Civic Facilities Study

Request for Proposal

Proposals are due:

October 8, 2019

City Elected Officials
Mayor Teri Lenahan
Council President Russ Sheldon
Councilor James Fage
Councilor Robert “Butch” Kindel
Councilor Cameron Martinez
Councilor Rickey Smith

Submit Proposals To:
City of North Plains
Attn. Andy Varner, City Manager
31360 NW Commercial Street
North Plains, Oregon 97133
503.647.5555
Civic Facilities Study Request for Proposals

Legal Advertisement

The City of North Plains is seeking sealed proposals from qualified consultants to provide professional consultation and project design services. Consultants are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required.

Sealed proposals will be received until 3 p.m. on Tuesday, October 8, 2019, to Andy Varner, City Manager at 31360 NW Commercial Street, North Plains, Oregon 97133. There will be no formal opening. Facsimile proposals will not be accepted. Proposals will not be accepted after the stated date and time.

Proposers are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279A.120(1). Pre-qualification of proposer is not required. All proposers are required to comply with the provisions of Oregon Revised Statutes and The City of North Plains Municipal Code.

The City of North Plains reserves the right to (1) reject any or all proposals not in compliance with public bidding procedures, 2) to postpone award of the contract for a period not to exceed sixty (60) days from the date of proposal opening, (3) to waive informalities in the proposals, and (4) to select the proposal which appears to be in the best interest of the City.

PUBLISHED: September 12, 2019
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SECTION 1: INTRODUCTION AND BACKGROUND

Project Summary

The City of North Plains is a community of 3,095 residents (2018) located along Highway 26, just west of Portland. As the City and community explores the future of its civic buildings and considers our next steps, the City Council expressed an interest in completing a Civic Facilities Study to determine the City’s future facility needs for space considerations.

What are the Project Goals?

- Assist the City in planning for future facilities for the organization and the community.
- Produce a report that includes findings and recommendations, which helps the City plan for future capital expenditures and informs the community about capital needs.

What is the Project Objective?

- Work with City staff to use a broad range of tools for engaging a wide range of community stakeholders in the process, resulting in a report which is reflective of all community and organizational needs.
- Use existing reports and master plans to help identify existing conditions and consider their findings when determining needs for future community assets, including a large community park with community building.
- Examine options including sharing space with other government jurisdictions (County or state offices) and look at other properties or buildings in North Plains which might meet City facility needs.
- Consider future working conditions and technological innovations which may shape the future of service delivery and dictate the City’s future workforce needs.
- Identify opportunities to leverage grant funding while meeting needs expressed by the community.
- Consider design opportunities which promote the City’s economic development goals and help generate revenue.
- Include the following City departments/facilities in the evaluation: Administration, Legislative, Community Development, Library, Police, and Public Works, and evaluate future expected needs, including existing conditions and the potential impacts on these departments and facilities.

Who is the Audience?
There are many stakeholders who the City expects to engage during this process. First and foremost, a Civic Facilities Study Task Force will help provide oversight for this process at the direction of the North Plains City Council. The City is seeking community-wide input to identify the needs for city facilities, as well as identifying space needs through analysis and interviews with City staff. The final report will serve to help the community and the organization see the “big picture” impact of the organization and community needs and wants.

SECTION 2: SCOPE & SCHEDULE OF WORK

Scope of Work

The scope of work outlines the anticipated consultant tasks and responsibilities for the City Facilities Study. In responding to this RFP, the consultant may offer alternative approaches for consideration; however, the integrity of the process must remain intact, particularly in maintaining the previously established goals and in utilizing citizens’ suggestions for action.

The consultant may perform other duties not listed below, but only as previously approved in writing by the City’s Contract Representative.

Consultant Tasks/Requirements

KNOWLEDGE AND EXPERIENCE: The successful respondent to this RFP will have professional experience and expertise in developing municipal facilities plans and identifying estimated capital costs for planning, designing and constructing such facilities. The development plan shall consider space needs for both the intermediate terms (present to 15 years), and the longer term (15 to 40 years). The ideal respondent will have the following qualifications:

- Experience working with municipalities of similar sizes.
- Experience in the preparation of facility plans for similarly sized organizations.
- A demonstrated history of successful facility planning efforts.
- Experience in preparing budget estimates for design and construction of public facilities.
- Adequate, qualified staff with appropriate experience to perform the development planning effort within the designated time period.

This solicitation is seeking proposals from qualified consulting firms experienced in preparation of long range Civic Facility plans.

