriate insurance, deposits, and bonds, if required.
3. To comply fully with the scope of services for the agreed contract.
4. That any and all registration and certification requirements are met as set forth and required in the Oregon Revised Statutes and this RFP.

### **3.4 JOINT PROPOSALS**

If Proposer is a partnership or joint venture, information must be provided for each partner or joint ventures, and each partner or joint ventures must sign the Proposal and any contracts on behalf of both itself and the Proposer, and each will be jointly and severally liable. In the case of a legal partnership or joint venture, a written Memorandum of Understanding between the parties must be submitted with the Proposal setting forth the business and service delivery agreements between the parties.

### **3.5 KEY PERSONNEL**

The Proposer shall acknowledge and agree that if selected, the Proposer is entering into this contract because of the special qualifications of the Proposer’s key personnel. In particular, through this contract, the City, is engaging the expertise, experience, judgment, and personal attention of key personnel. The Proposer shall not reassign or transfer the key personnel to other duties or positions without notifying the City. In the event that a replacement of key personnel is necessary, the replacement must be acceptable to the City Contract Administrator/Representative. Proposer will provide City with key personnel who have experience with the Proposer’s company and services.

### 3.6 INDEPENDENT CONTRACTOR (ORS 670.600)

The Contractor shall provide all labor, equipment, material, and supervision necessary to perform the scope of services described in this RFP. The parties intend that Contractor, in performing the services specified in this contract, shall act as an independent contractor and shall have the control of the work and the manner in which it is performed. Contractor is not considered an agent or employee of the City of Albany, and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits the City of Albany provide its employees.

### 3.7 PROPOSAL CONTENT – MANDATORY SUBMITTAL

Failure to complete any question or request for information, in whole or in part, or any deliberate attempt by the Proposer to mislead the City, may disqualify the Proposer. Each Proposer shall describe their qualifications and commitment to providing the required scope of services and a clear understanding of the work to be performed, demonstrated by the comprehensiveness and appropriateness of the Proposal.

1. Introductory Letter - Proposer shall include an Introductory Letter and expression of interest in the project. Proposer should indicate a willingness to enter into a contract with the City based on the terms and conditions contained in the City's Professional Services Agreement, Attachment A, and meet the requirements of this RFP. The Introductory Letter shall also name the person(s) authorized to represent the Proposer in any negotiations and the name and title of the person(s) legally authorized to sign any contract that may result. The letter shall be signed by an authorized representative of the Proposer. Include e-mail address and telephone and fax numbers. Any exceptions to the Sample Agreement must be provided within this Letter.
2. Experience and Qualifications – Proposer shall include a statement of how the Contractor will provide services and address the scope of work listed in the RFP. This should include a discussion describing your approach to working with a client, the reports provided to the client, if applicable, the responsibilities assumed by the Contractor, and the Contractor's expectation of what the City would need to provide to the Contractor. Proposer shall provide a list of the personnel to be assigned to the City contract, together with a statement of their experience, qualifications, professional licensing, and certifications, as well as identify the nature of the work each individual will perform. Proposer should indicate if Contractor has equipment readily available as required in the scope of services. Proposer must submit proof of current, valid ISA certification for personnel assigned to the contract.
3. Disclosure – Proposer shall provide a statement disclosing whether the Contractor or any of its staff assigned to this contract have been sued or have been subject to professional discipline in connection with providing tree maintenance services for any client, or any related services. If such lawsuits or disciplinary actions have occurred, summarize the allegations, when they occurred, and indicate the outcome of the proceedings
4. References – Proposer shall provide a minimum of three (3) references the Proposer is currently or has previously provided public tree maintenance services, within the last three (3) years, including a minimum of one government agency reference. Include contact names, phone numbers, e-mail addresses, and mailing addresses.

Each reference must be available by phone to verify the quality of previous related work. References will be contacted to assist with the evaluation of experience, expertise, and the customer's satisfaction. Proposer shall provide Reference information on Exhibit A. Additional references will be contacted by the City at its discretion.

5. Fee Schedule – Provide cost for services on Exhibit H.

### **3.8 EMPLOYEE BACKGROUND CHECK AND DRUG TESTING PROGRAMS**

The City requires Contractor to provide a criminal background check on employees prior to the start of work. The Contractor should provide the City with the results of background checks if requested and prior to the Notice to Proceed, and additionally as new employees are hired and utilized on the City contract.

Contractor must designate that they participate in an Employee Drug Testing Program (Exhibit B) and an Employee Background Check Program (Exhibit C). Certification forms must be submitted with the Contractor's proposal.

### **3.9 ADDITIONAL ATTACHMENTS REQUIRED WITH PROPOSAL SUBMITTAL**

The following must be included with the Proposal Response.

