



City of Tigard
Intermediate Request for Proposal (IRFP)

URBAN DESIGN CONSULTANT
IRFP 2024-16

Proposals Due: Thursday, April 25, 2024, 10:00 a.m. local time

Proposer must submit an electronic copy in portable document format (pdf).

Submit Proposals To: ContractsPurchasing@tigard-or.gov

Direct Questions To: Toni Riccardi
Email: tonir@tigard-or.gov

GENERAL INSTRUCTIONS AND CONDITIONS

SPECIAL CONDITIONS – Where special conditions are written in the Intermediate Request for Proposal (“IRFP”), these special conditions shall take precedence over any conditions listed under the “General Instructions and Conditions”.

COST OF PROPOSAL – This Intermediate Request for Proposal does not commit the City to pay any costs incurred by any Proposer in the submission of a proposal or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the services to be furnished under the IRFP.

CANCELLATION – The City reserves the right to modify, revise, or cancel this IRFP. Receipt and evaluation of proposals or the completion of interviews do not obligate the City to award a contract.

REJECTION OF PROPOSALS – The City reserves the right to reject any or all responses to the Intermediate Request for Proposal in whole or in part, if it is found to be in the City’s best interest to do so.

CITY OF TIGARD BUSINESS LICENSE/FEDERAL TAX ID REQUIRED –

The City of Tigard Business License is required (TMC 5.4). Successful Proposer shall obtain a City of Tigard Business License prior to initiation of a contract and commencement of work. Successful Proposer must present a completed W-9 form to the City at the time of contract execution.

CONFLICT OF INTEREST - A Proposer filing a proposal hereby certifies that the proposal is made in good faith without fraud, collusion or connection of any kind with any other Proposer of the same request for proposals, that the Proposer is competing solely on its own behalf without connection or obligation to, any undisclosed person or firm, that Proposer is not a City official/employee or a business with which a City official/employee is associated, and that to the best of its knowledge, Proposer, its employee(s), its officer(s) or its director(s) is not a City official/employee or a relative of any City official/employee who: i) has responsibility in making decisions or ability to influence decision-making on the contract or project to which this proposal pertains; ii) has or will participate in evaluation, award or management of the contract related to this

proposal; or iii) has or will have financial benefits in the contract to which this proposal pertains. Proposer understands that should it elect to employ any former City official/employee during the solicitation period or the term of the contract then the former City official/employee must comply with applicable government ethics and conflicts of interest provisions in ORS Chapter 244, including but not limited to ORS 244.040(5) and/or ORS 244.047.

PUBLIC RECORDS – Any information provided to the City pursuant to this IRFP will be public record and subject to public disclosure pursuant to Oregon public records laws (ORS 192). Any portion of a proposal that the proposer claims as exempt from disclosure must meet the requirements of ORS 192.345(2). The fact that a Proposer marks and segregates certain information as exempt from disclosure does not mean that the information is necessarily exempt. The City will make an independent determination regarding exemptions applicable to information that has been properly marked and redacted. Information that has not been properly marked and redacted may be disclosed in response to a public records request. When exempt information is mixed with nonexempt information, the nonexempt information must be disclosed.

Prior to any disclosure requested under Public Records Law, the City will give Proposer prompt written notice of such request. Proposer shall have seven (7) days from the date it receives such notice to provide evidence of a statutory exemption under applicable law sufficient to protect the information or obtain a protective order or equivalent from a court of competent jurisdiction. If information is disclosed pursuant to public records request, the City will take reasonable steps to limit any such provision to the specific information requested. Proposer’s failure to timely respond to the notice provided by the City may result in the disclosure of the requested information. The Proposer further agrees to hold harmless, defend, and indemnify the City for all costs, expenses, and attorney fees that may be imposed on the City as a result of appealing any decision regarding the Proposer’s records.

These “General Instructions and Conditions” are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be or may become available under ORS Chapter 279.