SCOPE OF SERVICES: The preliminary scope of work is as follows:
• Review documents and plans for existing city buildings and other real property holdings.
• Conduct interviews with all City department representatives to identify and prioritize space and facility needs.
• Identify utilities and infrastructure as appropriate.
• Planning meetings with the Civic Facilities Study Task Force.
• Hold one or more public community workshops.
• Forecast parking needs as appropriate.
• Prepare an incremental project budget estimate forecast and funding options for the full plan.
• Final planning session to discuss review comments and program conclusions.
• Develop summary planning document for staff and Task Force review.
• Present recommended plan to the City Council for adoption.

GUIDING CITY STAFF: The consultant will be responsible for helping City staff to develop a successful outreach strategy to inform the facilities planning process.

While the consultant will provide guidance, assistance and technical expertise to the process, City staff will be primarily responsible for implementation of the facilities planning process. City staff will:

• Serve as the liaison between the consultant and the Civic Facilities Study Task Force and City Council;
• Provide logistical support to the Task Force, including forming agendas and meeting arrangements;
• Serve as primary contact for the consultant;
• Coordinate outreach and public communication;
• Review drafts of the Civic Facilities Plan; and,
• Assist the consultant in preparing for the presentation of the report to the City Council.

The consultant will facilitate some Task Force meetings, Organizational stakeholder meetings and other workshops or open houses.

PUBLIC INVOLVEMENT PROMOTION AND COORDINATION: The consultant and staff will work with the Task Force, City staff and other stakeholders to promote awareness of the process with the public, and continue to seek new ways of soliciting public input. Activities and actions led by the consultants, City staff, and the Task Force will include developing information for the City’s website, preparation of newsletter articles, online citizen engagement, marketing materials, open houses, public events and presentations at public meetings. The consultant may be asked to develop, review
or assist with material or presentations. The consultant will be asked to assist in the
development of the public involvement plan for the project.

Out of Scope

Items which would be considered out of the scope of this project include studying an
aquatic center, or other large scale recreation facility.

Proposed Project Timeline

RFP to Consultants: September 12, 2019
Proposals Due: October 8
Consultant Selection: October 15
Project Start: November 1
Plan Adoption: May 2020

SECTION 3: PROPOSAL CONTENT & FORMAT

Proposals must address all submission requirements set forth in this RFP, and must
describe how the services will be provided. Page limits are noted, when relevant, and
assume 8 ½ x 11 inch paper and single spaced lines.

The City’s proposal format and administrative requirements are set out below. These
are intended to facilitate the City’s ability to quickly and accurately evaluate proposals.
Failure to follow these format and administrative requirements may affect the scoring of
proposals.

Page Limit

Proposals must be clear, succinct and should not exceed 20 pages, including resumes,
work examples and any other supporting documents.

Cost of Preparing Proposals

All costs incurred in preparing and submitting a proposal in response to the RFP is the
responsibility of the proposer and shall not be reimbursed by the City.

Proposal Validity Period

Each proposal shall be irrevocable for a period of seventy (70) days from the proposal
opening date.
Commitment to Sustainability

In an effort to promote greater use of recycled and environmentally preferable products and to minimize waste, the City encourages all proposals submitted in hard copy to be prepared simply and economically. The use of special bindings, unnecessary colored displays and irrelevant promotional materials is neither required, nor desired. Double sided printing on recycled paper and/or the use of reusable products is preferred.

Title Page

Include a title page with the submitted proposal. Include the following information on the title page: 1) the RFP title; 2) the name, title, address, telephone number, fax number, and email address of proposer's primary contact person; and, 3) the date of submission. Proposers may include other information on the title page in addition to the listed information, but not in lieu thereof.

Transmittal Letter

Include a transmittal letter with the proposal. The letter should identify by name and contact information the one person the proposer wishes the City to contact after proposals have been evaluated, scored, and ranked. The letter may include any other information or insights the proposer deems relevant, but in no instance may the letter exceed two pages in length.

Table of Contents

Include a table of contents with the submitted proposal. All material items comprising the proposal should be clearly identified and able to be easily located.

Submission Requirements

Interested consultants are to submit 2 hard copies and an electronic version of the proposal on or before October 8 at 3 PM. Proposals should be submitted to:

CITY OF NORTH PLAINS

Andy Varner, City Manager

31360 NW Commercial St

North Plains, Oregon 97133

andy.varner@northplains.org
Late proposals cannot be accepted and will be returned unopened to the respondent. Respondents must follow the format described in Sections 3 and 4 of the RFP.

SECTION 4: SUBSTANTIVE REQUIREMENTS OF THE PROPOSAL

The following information is requested to allow the City to evaluate Proposer responsibility and responsiveness to perform work described under the “Scope of Work” heading. If a contract is awarded, the City shall select the proposal which best meets the criteria outlined in the Scope of Work and based on the evaluation factors described in this RFP.

Experience

Provide a description of the firm’s experience in the preparation of public facility development plans for cities and counties which address the key elements of the proposed scope of work.

What is the Cost of the Project?