1. References (Exhibit A).
2. Employee Drug Testing Program Certification (Exhibit B)
3. Employee Background Check Program Certification (Exhibit C)
4. Non-Collusion and Conflict of Interest Certification (Exhibit D)
5. Certification Statement for Corporation or Independent Contractor (Exhibit E)
6. Proposer Representations and Certification Regarding Debarment, Suspension and Other Responsibility Matters (Exhibit F).
7. Certification of Insurance Requirements (Exhibit G).
8. Fee Schedule (Exhibit H).
9. Addenda - All addenda of this RFP should be submitted as part of the Proposal Response. Receipt of each addendum shall be acknowledged by the Proposer by signing in the appropriate designated location. Each Proposer should ascertain, prior to submitting a Proposal, that the Proposer has received all addenda issued by the City of Albany. Addenda are posted on the City of Albany's website at <https://www.cityofalbany.net/departments/finance/city-purchasing/bids-rfps-rfqs>.

## **SECTION 4 – EVALUATION CRITERIA**

### **4.1 SELECTION PROCESS**

The process to select Public Tree Maintenance Services will consist of a solicitation of proposals from all Proposers interested in providing the required services described in this RFP. Proposers must meet the requirements and demonstrate the necessary experience and professional qualifications described in this RFP for as-needed tree maintenance services in an efficient and cost-effective manner to the City.

Each proposal will be judged on its completeness and quality of its content. The City reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing the proposal. All proposals will become part of the public file, without obligation to the City. Upon the completion of the evaluations, the City intends to award a contract to the Proposer whose proposal is deemed to be most advantageous to the City. Special features or qualifications included in the proposal will be given due consideration.

### **4.2 EVALUATION COMMITTEE**

The Evaluation Committee will be comprised of three (3) members representing the Parks & Recreation Department. The role of the Evaluation Committee is to evaluate the proposals submitted and make a recommendation of award. The City may also seek expert advice to help review proposals. Such advisors to the Evaluation Committee may attend evaluation meetings and Proposer interviews, and lend any such expertise to the process as requested by the City. However, any such person contacted by the City for their expert advice shall not, from first being contacted until the RFP process is completed, or otherwise brought to an end, have communications with any Proposers regarding their proposals or the process.

Scoring will be completed covering all areas listed below in the Evaluation Criteria. Proposals must provide a concise description of the Proposer's ability to satisfy the requirements of the RFP with emphasis on completeness and clarity of content. Evaluators will consider brevity of responses in scoring Proposals. All scores for each Proposer shall be added together to arrive at a final score for each Proposer. Proposals will then be ranked in descending order by the total proposal score.

If additional information is deemed necessary as part of the evaluations, such information will be solicited in order to allow the Committee to complete the evaluation process. The objective of requesting proposals is for the City to obtain the highest quality of services at a cost representing the best value to the City.

### **4.3 EVALUATION CRITERIA**

#### **1. INTRODUCTORY LETTER**

- Include an Introductory Letter expressing interest in the project.
- Indicate a willingness to enter into a contract with the City based on the terms and conditions contained in the City's standard contract, Attachment A, and meet the requirements of this RFP.
- Indicate the person authorized to represent the Proposer in any negotiations and the name and title of the person(s) legally authorized to sign any contract that may result included.
- Letter signed by an authorized representative of the Proposer.
- Any exceptions to the City contract must be included in the Introductory Letter.

## 2. EXPERIENCE AND QUALIFICATIONS

This evaluation component will allow the City to assess the Proposer’s understanding of the services that are required to meet the acceptance criteria for the indicated service.

- Does proposal include a statement of how the Contractor will provide services and address the scope of work, Section 2.1, listed in the RFP?
- Does Proposer describe their experience in the industry, available services to the public and government agencies, and expertise of the Contractor?
- Key Personnel background and experience must be included.
- Does proposal include the length of time the business has been in existence, certifications, credentials, and disclosure statement?

## 3. FEE SCHEDULE - EXHIBIT H

Proposer must provide a cost for all services proposed on Exhibit H.

## 4. REFERENCES – EXHIBIT A

- Proposer shall provide a minimum of three (3) references for which the Proposer is currently or has previously provided public tree maintenance services, within the last three (3) years, including government agency references.
- Contact information should be provided on Exhibit A. Information should be complete and include contact names, phone numbers, e-mail addresses, and mailing addresses.
- Each reference must be available by phone to verify the quality of previous related work. References will be contacted to assist with the evaluation of experience, expertise, and the customer’s satisfaction.

## 4.4 EVALUATION SCORING

The criteria listed below will be used to evaluate the Proposers to determine the finalists and apparent successful Proposer. **Total possible points will be 100.**

Introductory Letter	Pass/Fail
Experience and Qualifications	60
Fee Schedule	25
References	15
<b>TOTAL POINTS AVAILABLE IS 100</b>	<b>100</b>

## 4.5 INTERVIEWS (Optional)

At the City’s option, interviews may be conducted with all or a select few of the Proposers after the RFPs are evaluated. The Evaluation Committee may interview the Proposers and ask additional questions related to the RFP and the scope of work. The City will schedule the time and locations of the interviews, if required, on the date(s) indicated in the RFP Schedule. Interviews will take place at a location to be determined in Albany. Contractors invited to the interview will be responsible for making and paying for their own travel arrangements. If held, a possible 50 points will be attributed to interviews.