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ATTACHMENTS

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SECTION 1 OVERVIEW

1.1 Introduction

With a diverse economy, strong schools and outstanding parks, Tigard is one of the most livable cities in Oregon. Tigard has grown to become a desirable and affordable community in the Portland metro area where residents enjoy access to more than 16 miles of paved trails and over 550 acres of parks and open spaces. The City of Tigard is committed to increasing transparency and accountability as we continue our journey to become an equitable community for all. As such, the City has recently refreshed its strategic vision: “An equitable community that is walkable, healthy and accessible for everyone.” The City has a well-balanced economy that includes more than 3,000 firms employing more than 40,000 people from around the region.

In this Intermediate Request for Proposal (IRFP), the City is soliciting proposals from experienced firms or teams of firms with demonstrated experience in urban design and planning projects to assist the City with the production of professional visual aids based on community engagement events.

1.2 Project Funding

The anticipated cost for the services described herein is \$40,000 NTE. The Proposer’s proposal shall include the Proposer’s true estimated cost to perform the work irrespective of the City’s budgeted funds for this work.

SECTION 2 PROPOSER’S SPECIAL INSTRUCTIONS

2.1 Timeline for Selection

The following dates are proposed as a timeline for this project.

Submission of written proposals due at 10:00 a.m.	Thursday, April 25, 2024
Interviews (if deemed necessary)	Week of April 29, 2024
Award of Contract	Monday, May 6, 2024

The City reserves the right to modify this schedule as necessary.

2.2 Proposal Submittal

The proposal must be received no later than the date and time specified in item 2.1 above, to the email address ContractsPurchasing@tigard-or.gov. The proposal response will be in a font size no smaller than 11-point and shall **not exceed 10 pages**. The transmittal page, table of contents, personal resumes, appendix and required forms (Attachments A & B) do not count in the overall page count of the proposal. Proposers who submit more than the pages indicated may not have the additional pages of the proposal considered.

Proposals will be considered time stamped and received by the City when they are received in the email inbox listed above. To assure that your Proposal receives priority treatment, please mark the email subject line as follows:

2024-16 IRFP – Urban Design Consultant

Proposer shall include their name and address and contact information in the body of the email. It is the Proposer’s responsibility to ensure that proposals are received prior to the stated submission deadline. Late proposals may not be considered, it is the City’s sole discretion to accept or reject a late proposal.

2.3 Protest of Scope of Work or Terms

A Proposer who believes any details in the scope of work or terms detailed in the proposal packet and sample contract are unnecessarily restrictive or limit competition may submit a protest in writing, to the Contracts and Purchasing Office. A protest may be submitted via email. Any such protest shall include the reasons for the protest and shall detail any proposed changes to the scope of work or terms. The City shall respond to any protest and, if necessary, shall issue any appropriate revisions, substitutions, or clarification via addenda to all interested Proposers.

To be considered, protests must be received at least seven (7) days before the proposal submission deadline. The City shall not consider any protest against award due to the content of proposal scope of work or contract terms submitted after the established protest deadline. All protests of scope of work or contract terms should be directed to the attention of Toni Riccardi, at tonir@tigard-or.gov.

2.4 Interpretations and Addenda

Questions and requests for clarification regarding this Intermediate Request for Proposal must be directed in writing, via email to the person listed below. **The deadline for submitting such questions/clarifications is seven (7) days prior to the proposal due date.** An addendum will be issued no later than 72 hours (or 48 hours in unique circumstances) prior to the proposal due date to all recorded holders of the IRFP if a substantive clarification is in order.

Toni Riccardi

E-mail: tonir@tigard-or.gov

Phone: 503-718-2518

Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

2.5 Proposal Validity Period

Each proposal shall be irrevocable for a period of sixty (60) days from the proposal submission deadline.

2.6 Form of Contract

A copy of the personal services agreement, which the City expects the successful firm or individual to execute, is included as "Attachment C". The agreement will incorporate the terms and conditions from this IRFP document and the successful Proposer's response. Firms taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section 2.3 "Protest of Scope of Work or Terms" or their exceptions will be deemed immaterial and waived.

2.7 Term of Contract

The contract for this work is anticipated to commence on or around April 28, 2024. All work stemming from the contract is anticipated to be completed no later than October 31, 2025.