Provide a detailed project budget with the following information. Please state assumptions clearly. Given the information provided in the Scope of Work we will permit a budget range of $40,000 to $50,000 for the project. Please provide a detailed budget of how the funds would be allocated. Also include hourly rates for the project team, an estimate of the number of hours of work for each team member, tasks to be performed, and any other anticipated expenses, direct or indirect.

Proposer Qualifications

Interested firms must submit statements of qualifications including the following:

- Background of firm. Include a brief history of the firm and types of services the firm is qualified to perform.
- Qualifications of the firm in performing this type of work. Provide a minimum of three and up to five references for similar projects, and dates when the work was completed. Include the contact name(s), address, and telephone number for each reference.
- Project team members and their qualifications. Identify individuals who will complete this work, their experience, individual qualifications, and roles they would be assigned for this project. Please include descriptions of similar projects undertaken by the individuals in the last 36 months. Include pertinent resumes of assigned personnel.
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Project Approach & Understanding

Interested firms must submit statements of project approach and understanding including the following:

- Describe the proposed process for defining project scope. Description of management of project scoping. Please describe specific process and tools for this scope of work.
- Describe how the proposed approach meets the goals and objectives of the project and the characteristics described in the scope of work. This will be a major part of the selection process.
- Describe other characteristics of service which would add value to the process.
- Describe experience in public process strategies, design, implementation, and coordination.

Work Product Samples

Provide examples of work products for similar projects including but not limited to a schedule, work plan, task lists, and sample pages from a final report or public document created for the project.

Time Requirements

Demonstrate a practical approach to meeting the City’s specific deadlines by providing detailed information as to how the firm proposes to meet the timelines and reporting deadline requirements of the project.

Additional Services

Provide a brief description of any other services that your firm could provide the City and an approximation of the hourly charge for each service of this type. Such services would be contracted for on an “as needed” basis, to be provided and billed for separately.
SECTION 5: PROPOSAL EVALUATION PROCEDURES

To simplify the review process and to obtain the maximum degree of comparability, the proposal must follow the outline described in the RFP.

Evaluation and Selection Criteria

A selection committee consisting of City staff and members of the Civic Facilities Task Force will review submitted proposals. Committee members will evaluate the proposals to determine which one best meets the needs of the City.

All submittals will be evaluated on the completeness and quality of the content. Only those proposals which provide complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.

Proposals will be evaluated by each selection committee member based on the submission requirements listed above to determine which firm best meets the needs of the City. Evaluation will be based on the described criteria. Award will be made to the highest ranking consultant. Proposals will be evaluated on the following factors:

1. Statement of Understanding and Project Approach – Demonstrate that the consultant has an understanding of the project and what is required with regard to the project. Provide a description of the consultant’s approach to the project and how key issues will be dealt with, including methods to successfully engage elected officials and community members in the design discussion, and the consultant’s quality assurance/quality control. Higher scores will be given to teams demonstrating an understanding of the City’s needs. (25 Points)

2. Qualifications of Key Staff – Identify the key staff members who will be assigned to the City project for this contract including design and cost estimating. Describe their roles and provide a brief description of their professional experience. Higher scores will be given to proposals where the evaluators believe key staff members have the most relevant experience. (20 Points)

3. Experience – Describe the consultant’s contracting and design experience on projects of similar scope. Provide information from other completed projects to demonstrate that the consultant understands this type of project, including the experience designing similar Civic Facility projects. Describe experience in completing projects of this type in a timely manner and within budget. Include copies of drawings and/or photos from similar projects that have been completed, and demonstrate innovative and long-term thinking. Higher scores will be given to proposers that demonstrate the greatest experience in designing and implementing projects of a similar scope. (15 Points)
4. Familiarity with North Plains - Describe the consultant's familiarity with North Plains and work in the area. *Higher scores will be given to design firms with expressed familiarity with the North Plains and Western Washington County environment.* (15 Points)

5. References – Provide a minimum of three references for the project team. This should include the client, contact name and position, and phone number. *Higher scores will be given to teams with the best references, and which are similar in nature to this specific project.* (10 Points)

6. Contract Price – *Higher scores will be given to teams with the lowest price.* (10 Points)

7. Availability – Indicate current availability and anticipated project timeline. *Higher scores will be given to teams that can complete the project in the timeliest manner and the best presentation of key milestones in the project.* (5 Points)

Selection Process

Upon receipt of the proposals, the selection committee will evaluate all responsive proposals as described in the above criteria to determine a top tier of responsible proposers whose proposals appear to best meet the requirements set forth by the City. The City anticipates the top tier to consist of two finalists. However, this number may increase to three if there is another competitive proposal. The City may also reduce the number of finalists in the top tier to only one if the excluded proposers have no reasonable chance to be the most advantageous proposer.