#### **4.6 RANKING OF PROPOSALS**

1. Proposals may be ranked by the Evaluation Committee based on evaluation of responses and interviews (if any), with the first-ranked Proposer being that Proposer which is deemed to be the most appropriate and fully able to perform the services, and the second-ranked Proposer being the next most appropriate, all in the sole judgment of the Evaluation Review Committee.
2. Contractor's scores will be totaled and ranked. Any Proposer's response to this RFP shall be considered de facto permission to the City of Albany to disclose the results, when completed, to selected viewers at the sole discretion of the City of Albany.

#### **4.7 NEGOTIATIONS**

The City may commence serial negotiations with the highest ranked, eligible Proposers or commence simultaneous negotiations with all eligible Proposers. The City may negotiate: (a) the statement of work; (b) the contract price as it is affected by negotiating the statement of work; and, (c) any other terms and conditions reasonably related to and expressly authorized for negotiation in the RFP or addenda thereto, or alternative terms and conditions that are reasonable and declared by Proposer within their proposal response to be considered for negotiation.

#### **4.8 BEST AND FINAL OFFERS**

If in the best interest of the City it has chosen to employ a method of Proposer selection leading to best and final offers, the City may conduct private discussions with qualified Proposers as allowed by ORS 279B.060(6).

## SECTION 5 – CONTRACT REQUIREMENTS

### 5.1 CONTRACT AWARD

The award of a contract is accomplished by executing a contract with a written agreement that incorporates the entire RFP, Attachments, Exhibits, Proposer's Response, Clarifications, Addenda, and defined Statement of Work. All such materials constitute the Contract Documents. The Issuing Office is the sole point of contact for the issuance and compliance of the contract and insurance. The contract shall be substantially in the form of the Sample Agreement, Attachment A.

The Proposer must indicate a willingness to negotiate a contract in a timely, reasonable manner with the City. The City reserves the right to negotiate with the second-ranked Proposer, if the contract negotiation attempts are unsuccessful with the apparent successful Proposer.

The Proposer should indicate there is no conflict of interest or collusion on the part of the Proposer's submission of a proposal for the services being solicited under this RFP, see Exhibit D, Non-Collusion and Conflict of Interest Certification. If a potential conflict could be perceived to exist, then attach a letter of explanation disclosing the potential conflict or relationship.

**The Proposer hereby agrees to accept the contract terms of the attached Sample Agreement unless exceptions to the contract are submitted by the Proposer with their Proposal Response within the Introductory Letter. If Proposer does not provide written exceptions within the Introductory Letter and Proposer indicates exceptions after contract evaluations, City reserves the right to reject the Proposal and negotiate a contract with the next ranked Proposer, or find the Proposal Response nonresponsive.**

### 5.2 INSURANCE REQUIREMENTS

The successful Proposer must be covered by Workers' Compensation Insurance, which will extend to and include work in Oregon. If Proposer is exempt from Workers' Compensation, Proposer should indicate they are exempt from workers' compensation within the Introductory Letter of the Proposal Response.

The Proposer must also submit documents addressing Commercial General Liability Insurance, Automobile and Collision Insurance, Professional Liability Insurance, and Pollution Liability Insurance. An overview of the Insurance Requirements is defined in Exhibit G. Proposers must submit Exhibit G to acknowledge and accept the insurance requirements noted therein.

The Proposer shall demonstrate willingness and ability to provide a Certificate of Insurance and Additional Insured Endorsement reflecting the Insurance Requirements within ten (10) days of the Notice of Contract Award. If Proposer does not provide the required insurances, the City may elect to negotiate a contract with the second-ranked Proposer.

## EXHIBIT A - REFERENCES

Proposer Name: \_\_\_\_\_

Provide a minimum of three references with telephone numbers and e-mail addresses. References must be able to verify the quality of your previous work in the proposed area of work. Add additional pages if needed.

### REFERENCE 1

_____ Organization Name	_____ Telephone
_____ Contact Person	_____ E-Mail
_____ Mailing Address	_____ Contract Term
_____ Project Description	_____
_____	_____
_____	_____

### REFERENCE 2

_____ Organization Name	_____ Telephone
_____ Contact Person	_____ E-Mail
_____ Mailing Address	_____ Contract Term
_____ Project Description	_____
_____	_____
_____	_____

**REFERENCE 3**

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Organization Name

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Telephone

---

Contact Person

---

E-Mail

---

Mailing Address

---

Contract Term

---

Project Description

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**REFERENCE 4**

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Organization Name

---

Telephone

---

Contact Person

---

E-Mail

---

Mailing Address

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Contract Term

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Project Description

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**EXHIBIT B - EMPLOYEE DRUG TESTING PROGRAM  
CERTIFICATION**

Proposers shall demonstrate and disclose to the City of Albany that he/she has an Employee Drug Testing Program in place before a public contract can be awarded.

Therefore, by signing this Certification, the Proposer does hereby certify and confirm that, as the proposed Contractor for the City of Albany's **PUBLIC TREE MAINTENANCE SERVICES CONTRACT**, that he/she has an Employee Drug Testing Program in place.