2.8 Public Safety

Public safety may require limiting access to public work sites, public facilities, and public offices, sometimes without advance notice. The Proposer needs to anticipate delays in such places and include the cost of such delays in the proposed cost. The successful Proposer's employees and agents must carry sufficient identification to show by whom they are employed and display it upon request to security personnel. City project managers have discretion to require the successful Proposer's employees and agents to be escorted to and from any public office, facility, or work site if national or local security appears to require it.

SECTION 3 SCOPE OF SERVICES

3.1 General Description

The purpose of Tigard HOME is to increase economic activity, enhance economic mobility, and reduce climate impacts in Tigard by creating complete neighborhoods where a variety of commercial activities are accessible without requiring travel by car.

The success of the entire Tigard HOME project relies on effective community engagement. Introducing economic activity to residential zones will be a major change for many neighborhoods and will likely be a scary idea to many participants at the outset of the project. To accomplish Tigard HOME goals, the community needs to be able to *see* potential solutions and how they could work at a neighborhood-appropriate scale.

Our **goal** in hiring an urban design and planning contractor is to empower community members with visualizations of effective solutions that promote economic activity, reduce VMT, and enhance social equity in residential neighborhoods.

The goal for this contractor is to produce professional visual aids that communicate potential ways that economic activity can be integrated with residential neighborhoods while minimizing impacts.

The **objectives** for this contractor will be to:

- Attend community meetings to understand resident concerns, aspirations; and needs;
- Provide feedback to community members, guiding ideas towards realistic solutions; and
- Create three to five visualizations of potential solutions per community event.

3.2 Technical or Required Services

Work under this contract includes:

The urban design and planning contractor will attend five community meetings throughout 2024/25, where they will listen to community member desires and offer feedback to guide the groups toward realistic solutions. Following each meeting, the contractor will create three to five visualizations of preferred ideas, which will then be shared at the following community meeting. This process will repeat until solutions are solidified and brought forward for adoption.

The City has assigned a project manager to oversee the successful Proposer's work and provide support as needed.

3.3 Deliverables and Schedule

Deliverables are considered those tangible resulting work products that are to be delivered to the City such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings, and reports. Unless otherwise specified by the City, the successful Proposer will prioritize submitting applicable deliverables electronically, and any paper-based deliverables must be printed double-sided and in bindings or report covers that are fully recyclable, preferably using materials containing post-consumer waste (PCW) recycled content.

Deliverables and tentative schedule for this project include:

Task 1. Basic Graphics and Attendance at Summer Community Meetings

Subtask 1.1 Deliverable: Basic Mockup of Potential Solution

Approximate budget: \$1,000 per mockup; \$2,000 total

Create one to two basic visualizations of potential solutions for integrating economic activity with residential neighborhoods. Visualizations will depict scale, location, parking and traffic, pedestrian access, and other urban design issues likely to be associated with each potential solution. City staff will provide comments.

Subtask 1.2 Deliverable: Attend a Two-Hour Community Event

Approximate budget: \$500

City staff will be hosting eight casual events over the summer, where the intent will be to share the basic visualization and get basic and broad feedback, with growing specificity towards the end of summer (August). The contractor will attend at least one of these events to get an idea of the type of feedback being received.

Task 2. Graphics of Preferred Solutions from First Community Meeting

Subtask 2.1 Deliverable: Attend a Two-Hour Community Meeting

Approximate budget: \$500

Attend a two-hour community meeting hosted by City staff where community members will discuss ideas for potential solutions. Contractor will provide in-person feedback, helping community members and City staff identify unintended consequences.

Subtask 2.2 Deliverable: Mockups of Potential Solutions

Approximate budget: \$3,000 per mockup; \$15,000 total

Draft Mockups of Potential Solutions. Create visualizations of the top three to five potential solutions favored by community members at the meeting. Visualizations will depict scale, location, parking and traffic, pedestrian access, and other urban design issues likely to be associated with each potential solution. City staff will provide comments.

Final Mockups of Potential Solutions, including all requested revisions from City staff.

Task 3. Graphics of Preferred Solutions from Second Community Meeting

Subtask 3.1 Deliverable: Attend a Two-Hour Community Meeting.