At the City’s option, interviews may be part of the evaluation process to determine which proposers best meet the requirements outlined in the RFP. The Project Manager will schedule any necessary interviews and notify the selected proposers.

Intent to Award: Discussions or Negotiations

After determination of the top tier finalists, the City will provide written notice to all proposers of its intent to award the contract to the highest ranked proposer and then commence with negotiations. If no conclusions are reached regarding a finalist, the City may engage in discussions with all top-tier proposers and accept revised proposals from them and following evaluation, scoring and ranking of the revised proposals as provided in this section, commence negotiations with top-tier proposers starting with the highest ranked proposal.
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The decision whether to engage in negotiations or discussions with top-tier proposers shall be made at the sole discretion of the City based on its reasonable judgment.

The City reserves the right to cease negotiations with the highest ranked proposer, and proceed to negotiate with the next highest ranked proposer, (and so on down the list) until such time as an agreement can be reached or the City decides to cease all negotiations.

Investigation of References

The City reserves the right to investigate references and the past performance of any proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

Clarification of Proposals

The City reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary to properly evaluate a particular proposal, but will not, in any way, provide an opportunity to change any fee amount originally proposed. Failure of a proposer to respond to such a request for additional information or clarification could result in rejection of the firm’s proposal.

Award Recommendation

City staff will inform the successful respondent of selection as the consultant. The successful respondent will be required to complete a Professional Services Agreement with the City substantially in the form of the attached Draft Agreement. Submission of a proposal signifies consent to the terms of the Draft Agreement.

Reservation of Rights

City reserves all rights regarding the RFP, including, without limitation, the right to:

a. Amend, delay, or cancel the RFP without liability if City finds it is in the best interest of the City to do so (ORS 279B.100);

b. Reject any or all proposals received upon finding that it is in the best interest of the City to do so (ORS 279B.100);

c. Waive any minor informality or non-conformance with the provisions or procedures of the RFP, and seek clarification of any proposal, if required;

d. Reject any proposal that fails substantially to comply with all prescribed RFP procedures and requirements;
e. Negotiate a Statement of Work based on the Scope of Work described herein and to negotiate separately in any manner necessary to serve the best interest of the public;

f. Amend any Contracts that are a result of the RFP; and

g. Engage consultants by selection or procurement independent of the RFP process or any Contracts or agreements to perform the same or similar services.

Although price is a consideration in determining the apparent successful proposer, the intent of the RFP is to identify a proposal from a proposer that has a level of specialized skill, knowledge, experience and resources to perform the work described in the RFP. Qualifications, performance, history, expertise, knowledge and the ability to exercise sound professional judgment are primary considerations in the selection process. Due to the highly technical nature of some of these tasks, the proposer with the lowest price proposal may not necessarily be awarded a contract. City reserves the sole right to determine the best proposal.
Attachment A: Professional Services Agreement Example
CITY OF NORTH PLAINS
DRAFT PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the date first indicated on the signature page, by and between the City of North Plains, Oregon (hereinafter referred to as the "City"), and [INSERT CONSULTANT], (hereinafter referred to as "Consultant") for the project commonly known as North Plains Civic Facilities Study (“Project”).

WHEREAS, City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that it is qualified on the basis of specialized experience and technical competence and prepared to provide such services as City does hereinafter require;

NOW, THEREFORE, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agreed as follows:

A. Term

The term of this Agreement shall be from the date of execution by both parties until tasks required hereunder are complete and accepted, unless earlier terminated in accordance herewith.

B. Consultant's Services

B.1 The scope of Consultant's services and time of performance under this Agreement are set forth in Exhibit A. All provisions and covenants contained in Exhibit A are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

B.2 All written documents, drawings, and plans submitted by Consultant and intended to be relied on for the project shall bear the signature, stamp or initials of Consultant or Consultant's authorized Project Manager. Any documents submitted by Consultant which do not bear Consultant's signature, stamp or initials or those of the Consultant's authorized Project Manager shall not be relied upon by City, and shall be returned to Consultant to affix such signature, stamp or initials, as appropriate. Interpretation of plans and answers to questions covering Plans given by Consultant or Consultant's Project Manager need not be put in writing unless requested by the City and may be relied upon by City.

B.3 All agreements on the Consultant's part are contingent upon, and the Consultant shall not be responsible for damages or be in default or be deemed to be in default by reason of delays in performance due to third party: strikes, lockouts, accidents; acts of God; other delays unavoidable or beyond the Consultant's reasonable control, or due to shortages or unavailability of labor at established area wage rates or delays caused by failure of the City or City's agents to furnish information
or to approve or disapprove the Consultant's work promptly, or due to late or slow, or faulty performance by the City, other contractors, other consultants not under Consultant's control or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of the Consultant's work. In the case of the happening of any such cause of delay, the time of completion shall be extended accordingly.