**CONTRACTOR:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**EXHIBIT C - EMPLOYEE BACKGROUND CHECK PROGRAM  
CERTIFICATION**

Proposers shall demonstrate and disclose to the City of Albany that he/she has an Employee Background Check Program in place before a public contract can be awarded.

Therefore, by signing this Certification, the Proposer does hereby certify and confirm that, as the proposed Contractor for the City of Albany's **PUBLIC TREE MAINTENANCE SERVICES CONTRACT**, that he/she has an Employee Background Check Program in place.

**CONTRACTOR:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

# EXHIBIT D - NON-COLLUSION AND CONFLICT OF INTEREST CERTIFICATION

The undersigned hereby proposes and, if selected, agrees to furnish products and services for Public Tree Maintenance Services in accordance with this Request for Proposals, and Addenda, if applicable, for the term of the Agreement and certifies that the Proposer is not in any way involved in collusion and has no known apparent conflict of interest in submitting a Proposal.

## Certifications

**Non-Collusion** The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the City. The fees, prices, and Response submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices or Responses to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

**Discrimination** The undersigned Proposer has not discriminated and will not discriminate against any minority, women or emerging small business enterprise or against a business enterprise that is owned or controlled by or that employs a disabled veteran in obtaining a required subcontract.

**Conflict of Interest** The undersigned Proposer and each person signing on behalf of the Proposer certifies, and in the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary is payable in whole or in part by the City, has a direct or indirect financial interest in the award of this Response, or in the services to which this Response relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein. The undersigned hereby submits this Response to furnish all work, services, systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Qualifications, Addenda, Agreement, Exhibits and Attachments, and associated inclusions and references, specifications, Proposer's response, mutually agreed clarifications, appropriately priced change orders, exceptions which are acceptable to the City, and all other Proposer's submittals.

Proposer must disclose any apparent or perceived conflict of interest, including but not limited to, current or past relationships with consultants, contractors, subcontractors, or engineers associated with this Project. Furthermore, Proposer must disclose any current or past relationship as a City of Albany employee. If a perceived conflict may exist, then attach a letter of explanation disclosing the potential conflict or relationship.

**Disadvantaged, Minority, Emerging Small Business (DMESB)** (check applicable box):  Yes  No

**Reciprocal Preference Law – Residency** (check box that applies):  Resident Proposer  Non-Resident Proposer

## Signature Block

The Proposer hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

\_\_\_\_\_  
Proposer's Name

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Mailing Address, City, State, Zip

\_\_\_\_\_  
Tax Id Number/Social Security Number

\_\_\_\_\_  
Facsimile Number

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT E – CERTIFICATION STATEMENT FOR CORPORATION OR INDEPENDENT CONTRACTOR**

**A. Contractor is a Corporation, Limited Liability Company, or a Partnership**

*I certify under penalty of perjury that Contractor is a (check one):*

- Corporation     Limited Liability Company     Partnership     Nonprofit Corporation  
authorized to do business in  
the State of Oregon

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

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**B. Contractor is a Sole Proprietor Working as an Independent Contractor**

*Contractor certifies under penalty of perjury, that the following statements are true:*

1. If Contractor is providing services under this Contract for which registration is required under ORS Chapter 71 (Architects and Landscape Contractors) or 701 (Construction Contractors), Contractor has registered as required by law.
2. Contractor is free to determine and exercise control over the means and manner of providing the service subject to the right of the City to specify the desired results.
3. Contractor is responsible for obtaining all licenses or certifications necessary to provide the services.
4. Contractor is customarily engaged in providing services as an independent business. Contractor is customarily engaged as an independent contractor if at least three of the following statements are true.

Note: Check all that apply. You must check at least three to establish that you are an independent contractor.

- A. Contractor’s services are primarily carried out at a location that is separate from Contractor’s residence or primarily carried out in a specific portion of the residence which is set aside as the location of the business.
- B. Contractor bears the risk of loss related to the services provided under this Contract.
- C. Contractor provides services to two or more persons within a 12-month period or Contractor routinely engages in business advertising solicitation or other marketing efforts reasonably calculated to obtain new contracts for similar services.
- D. Contractor makes a significant financial investment in the business.
- E. Contractor has the authority to hire additional persons to provide the services and has authority to fire such persons.

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

**EXHIBIT F - PROPOSER REPRESENTATIONS AND CERTIFICATION  
REGARDING DEBARMENT, SUSPENSION AND OTHER  
RESPONSIBILITY MATTERS**

Failure of the Proposer to complete and sign this form may result in the rejection of the submitted offer. The Proposer will notify Purchasing in the Finance Department within 30 days of any change in the information provided on this form.