Approximate budget: \$500

Attend a two-hour community meeting hosted by City staff where community members will discuss ideas for potential solutions. Contractor and City staff will present the mockups created through Task 1 and discuss with community members. Contractor will provide in-person feedback, helping community members and City staff identify unintended consequences.

Subtask 3.2 Deliverable: Mockups of Potential Solutions

Approximate budget: \$2,000 per mockup; \$10,000 total

Draft Mockups of Potential Solutions. Create visualizations of the top three to five potential solutions favored by community members at the meeting. These may be entirely new mockups or edits to the previous mockups, depending on direction of community feedback. City staff will provide comments.

Final Mockups of Potential Solutions, including all requested revisions from City staff.

Task 4. Graphics of Preferred Solutions from Third Community Meeting

Subtask 4.1 Deliverable: Attend a Two-Hour Community Meeting.

Approximate budget: \$500

Attend a two-hour community meeting hosted by City staff where community members will discuss ideas for potential solutions. Contractor and City staff will present the mockups created through Task 2 and discuss with community members. Contractor will provide in-person feedback, helping community members and City staff identify unintended consequences.

Subtask 4.2 Deliverable: Mockups of Potential Solutions

Approximate budget: \$1,000 per mockup; \$5,000 total

Draft Mockups of Potential Solutions. Create visualizations of the top three to five potential solutions favored by community members at the meeting. These may be entirely new mockups or edits to the previous mockups, depending on direction of community feedback. City staff will provide comments.

Final Mockups of Potential Solutions, including all requested revisions from City staff.

Task 5. Graphics of Preferred Solutions from Final Community Meeting

Subtask 5.1 Deliverable: Attend a Two-Hour Community Meeting.

Approximate budget: \$500

Attend a two-hour community meeting hosted by City staff where community members will discuss ideas for potential solutions. Contractor and City staff will present the mockups created through Task 4 and discuss with community members. Contractor will provide in-person feedback, helping community members and City staff identify unintended consequences.

Subtask 5.2 Deliverable: Mockups of Potential Solutions

Approximate budget: \$1,000 per mockup; \$5,000 total

Draft Mockups of Potential Solutions. Create visualizations of the top three to five potential solutions favored by community members at the meeting. At this point in the project, these should be ready or close-to-ready to present to Council for adoption. City staff will provide comments.

Final Mockups of Potential Solutions, including all requested revisions from City staff.

Subtask 5.3 Deliverable: Attend Final Community Meeting.

Approximate budget: \$500

Attend the final two-hour community meeting hosted by City staff where community members will discuss ideas for potential solutions. Contractor and City staff will present the final mockups created through Task 5.2 and discuss with community members. Contractor will provide in-person feedback, helping community members and City staff identify unintended consequences.

Subtask 5.4 Deliverable: Mockups of Potential Solutions

Approximate budget: \$250 per mockup; \$1,250 total

Draft Mockups of Potential Solutions. Make any final small adjustments favored by community members at the final meeting. City staff will provide comments if needed.

Final Mockups of Potential Solutions, including all requested revisions from City staff.

Tentative Schedule

The Contractor work funded through the DLCD grant will be part of the multi-year Tigard HOME project, which consists of the following phases:

Task	Date	Description
1.1	April 2024	Contractor will provide a design illustrating a basic concept of economic integration with neighborhoods, to use as a starting point for community outreach discussions.
1.2	May-August 2024	Contractor will attend first round of events hosted by the City, present basic graphic, and monitor and guide discussion where appropriate.
2.1	September 2024	Contractor will attend a more formal community meeting, present basic graphic, and monitor and guide discussion where appropriate.
2.2	October-November 2024	Contractor will create 3-5 new graphics, specific to ideas heard at events.
3.1	December 2024	Contractor will attend a community meeting, present new graphics, and monitor and guide discussion.
3.2	January-February 2025	Contractor will create 3-5 refined graphics, specific to ideas heard at events.
4.1	March 2025	Contractor will attend a community meeting, present new graphics, and monitor and guide discussion.