B.4 The existence of this Agreement between City and Consultant shall not be construed as City's promise or assurance that Consultant will be retained for future services unrelated to the services as contemplated by this Agreement.

B.5 Consultant shall maintain confidentiality of any private confidential information and any public information which is exempt from disclosure under state or federal law to which the Consultant may have access by reason of this Agreement. Consultant warrants that its employees assigned to work on services provided in this Agreement shall maintain confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

B.6 Consultant agrees to complete in satisfactory, proper and timely manner the services described in attached Exhibit A.

C. Compensation

C.1 City agrees to pay Consultant not more than [INSERT AMOUNT] ($__________) for performance of those services provided hereunder. However, compensation may be less than such maximum amount and shall be actually determined on an hourly basis as provided in Exhibit A. Compensation shall be only for actual hours worked on this project and related direct expenses. Consultant shall furnish with each bill for services an itemized statement showing the number of hours devoted to the project by Consultant as well as any agents or employees of Consultant and any direct expenses.

C.2 During the course of Consultant's performance, if City or its Project Manager specifically requests Consultant to provide additional services which are beyond the scope of the services described on Exhibit A, Consultant shall provide such additional services and bill the City at the hourly rates outlined on the attached Standard Hourly Rate Schedule, provided the parties comply with the requirements of Section Q. No compensation for additional services shall be paid or owing unless both parties specifically agree to such additional compensation and services.

C.3 Unless expressly set forth on Exhibit A as a reimbursable expense item, Consultant shall only be entitled to the compensation amount specified in subsections C.1 and C.2. Only those reimbursable expenses which are set forth on Exhibit A and itemized on Consultant's bills for services shall be the basis for which payment of those expenses by City shall be owing.
C.4 Except for amounts withheld by City pursuant to this Agreement, Consultant will be paid for services for which an itemized bill is received by City within 30 days.

C.5 City shall be responsible for payment of required fees, payable to governmental agencies (including, but not limited to fees related to plan checking, land use, zoning, building permits, and all other similar fees resulting from this project) and not specifically covered by Exhibit A.

C.6 Consultant's compensation rate includes but is not limited to salaries or wages plus fringe benefits and contributions including payroll taxes, workers' compensation insurance, liability insurance, pension benefits and similar contributions and benefits.

C.7 In the event Consultant's responsibilities as described on Exhibit A have been separated into two or more phases, then Consultant shall not be entitled to any compensation for work performed directly on a later category of responsibilities unless and until City specifically directs that Consultant proceed with such work.

D. City's Project Manager

City's Project Manager is Andy Varner, City Manager. City shall give Consultant prompt written notice of any resignation of its Project Manager.

E. Consultant's Project Manager

Consultant's Project Manager is [INSERT PROJECT MANAGER NAME]. In the event that Consultant's designated Project Manager is changed, Consultant shall give City prompt written notification of such resignation. In the event that City receives any communication from Consultant of whatsoever nature which is not executed by Consultant's designated Project Manager, City may request clarification by Consultant's Project Manager, which shall be promptly furnished.

F. Project Information

City shall provide full information regarding its requirements for the Project. Consultant agrees to share all project information, to fully cooperate with all corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news or press releases related to the Project, whether made to representatives of newspaper, magazines or television and radio stations, shall be made without the authorization of City's Project Manager.

G. Duty to Inform

If at any time during the performance of this Agreement, or any future phase of this Agreement for which Consultant has been retained, Consultant becomes aware of actual or potential problems, faults or defects in the project or any portion thereof, any nonconformance with the federal, state or local laws, rules, or regulations, or has any objection to any decision or order made by City with respect to such laws, rules or
regulations, Consultant shall give prompt written notice thereof to City's Project Manager. Any delay or failure on the part of City to provide a written response to Consultant shall neither constitute agreement with nor acquiescence to Consultant's statement or claim, nor constitute a waiver of any of City's rights.

H. Consultant is Independent Contractor

H.1 Consultant shall be and herein declares that it is an independent contractor for all purposes and shall be entitled to no compensation other than compensation provided for under Section C of this Agreement. Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City.

Consultant shall be completely independent and solely determine the manner and means of accomplishing the end result of this Agreement, and City does not have the right to control or interfere with the manner or method of accomplishing said results. City, however, has the right to specify and control the results of the Consultant's responsibilities.

H.2 Subcontracting: City understands and agrees that only those special consulting services identified on Exhibit A may be performed by those persons identified on Exhibit A and not by Consultant. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and those who provide such services. Consultant may not utilize any subcontractors or in any way assign its responsibility under the Agreement without first obtaining the express written consent of the City.