The Proposer certifies to the best of its knowledge and belief that neither it nor any of its principals:

1. Are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from submitting bids or proposals by and federal, state or local entity, department or agency;
2. Have within a five-year period preceding the date of this certification been convicted of fraud or any other criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, of local) contract embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are presently indicted for or otherwise criminally charged with commission of any of the offenses enumerated in Paragraph 2 of this certification;
4. Have, within a five-year period preceding the date of this certification had a judgment entered against contractor or its principals arising out of the performance of a public or private contract;
5. Have pending in any state or federal court any litigation in which there is a claim against contractor or any of its principals arising out of the performance of a public or private contract; and
6. Have within a five-year period preceding the date of this certification had one or more public contracts (federal, state, or local) terminated for any reason related to contract performance.

If Proposer is unable to attest to any of the statements in this certification, Proposer shall attach an explanation to their offer. The inability to certify to all of the statements may not necessarily preclude the Proposer from award of a contract under this procurement.

ATTESTATION:

SIGNATURE OF AUTHORIZED PERSON:

*(notarization is not required)*

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

Print Name and Title \_\_\_\_\_

Contact Person for this Procurement: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

# EXHIBIT G – CERTIFICATION OF INSURANCE REQUIREMENTS

Contractor shall at all times maintain in force at Contractor's expense for insurance noted below.

**Workers' Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 or CCB (Construction Contractors Board) for all subject workers. Contractor and all subcontractors of Contractor with one or more employees must have this insurance unless exempt under ORS 656.027. **Employer's Liability Insurance with coverage limits of not less than \$500,000 must be included. THIS COVERAGE IS REQUIRED.** If Contractor does not have coverage, and claims to be exempt, Contractor must indicate exemption within their Bid/Proposal submittal letter with qualified reasons for exemption, see ORS 656.027. Out-of-state Contractors with one or more employees working in Oregon in relation to this contract must have Workers' Compensation coverage from a state with extraterritorial reciprocity, or they must obtain Oregon specific Workers' Compensation coverage ORS 656.126.

**Professional Liability** insurance covering any damages caused by error, omission or any negligent acts of the Contractor, its subcontractors, agents, officers, or employees performance under this Contract. **Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$3,000,000.**

- If this box is checked, the limits shall be \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.  
 Required By City       Not Required By City (Needs Finance Insurance Review and Approval.)

**Commercial General Liability** insurance with coverage satisfactory to the City on an occurrence basis. **Combined single limit shall not be less than \$2,000,000 per occurrence for Bodily Injury and Property Damage and annual aggregate limit for each shall not be less than \$3,000,000.** Coverage may be written in combination with Automobile Liability Insurance (with separate limits).

- If this box is checked, the limits shall be \$1,000,000 per occurrence and \$2,000,000 in annual aggregate.  
 If this box is checked, the limits shall be \$5,000,000 per occurrence and \$5,000,000 in annual aggregate.  
 Required By City       Not Required By City (Needs Finance Insurance Review and Approval.)

**Commercial Automobile Liability** covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). **Combined single limit per occurrence shall not be less than \$2,000,000.**

- If this box is checked, the limits shall be \$1,000,000 per occurrence.  
 If this box is checked, the limits shall be \$5,000,000 per occurrence.  
 Required By City       Not Required By City (Needs Finance Insurance Review and Approval.)

**Pollution Liability** – Coverage shall include limits of not less than \$2,000,000.

- Required By City       Not Required By City (Needs Finance Insurance Review and Approval.)

Coverage must be provided by an insurance company authorized to do business in Oregon or rated by A.M. Best's Insurance Rating of no less than A-VII or City approval. Contractor's coverage will be primary in the event of loss.

Contractor shall furnish a current Certificate of Insurance to the City. Contractor shall provide renewal Certificates of Insurance upon expiration of any of the required insurance coverage. Contractor shall immediately notify the City of any change in insurance coverage. The certificate shall also state the deductible or retention level. The City must be listed as an Additional Insured by Endorsement of any General Liability Policy on a primary and non-contributory basis. Such coverage will specifically include products and completed operations coverage. The Certificate shall state the following in the description of operations: "Additional Insured Form (include the number) attached. The form is subject to policy terms, conditions and exclusions". A copy of the additional insured endorsement shall be attached to the certificate of insurance. If requested complete copies of insurance policies shall be provided to the City.

**Certificate holder should be: City of Albany, P.O. Box 490, Albany, OR 97321.** Certificates of Insurance may be faxed to the City Finance Department, Attn: Diane Murzynski, at (541) 917-7511.

Contractor's Acceptance: \_\_\_\_\_

Completed at City by: Diane M. Murzynski

## EXHIBIT H - FEE SCHEDULE

The fee schedule below should be returned with the Request for Proposals Response.

Item	Unit	Description	Amount
1	Hourly	Ground Worker for routine pruning services, per specifications below	\$
2	Hourly	Tree Climber for routine pruning services, per specifications below	\$
3	Hourly	Lift Truck with Operator for routine pruning services	\$
4	Hourly	Stump Grinding, Includes hauling mulch	\$
5	Flat Rate	Class A Tree and Stump Removal (6" - 12" dbh) Includes hauling mulch	\$
6	Flat Rate	Class B Tree and Stump Removal (12" - 18" dbh) Includes hauling mulch	\$
7	Flat Rate	Class C Tree and Stump Removal (18" - 24" dbh) Includes hauling mulch	\$
8	Flat Rate	Class D Tree and Stump Removal (24" - 30" dbh) Includes hauling mulch	\$
9	Flat Rate	Class E Tree and Stump Removal (30" - 36" dbh) Includes hauling mulch	\$
10	Flat Rate	Class F Tree and Stump Removal (36"+ dbh) Includes hauling mulch	\$
11	Flat Rate	Emergency Mobilization	\$
12	Hourly	Consultation	\$

Travel time to and from the site will not be billed.