4.2	April-May 2025	Contractor will create 3-5 refined graphics, specific to ideas heard at events.
5.1	June 2025	Contractor will attend a community meeting, present new graphics, and monitor and guide discussion.
5.2	July-August 2025	Contractor will create 3-5 refined graphics, specific to ideas heard at events.
5.3	September 2025	Contractor will attend final community meeting, present final graphics, and monitor and guide discussion.
5.4	October 2025	Contractor will prepare final version of graphics.

All deliverables and resulting work products from this contract will become the property of the City of Tigard. As such, the Contractor grants the City the right to copy and distribute (in any and all media and formats) project deliverables for regulatory, project certification/recognition, program development, public education, and/or for any purposes at the sole discretion of the City.

SECTION 4 PROPOSAL CONTENT AND FORMAT

4.1 Organization of Proposal

Proposers must provide all information as requested in this Intermediate Request for Proposal. Proposals must follow the format outlined in this IRFP. Proposals should be organized in the following manner:

1. Transmittal Page
2. Firm Qualifications and Project Team
3. Project Understanding and Approach
4. Project Management
5. Proposed Cost

4.2 Transmittal Page

By submitting a proposal, the Proposer is accepting the General Instructions and Conditions of this Intermediate Request for Proposal (reference second page of the IRFP), the stated insurance coverage and limitations, and the Standard Contract Provisions of the Personal Services contract.

The Transmittal Page must include the following:

- IRFP number and project title
- Full legal name of proposing business entity
- Name(s) of the person(s) authorized to sign any contract that may result
- Contact person's name, mailing or street addresses, phone and email address

A legal representative of the Proposer authorized to bind Proposer in contractual matters must sign the Transmittal Page.

4.3 Qualifications and Experience

Provide a general description of the range of relevant activities performed by proposing firm. Include details on the following:

- A short profile of each key staff member you propose to perform tasks, including their education, work history, areas of expertise and other pertinent professional qualifications and certifications.
- A brief description of up to three projects that the firm/consultant team has completed in the last five years that are most similar to the scope of work in this IRFP. Include a summary of your firm's specific role in the project.

4.4 Project Understanding and Approach

Provide details on the approach and methodology that is being proposed for the performance of the scope of work detailed in the Scope of Services in this IRFP. In your response include the organization of project personnel and any additional assistance needed from outside sources.

4.5 Project Management

Describe the proposed project manager's experience on past similar projects and explain the project manager's approach to schedule, budget, scope, and change management. The description should include the project manager's experience and approach to communicating with and managing a team of diverse professionals on a project with multiple inter-related deliverables.

4.6 Cost Proposal

Provide a not-to-exceed figure to perform the scope of services listed above. The cost proposals should include hours and rates for each person working on the project and a fee schedule for reimbursable expenses.

SECTION 5 PROPOSAL EVALUATION AND CONTRACTOR SELECTION

5.1 Evaluation Process

A selection committee assembled by the City will review written proposals. After meeting the mandatory requirements, the proposals will be evaluated on their technical and fee aspects. For the purpose of scoring proposals, each committee member will evaluate each proposal in accordance with the criteria listed in Section 4. The committee may seek the assistance of outside expertise, including, but not limited to, technical advisors. The City will evaluate and score the submitted proposals as follows:

1. Transmittal Page	Pass/Fail
2. Qualifications and Experience	35 Points
3. Project Understanding and Approach	25 Points
4. Project Management	20 Points
5. Cost Proposal	20 Points
Total Evaluation Points	100 Points

5.2 Presentation/Interview

At the option of the City, the top scoring Proposers (based on the criteria points) may be asked to make a presentation of their proposal. This will provide an opportunity to clarify or elaborate on the proposal, but will not, in any way provide an opportunity to change any fee amount originally proposed. The City will schedule the time and location of these presentations and notify the selected firms. If the City elects to conduct a presentation/interview process, **25 Points** will be assigned to the process and will be added to the participating Proposers' total points.

5.3 Clarification of Proposals

The City reserves the right to obtain clarification of any point regarding 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 rejection of their proposal.

5.4 Contractor Selection

Following the selection committee's final determination of the highest scored Proposer, the City will issue a Notice of Intent to Award and begin contract negotiations. The City will attempt to reach a final agreement with the highest scoring Proposer. However, the City may, in its sole discretion, terminate negotiations and reject the proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the second highest scoring Proposer and may continue, in the same manner, with remaining proposers until an agreement is reached.