H.3 Consultant shall be responsible for and indemnify and defend City against any liability, cost or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, omissions, or errors. Subcontractors will be required to meet the same insurance requirements of Consultant under this Agreement. Unless otherwise specifically agreed to by City, Consultant shall require that subcontractors also comply with and be subject to the provisions of this Section H.

H.4 Consultant shall make prompt payment of any claim for labor, materials or services furnished to the Consultant by any person in connection with this Agreement as such claim becomes due. Consultant shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of the Consultant. If the Consultant fails, neglects or refuses to make prompt payment of any such claim, the City may pay such claim to the person furnishing the labor, materials or services and charge the amount of the payment against funds due or to become due the Consultant under this Agreement.

H.5 No person shall be employed under the terms of this Agreement as described herein in violation of all wage and hour laws.
H.6 Should Consultant elect to utilize employees on any aspect of this Agreement, Consultant shall be fully responsible for payment of all withholding required by law, including but not limited to taxes, including payroll, income, Social Security (FICA) and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incidental to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall indemnify, defend and hold City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth on Exhibit A as a reimbursable expense item, specific costs associated with items set forth in this paragraph shall be deemed as fully and conclusively included in the rate upon which consultant’s compensation is based.

H.7 No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age, disability or national origin. Any violation of this provision shall be grounds for cancellation, termination or suspension of the Agreement in whole or in part by the City.

I. Indemnity and Insurance

I.1 Consultant acknowledges responsibility for liability arising out of the performance of this Agreement and the attachments thereto, and all liability resulting from the negligent acts, performance or errors or omissions of the Consultant or anyone acting on behalf of Consultant in connection with or incidental to the work performed under the contract. Consultant shall hold City harmless from and indemnify City against any and all claims of loss or damages including reasonable costs, expenses, and attorney's fees to the extent resulting from Consultant's negligent acts, omissions, errors or willful misconduct provided pursuant to this Agreement or from Consultant's failure to perform its responsibilities as set forth in this Agreement. The review, approval or acceptance by City, its Project Manager or City employees of documents or other work prepared or submitted by Consultant shall not relieve Consultant of its responsibility to provide such materials in full conformity with City's requirements as set forth in this Agreement and to indemnify City from claims, losses and damages resulting from Consultant's failure to adhere to the standard of performance described in Section I.2.3. The provisions of this section shall survive termination of this Agreement.

I.2 Insurance Requirements and Consultant's Standard of Care.

I.2.1 Consultant shall provide City with evidence of the following insurance coverages prior to the commencement of the work. A copy of each insurance policy, issued by a company currently licensed in the State of Oregon, and certified as a true copy by an authorized representative of the issuing company or at the discretion of the City, in lieu thereof, a certificate in a form satisfactory to City certifying to the issuance of such
insurance shall be furnished to City. Expenses relating to the cost of insurance shall not be the basis for additional reimbursement to Consultant.

I.2.2 Reserved.

I.2.3 In the performance of its professional services, Consultant shall use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the Portland Metropolitan Area. The Consultant will reperform any services not meeting this standard without additional compensation. Consultant's reperformance of any services, even if done at City's request, shall not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of consultant's failure to perform in accordance with the applicable standard of care or this Agreement.

I.2.4 Consultant shall furnish the City a certificate evidencing the date, amount and type of insurance that has been procured pursuant to this Agreement. All policies shall be written on an "occurrence basis," except for Consultant's Professional Liability Insurance which may be written on a "claims made" basis, provided it shall endeavor to be maintained in full force for not less than four (4) years following Consultant's performance under this Agreement. All policies shall provide for not less than 30 days' written notice to the City before they may be canceled or reduced or materially changed by endorsement. The Consultant shall provide not less than 30 days' written notice to the City before the policy coverage may be reduced. Excepting professional liability and worker's compensation coverage, all policies shall provide an endorsement naming the City, its officers, employees and agents as additional insureds. In the event the policy lapses during performance, the City may: treat said lapse as a breach; terminate this Agreement and seek damages; withhold progress payments without impairing obligations of Consultant to proceed with work; pay an insurance carrier (either Consultants' or a substitute) the premium amount and withhold that amount from payments; and, use any other remedy provided by this Agreement or by law.

I.2.5 Insurance Requirements. The Consultant, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide workers' compensation coverage for all their subject workers. The Consultant will maintain throughout this Agreement the following insurance:

I.2.5.1 Workers' compensation and employers liability insurance as required by the State where the work is performed.
I.2.5.2 Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with $2,000,000 combined single limits.

I.2.5.3 Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of the Consultant or of any of its employees, agents or subcontractors, with $2,000,000 per occurrence and in the aggregate.

I.2.5.4 Professional liability insurance of $2,000,000 per occurrence and in the aggregate, including contractual liability coverage. If Consultant proposes using subcontractors, in addition to any other requirements of this Agreement, City may require subcontractors to provide Professional Liability Insurance, provided the amount and form of coverage complies with the requirements of paragraphs I.2.1, I.2.3, I.2.4 and I.2.5.4.