Most of the work tends to be in the categories: Routine Tree Removal of Class B and Class C Trees, and Routine Pruning Services.

# ATTACHMENT A – SAMPLE CONTRACT

## STANDARD TERMS AND CONDITIONS AGREEMENT TO FURNISH PUBLIC TREE MAINTENANCE SERVICES TO THE CITY OF ALBANY, OREGON

### ARTICLE I: SCOPE OF SERVICES

For consideration set forth in Article V of this Agreement, the firm of \_\_\_\_\_, hereinafter referred to as CONTRACTOR, agrees to provide **Public Tree Maintenance Services** for the City of Albany, Oregon, a municipal corporation, hereinafter referred to as CITY, for a contract term of three years beginning, January 1, 2017 through December 31, 2019, with an option to extend the contract for two additional, one-year terms upon mutual agreement by both parties.

This Agreement incorporates all these Standard Terms and Conditions, the promises, representations, and obligations set forth in the complete Request for Proposals, Addenda, Statement of Work, Proposal Response, Clarifications, and all Exhibits and Attachments.

The CITY shall assist the CONTRACTOR by providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein. In the event of a conflict between the attachment(s) and this document, the terms of this document shall control. Unless modified in writing as set forth in Article II by the parties hereto, the duties of the CONTRACTOR and the CITY shall not be construed to exceed those services and duties specifically set forth in this Agreement.

### ARTICLE II: RESPONSIBILITIES OF CONTRACTOR

- A. Notice to Proceed. CONTRACTOR will not begin work on any of the duties and services listed in Article I until execution of the contract and receipt of a Notice to Proceed from City. Authorization to proceed on additional services not defined in Article I shall be in the form of an amendment as defined in Article IV.
- B. Scope of Services.  
CONTRACTOR shall provide the following:
- Routine tree pruning, tree takedown, stump grinding and removal
  - Limb chipping, mulch removal, and other tree care related work
  - Emergency mobilization
  - Consultation
  - Lift Truck for routine pruning services
- C. Level of Competence. CONTRACTOR is employed to render professional services and shall be responsible, to the level of competence presently maintained by other practicing professionals in good standing and engaged in the same type of professional personal services defined under this Agreement.
- D. Lead Contractor. \_\_\_\_\_ shall serve as the Lead Contractor for the Project described under the terms of this Agreement. Any change in the designation of this role must be approved by the City.

- E. Documents Produced. CONTRACTOR agrees that all work products produced by CONTRACTOR in the fulfillment of its obligations under this Agreement, and all information, documents and material, gathered or compiled in meeting those obligations, shall be considered property of the CITY, and shall be provided to the CITY upon completion of this Agreement or termination of the Agreement pursuant to Article XI.
- F. State or Federal Requirements. CONTRACTOR covenants and agrees to comply with all of the obligations and conditions applicable to public contracts of this type pursuant to ORS Chapter 279 A, and B, as though each obligation or condition were fully set forth herein. In addition, CONTRACTOR covenants and agrees that in the performance of its duties hereunder, it will comply with all other state and federal requirements applicable to contracts of this type. If any provision of this Agreement shall be deemed to be not in compliance with any statute or role of law, such provision shall be deemed modified to ensure compliance with said statute or role of law.
- G. Oregon Workers' Compensation Law. CONTRACTOR, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
- H. Record Retention and Review. The CONTRACTOR shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records shall be subject during regular business hours of the CONTRACTOR to inspection, review, or audit by personnel duly authorized by the City upon reasonable advance written notice from the City to the CONTRACTOR. The CONTRACTOR will retain all records related to this Agreement for seven (7) years following the date of final payment or completion of any required audit, whichever is earlier, and make them available for inspection by persons authorized under this provision. The CONTRACTOR shall be responsible for any audit exceptions or disallowed costs incurred by the CONTRACTOR or any of its subcontractors.
- I. Oregon Identity Theft Protection Act. CONTRACTOR, and its subcontractors to comply with the Oregon Identity Theft Protection Act (OITPA), ORS Sections 646A.600 through 646A.628.
- J. Taxpayer Identification Number. CONTRACTOR agrees to complete a Request for Taxpayer Identification Number and Certification (W-9 Form) as a condition of the City's obligation to make payment. If the CONTRACTOR fails to complete and return the W-9 Form to the CITY, payment to CONTRACTOR may be delayed, or the CITY may, in its discretion, terminate the Contract.
- K. ACH Direct Payment Authorization. The City prefers to pay CONTRACTOR invoices via electronic funds transfers through the Automated Clearing House (ACH) network. To initiate this more timely, efficient, and secure payment method, CONTRACTORS must complete the City's ACH Vendor Direct Payment Authorization Form. The form is available on the City website at <https://www.cityofalbany.net/departments/finance/city-purchasing/purchasing>. Information provided on the form is exempt from public records disclosure under ORS 192.501(27).