**ATTACHMENT A
PROPOSAL CERTIFICATIONS**

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any Contractor who is in violation of this clause shall be barred from receiving awards of any contract from the City, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by: _____

Contractor Name: _____

Resident Certificate

Please Check One:

Resident Contractor: Contractor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

Or

Non-resident Contractor: Contractor does not qualify under requirement stated above.

(Please specify your state of residence: _____)

Officer's signature: _____

Type or print officer's name: _____

**ATTACHMENT B
PROPOSAL FORM**

2024-16 IRFP – Urban Design Consultant

The Contractor named below submits this proposal in response to the Intermediate Request for Proposals (IRFP) for the contract named above and warrants that the Contractor has carefully reviewed the IRFP and that this proposal represents the Contractor’s full response to the requirements described in the IRFP.

The Contractor further warrants that if this proposal is accepted, the Contractor agrees to all terms and conditions found in the sample contract (Attachment C), and will provide all necessary labor, materials, equipment, and other means required to complete the work in accordance with the requirements of the IRFP and contract documents. The Contractor hereby acknowledges the requirement to carry or indicates the ability to obtain the insurance required in the sample contract.

Indicate in the affirmative by initialing here: _____

The Contractor certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

The Contractor hereby acknowledges receipt of Addendum Nos. ____, ____, ____, ____, ____ to this IRFP.

Name of Contractor: _____

Business Address: _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Authorized Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

ATTACHMENT C
CITY OF TIGARD, OREGON
PERSONAL SERVICES CONTRACT
Urban Design Consultant

THIS AGREEMENT made and entered into this _____ day of _____, _____ by and between the City of Tigard, a municipal corporation of the State of Oregon, hereinafter called City, and _____, hereinafter called Contractor.

RECITALS

WHEREAS, the City's _____ fiscal year budget provides for services related to _____; and

WHEREAS, City has need for the services of a company with a particular training, ability, knowledge, and experience possessed by Contractor, and

WHEREAS, City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE, the Parties agree as follows:

1. SERVICES TO BE PROVIDED

Contractor will initiate services immediately upon receipt of City's notice to proceed together with an executed copy of this Agreement. Contractor agrees to complete work that is detailed in Exhibit A, incorporated herein by reference.

2. EFFECTIVE DATE AND DURATION

This Agreement is effective upon the date of execution and expires on _____, unless otherwise terminated or extended. All work under this Agreement must be completed prior to the expiration of this Agreement.

3. COMPENSATION

The City agrees to pay Contractor in accordance with the fee schedule outlined in Exhibit A. The total amount paid to the Contractor by the City may not exceed _____ and _____/100 Dollars (\$ _____). Payments made to Contractor will be based upon the following applicable terms:

- A.** Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any, identified in this Agreement as separately reimbursable.
- B.** Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Unless otherwise agreed, payment will be made only for work actually completed as of the date of invoice.
- C.** Payment by City releases City from any further obligation for payment to Contractor for services performed or expenses incurred as of the date of the invoice. Payment may not be considered acceptance or approval of any work or waiver of any defects therein.

- D. Contractor must make payments promptly, as due, to all persons supplying labor or materials for the performance of the work provided for in this Agreement.
- E. Contractor may not permit any lien or claim to be filed or prosecuted against the City on any account of any labor or material furnished.
- F. Contractor will pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- G. Contractor will pay all contributions or amounts due the Industrial Accident Fund from the contractor or any subcontractor.
- H. If Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner does not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- I. Contractor will promptly, as due, make payment to any person, co-partnership, association, or corporation, furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums that Contractor agrees to pay for the services and all moneys and sums that Contractor collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for services.
- J. Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
- K. Contractor must obtain, prior to the execution of any performance under this Agreement, a City of Tigard Business License. The Tigard Business License is based on a calendar year with a December 31st expiration date. New businesses operating in Tigard after June 30th of the current year will pay a pro-rated fee through the end of the calendar year.
- L. The City certifies that sufficient funds are available and authorized for this Agreement during the current fiscal year. Funding during future fiscal years is subject to budget approval by Tigard's City Council.