I.2.5.5 City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages identified in items I.2.5.2 and I.2.5.3.

I.2.6 The coverage provided by these policies shall be primary and any other insurance carried by City shall be excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. In the event a dispute arises between City and Consultant for which Consultant has obtained insurance, the maximum amount which may be withheld by City for all such claims shall be no more than the amount of the applicable insurance deductible.

J. Early Termination

J.1 This Agreement may be terminated prior to the expiration of the agreed upon terms:

J.1.1 By mutual written consent of the parties;

J.1.2 By City for any reason within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person, or at such later date as may be established by the City; and

J.1.3 By Consultant, effective upon 14 days prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of the Consultant.
J.2 If City terminates the Agreement in whole or in part due to default or failure of Consultant to perform services in accordance with this Agreement, City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, Consultant shall be liable for all costs and damages incurred by City in procuring such similar service, and the Contract shall be in full force to the extent not terminated.

J.3 If City terminates the Agreement for its own convenience, payment of Consultant shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Consultant against City under this Agreement.

J.4 Termination under any provision of this paragraph shall not affect any right, obligation or liability of Consultant or City which accrued prior to such termination. Consultant shall surrender to City items of work or portions thereof, referred to in Section N for which Consultant has received payment, or City has made payment. City retains the right to elect whether or not to proceed with actual construction of the project.

K. Suspension of Work

City may suspend, delay or interrupt all or any part of the work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within the Consultant's control. City shall not be responsible for work performed by any subcontractors after notice of suspension is given by City to Consultant.

L. Subconsultants and Assignments

L.1 Consultant shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the City Project Manager. In all subcontracts entered into by the Consultant pursuant to this Agreement, the City shall be named as an express third-party beneficiary of such subcontracts with full rights as such. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and subcontractor(s). City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this Agreement without the written consent of City shall be void. Except as otherwise specifically agreed, all costs for services performed by others on behalf of Consultant shall not be subject to additional reimbursement by City beyond the scope of payment for services as contemplated by this Agreement.

L.2 City shall have the right to let other contracts be coordinated with this Agreement. Consultant shall cooperate with other firms, engineers, consultants and other City contractors on this and related City projects, and the City itself, so that all portions of this and other projects may be completed in the least possible time within
normal working hours. Consultant shall furnish other engineers and consultants and affected public utilities, whose designs are fitted into Consultant's designs and detail drawings, giving full information so that conflicts can be avoided.

M. **Access to Records**

The City, Oregon Secretary of State's Office, the Federal Government and the duly authorized representatives of any of the above, shall have access to the books, documents, papers, records and receipts of the Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts. The City, Oregon Secretary of State's Office, the Federal Government and authorized representatives shall have the authority to inspect, audit and copy from time to time, any records of the Consultant regarding billings or work under this Agreement for a period of four years after the completion or termination of this contract.

N. **Work is Property of City**

N.1 Originals or Certified copies of the original work forms, including but not limited to documents, reports, drawings, tracings, surveying records, mylars, papers, diaries, inspection reports and photographs, performed or produced by Consultant under this Agreement shall be the exclusive property of City and shall be delivered to City prior to completion or termination of this contract and prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to City upon request without additional compensation. Upon City's approval and provided City is identified in connection therewith Consultant may include Consultant's work in its promotional materials. Consultant shall be entitled to keep copies of all work products produced.

N.2 Reserved.

O. **Law of Oregon**

The Agreement shall be governed by the laws of the State of Oregon. The Agreement provisions required by ORS Chapter 279C to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein. Consultant shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, and minimum and prevailing wage requirements. Any certificates, licenses or permits which Consultant is required by law to obtain or maintain in order to perform work described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

P. **Adherence to Law**

Consultant shall comply with all federal, state and local laws and ordinances, rules and regulations applicable to the work under this contract. Consultant agrees that the public contract law provisions contained in ORS Chapter 279C shall apply to and govern the
performance of this contract. Consultant shall certify compliance with ORS 670.600. Further, Consultant agrees to comply with applicable provisions of and amendments to the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973 and with all applicable requirements of federal and state and rehabilitation statutes, rules and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990, ORS 659.425A, and all regulations and administrative rules established pursuant to those laws. Further, all certificates, licenses (including a City business license) or permits, which the consultant is required by law to obtain or maintain in order to perform work described in Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

Q. Modification

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both parties. A modification is a written document, contemporaneously executed by City and Consultant, which increases or decreases the cost to City over the agreed sum or changes or modifies the scope of service or time of performance. No modification shall be binding unless executed in writing by Consultant and City. In the event that Consultant receives any communication of whatsoever nature from City, which communication Consultant contends to give rise to any modification of this Agreement, Consultant shall, within thirty (30) days after receipt, make a written request for modification to City's Project Manager. Consultant's failure to submit such written request for modification in the manner outlined herein may be the basis for refusal by the City to treat said communication as a basis for modification. In connection with any modification to the contract affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment and other costs. If Consultant incurs additional costs or devotes additional time on project tasks beyond which were reasonably expected as part of the original agreement or any mutually approved modifications, then City shall be responsible for payment of only those costs for which it has previously agreed to pay.