### **ARTICLE III: RESPONSIBILITY OF CITY**

- A. Authorization to Proceed. CITY shall authorize CONTRACTOR upon execution of the contract to start work on any of the services listed in Article I.
- B. Access to Records, Facilities and Property. CITY shall comply with reasonable requests from CONTRACTOR for inspection or access to City's records, facilities, and properties by providing any and all information within its possession or control that may be reasonably helpful in the performance of the services provided herein.

C. Timely Review. CITY shall examine all studies, reports, specifications, proposals, and other documents presented by CONTRACTOR, obtain advice of an attorney, insurance counselor, accountant, auditor, and other contractors as CITY deems appropriate for such examination and render in writing decisions pertaining thereto in a timely manner so as not to unreasonably delay the services of CONTRACTOR.

#### **ARTICLE IV: MODIFICATIONS**

CITY or CONTRACTOR shall not make modifications in the attached Agreement or these Standard Terms and Conditions except in writing as an amendment to the agreement. Said modifications shall be agreed to by both parties, with scope of work, schedule, and compensation to be negotiated at the time the modification is proposed by either party. Modifications that do not meet these requirements shall not be binding, and no further compensation will be allowed for any work performed.

#### **ARTICLE V: COMPENSATION**

CITY agrees to pay for the services procured in Article I in accordance with the compensation provisions described in this Agreement and the deliverables set forth in the Fee Schedule.

The CITY shall remit payment within thirty (30) days of receipt of a monthly billing from the CONTRACTOR. Such billing shall be only for services provided to that point. If payment is not made within 30 days, interest on the unpaid balance will accrue beginning on the 31st day at the rate of one percent (1%) per month or the maximum interest rate permitted by law, whichever is less.

Such interest is due and payable when the overdue payment is made, unless delay in payment is due to a contested billing. CITY has the right to appeal or ask for clarification on any CONTRACTOR billing within 30 days of receipt of billing. Until said appeal is resolved or clarification is accepted, no interest will accrue on that portion of the billing. In the event of a contested billing, only that portion so contested shall be withheld, and the undisputed portion shall be paid in accordance with this Article V.

Notwithstanding anything in this Agreement to the contrary, the City's obligation to pay money beyond the current fiscal year shall be subject to and dependent upon appropriations being made from time to time by the City Council for such purpose; provided, however, that the City Manager or other officer charged with the responsibility for preparing the City's annual budget shall include in the budget for each fiscal year the amount of the City financial obligation payable in such year and the City Manager or such other officer shall use his/her best efforts to obtain the annual appropriations required to authorize said payments.

#### **ARTICLE VI: INDEMNIFICATION**

The CONTRACTOR agrees to indemnify, defend, and hold harmless the CITY, its agents, officers and employees, from and against any and all liability, claims, suits, loss, damages, costs, and expenses arising out of or resulting from the negligent or intentional acts, errors, or omissions of the CONTRACTOR, its officers, employees, or agents.

#### **ARTICLE VII: INSURANCE**

Before the Agreement is executed and work begins, the CONTRACTOR shall furnish the CITY a Certificate of Insurance for the coverage and limits set out below which is to be in force and applicable to the project for the duration of the contract. The issuing insurance companies must have a minimum current A.M. Best rating of A- VII or approved by the CITY. The Certificate must state that any insurance coverage shown cannot be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days prior written notice has been given to the CITY.

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

- 1. **Commercial General Liability Insurance:** Insurance Services Office (ISO) form CG 0001 with an edition date of 10-2001 or later, providing Commercial General Liability – Occurrence Form. With CG 25 03 (Amendment Aggregate Limits of Insurance per Project) or equivalent attached.
- 2. **Automobile Liability Insurance:** Insurance Services Office (ISO) form CA 0001, providing Business Automobile Coverage on owned, non-owned and hired vehicles.
- 3. **Workers’ Compensation Insurance:** Insurance as required by Oregon Revised Statutes and including Employers Liability Insurance.
- 4. **Professional Liability Insurance:** Insurance on an occurrence or claims made basis with 24 month tail coverage.
- 5. **Pollution Liability Insurance:** Insurance on an occurrence or claims made basis with 24 month tail coverage.

**B. Minimum Limits of Insurance**

CONTRACTOR shall maintain limits no less than:

- 1. **Commercial General Liability:**
  - \$2,000,000 Each Occurrence
  - \$2,000,000 Personal Injury
  - \$3,000,000 General Aggregate
  - \$3,000,000 Products/Completed Operations Aggregate

The General Aggregate and Products/Completed Operations Aggregate shall apply separately to this project.

- 2. **Automobile Liability:** \$2,000,000 Per Occurrence
- 3. **Employers Liability:**
  - \$ 500,000 Each Accident
  - \$ 500,000 Disease Aggregate
  - \$ 500,000 Disease Each Employee
- 4. **Professional Liability**
  - \$2,000,000 Per incident/Claim
  - \$2,000,000 Annual Aggregate
- 5. **Pollution Liability**
  - \$2,000,000 Per incident/Claim
  - \$2,000,000 Annual Aggregate

Insurance Requirements for Subcontractors. (04/10) Should CONTRACTOR subcontract any part of the Contract, CONTRACTOR will require those Subcontractors or Affiliates if not covered under CONTRACTOR’S insurance, to obtain and keep in force for the duration of the Contract, insurance equal to the minimum values indicated above.

**C. Deductibles and Self-Insured Retentions**

Any deductible or self-insured retention must be declared to and approved by the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects

the CITY, its officers, employees and agents; or the CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

#### **D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insured Clause - The Commercial General Liability insurance coverage required for performance of this contract shall be endorsed to name City of Albany and its officers, agents and employees as Additional Insured on any insurance policies required herein with respect to CONTRACTOR'S or any subcontractor's activities being performed under the Agreement. The Certificate of Insurance must include a copy of the Additional Insured Endorsement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
2. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, employees, or agents.
3. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive by endorsement, all rights of subrogation against the City of Albany, its officers, employees, and agents for losses arising from work performed by the CONTRACTOR for the CITY.

#### **ARTICLE VIII: ASSIGNMENT**

This Agreement is to be binding upon the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. No assignment of this Agreement shall be effective until the assignee assumes in writing the obligations of the assigning party and delivers such written assumption to the other original party to this Agreement.

Use of subcontractors by the CONTRACTOR or subsidiary or affiliate Firms of the CONTRACTOR for technical or professional services shall not be considered an assignment of a portion of this Agreement, and the CONTRACTOR shall remain fully responsible for the work performed, whether such performance is by the CONTRACTOR or subcontractors. No subcontractors shall be used without the written approval of the CITY.

Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CITY and CONTRACTOR.

#### **ARTICLE IX: INTEGRATION**

These terms and conditions and the attachments represent the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The agreement may not be modified or altered except in writing as specified in Article IV.

#### **ARTICLE X: SUSPENSION OF WORK**

The CITY may suspend, in writing, and without cause, all or a portion of the work under this Agreement. The CONTRACTOR may request that the work be suspended by notifying the CITY, in writing, of circumstances that are interfering with the progress of work. The CONTRACTOR may suspend work on the project in the event the CITY does not pay invoices when due. The time for completion of the work shall be extended by the number of days work is suspended. In the event that the period of suspension exceeds 90 days, the terms of the Agreement are subject to renegotiation and both parties are granted the option to terminate work on the suspended portion of the project, in accordance with Article XI.

## **ARTICLE XI: TERMINATION OF WORK**

CITY may terminate all or a portion of the work covered by this Agreement for its convenience. Either party may terminate work if the other party fails to substantially perform in accordance with the provisions of the Agreement. Termination of the Agreement is accomplished by written notice from the party initiating termination no less than fifteen (15) days in advance of the effective date of termination. Such notice of termination shall be delivered by certified mail with a receipt for delivery returned to the sender.

In the event of termination, CONTRACTOR shall perform such additional work as is necessary for the orderly filing of documents and closing of the project. The time spent on such additional work shall not exceed 10 percent of the time expended on the terminated portion of the project prior to the effective date of termination. CONTRACTOR shall be compensated for work actually performed prior to the date of termination plus work required for filing and closing as described in this Article. If no notice of termination is given, relationships and obligations created by this Agreement shall be terminated upon completion of all applicable requirements of this Agreement.

## **ARTICLE XII: FORCE MAJEURE**

Neither the CITY nor the CONTRACTOR shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

## **ARTICLE XIII: DISPUTE COSTS**

In the event either party brings action to enforce the terms of this Agreement or to seek damages for its breach, or arising out of any dispute concerning the terms and conditions hereby created, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs, and expenses, including expert witness fees, incurred therein, including such costs and fees as may be required on appeal.

## **ARTICLE XIV: CONFLICT AND SEVERABILITY**

In the event of any inconsistency between the terms of this Agreement and the terms listed in any additional attachments to this Agreement, the terms of this Agreement shall control. Any provision of this document found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the document.

## **ARTICLE XV: NON-DISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY**

During the term of this Agreement, the CONTRACTOR agrees as follows:

The CONTRACTOR will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**ARTICLE XVI: COURT OF JURISDICTION**

The laws of the state of Oregon shall govern the validity of this Agreement, its interpretation and performance, and other claims related to it. Venue for litigation shall be in Linn County, Oregon.

**CONTRACTOR:**

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

By: \_\_\_\_\_

CONTRACTOR

By: \_\_\_\_\_

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

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

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

\_\_\_\_\_ Corp. Tax No./Social Security No.

**CITY OF ALBANY, OREGON:**

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

By: \_\_\_\_\_

Ed Hodney, Parks & Recreation Director

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

City Attorney