R. Other Conditions

R.1 Except as otherwise provided in paragraphs R.1.1, R.1.2, and R.1.3 Consultant represents and agrees that the contract specifications and plans, if any, prepared by the Consultant will be adequate and sufficient to accomplish the purposes of the Project; and further, that any review or approval by the City of the plans and specifications shall not be deemed to diminish the adequacy of Consultant's work.

R.1.1 Reserved.

R.1.2 Opinions of Cost, Financial Considerations, and Schedules. In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, Consultant agrees and understands that as part of the service it is providing are professional assessments of cost and price of labor and materials; potential for unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs;
competitive bidding procedures and market conditions; evaluation of the likelihood of issues arising regarding time or quality of performance by third parties; quality, type, management, and direction of operating personnel; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. While the parties acknowledge that the work contemplated under this Agreement cannot provide exact costs, Contractor agrees, acknowledges and understands that the City intends to rely on Contractor’s expertise in accurately evaluating Project costs, financial aspects, economic feasibility, and schedule estimates.

R.1.3 Record Drawings. Records, drawings, and reports will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Consultant is responsible for any errors or omissions about which the Consultant knew or should have known in the information from the City or those employees or firms employed by the Consultant under the terms of this Agreement as stated therein that is incorporated into the records, drawings and reports.

R.2 Notwithstanding any acceptance or payments, City shall not be precluded or stopped from recovering from Consultant, or its insurer or surety, such damages as may be sustained by reason of Consultant's failure to comply with the terms of this Agreement. A waiver by City of any breach by Consultant shall not be deemed to be a waiver of any other previous or subsequent breach by Consultant.

S. Assignments of Products Rights

S.1 The Consultant hereby assigns to the City all rights, title and interest, including but not limited to copyright rights, all notes, designs, drawings, specifications, technical data reports, computer programs and documentation, and other materials resulting from the Consultant's work under this Agreement.

S.2 The City agrees to include the Consultant’s name and give credit to the consultant or the design in presentation and publication of the design and completed work resulting from this Agreement.

T. Dispute Resolution

T.1 Should any dispute arise between the parties to this Agreement concerning their respective obligations of either or the terms hereof, it is agreed that such dispute will be submitted to a mediator prior to any litigation and the parties hereby expressly agree that no claim or dispute arising under the terms of this Agreement shall be resolved other than first through mediation and only in the event said mediation efforts fail, through litigation. Any litigation arising under or as a result of this Agreement shall be tried to the court without a jury.

T.2 Each party agrees to be responsible for payment of its own professional fees,
including attorneys’ fees in both mediation and litigation.

T.3  The parties shall exercise good faith efforts to select a mediator, who shall be compensated equally by both parties. Mediation will be conducted in Portland, Oregon, unless both parties agree in writing otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this section through this mediation process. If either party requests mediation, and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Washington County Circuit Court upon the request of either party. The parties shall have any rights at law or in equity with respect to any dispute not covered by this Section.

U.  Integration

This Agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Consultant, by the signature below of its authorized representative, hereby acknowledges that he/she has read this Agreement, understands it and agrees to be bound by its terms and conditions.

V.  Miscellaneous / General

Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City under the terms and conditions of this Agreement as described herein. Any conflict between a term or condition of this Agreement and a term or condition contained in an exhibit to this Agreement will be resolved in favor of the language in this Agreement.

The CONSULTANT and the CITY hereby agree to all provisions of this AGREEMENT.

IN WITNESS WHEREOF, the parties by their signatures below enter into this Agreement this _____ day of ___________________, 2019.

[Signatures on Following Page]
CITY OF NORTH PLAINS

By________________________
  Andy Varner, Project Manager
  City of North Plains

CONSULTANT:

By________________________
  [INSERT NAME], Project Manager
  [INSERT CONTRACTOR NAME]

Mailing Address:
  31360 NW Commercial Street
  North Plains, Oregon 97133

Phone: (503) 647-5555
Email: andy.varner@northplains.org

Mailing Address:
  [Insert Address]
  [Insert Address]

Phone: [Insert Phone]
Email: [Insert Email]

Employer ID No. [Insert Employer ID No.]
Exhibit A
Scope of Work

[Insert Contractor Proposal]