4. OWNERSHIP OF WORK PRODUCT

City is the owner of and is entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence, or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

5. ASSIGNMENT/DELEGATION

Neither party may assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment has any force or effect unless and until the other party has consented. If City agrees to assignment of tasks to a subcontract, Contractor is fully responsible for the acts or omissions of any subcontractors and of all persons employed by them. Neither the approval by City of any subcontractor nor anything contained herein creates any contractual relation between the subcontractor and City. The provisions of this Agreement are binding upon and will inure to the benefit of the parties to the Agreement and their respective successors and assigns.

6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is an independent contractor as defined by ORS 670.600 and not an employee of City. Contractor is not entitled to benefits of any kind to which an employee of City is entitled and is solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City is entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

B. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. CONFLICT OF INTEREST

The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed their normal charge for the type of service provided.

8. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor represents that all of its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of a Contractor's work by City will not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, employees, agents, and representatives and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments, or other costs or expenses, including attorney's fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place including any hearing before federal or state administrative agencies), that may be asserted by any person or entity which in any way arise from,

during, or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the City and its employees. Such indemnification will also cover claims brought against the City under state or federal worker's compensation laws. If any aspect of this indemnity is found to be illegal or invalid for any reason whatsoever, such illegality or invalidity does not affect the validity of the remainder of this indemnification.

9. INSURANCE

Contractor and its subcontractors must maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance must cover risks arising directly or indirectly out of Contractor's activities or work hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Contractor must provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor will obtain, at Contractor's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (CG 2010 1185 or equivalent). This coverage must include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$2,000,000
Fire Damage (Any one fire)	\$50,000

B. Commercial Automobile Insurance

Contractor must also obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles on an "occurrence" form. The Combined Single Limit per occurrence may not be less than \$2,000,000.

If Contractor uses a personally owned vehicle for business use under this contract, the Contractor will obtain, at Contractor's expense, and keep in effect during the term of the contract, business automobile liability coverage for all owned vehicles on an "occurrence" form. The Combined Single Limit per occurrence may not be less than \$2,000,000.

C. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers' Compensation Law must comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain workers' compensation coverage. All non-

exempt employers must provide Employer's Liability Insurance with coverage limits of not less than \$1,000,000 each accident.

D. Additional Insured Provision

All required insurance policies, other than Workers' Compensation and Professional Liability, must name the City its officers, employees, agents, and representatives as additional insureds with respect to this Agreement.

E. Insurance Carrier Rating

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. All policies of insurance must be written by companies having an A.M. Best rating of "A-VII" or better, or equivalent. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

F. Self-Insurance

The City understands that some contractors may self-insure for business risks and the City will consider whether such self-insurance is acceptable if it meets the minimum insurance requirements for the type of coverage required. If Contractor is self-insured for commercial general liability or automobile liability insurance, Contractor must provide evidence of such self-insurance. Contractor must provide a Certificate of Insurance showing evidence of the coverage amounts on a form acceptable to the City. The City reserves the right in its sole discretion to determine whether self-insurance is adequate.

G. Certificates of Insurance

As evidence of the insurance coverage required by the contract, Contractor will furnish a Certificate of Insurance to the City. No contract is effective until the required Certificates of Insurance have been received and approved by the City. The certificate will specify and document all provisions within this contract and include a copy of Additional Insured Endorsement. A renewal certificate will be sent to the below address prior to coverage expiration.

H. Primary Coverage Clarification

The parties agree that Contractor's coverage is primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

I. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution, and errors and omissions policies required by this Agreement.

A certificate in form satisfactory to the City certifying to the issuance of such insurance will be forwarded to:

City of Tigard
Attn: Contracts and Purchasing Office
ContractsPurchasing@tigard-or.gov

At the discretion of the City, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, may be required to be forwarded to the above address.

Such policies or certificates must be delivered prior to commencement of the work. The procuring of such required insurance will not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor is obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

10. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

All notices, bills and payments will be made in writing and may be given by personal delivery, mail, or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses will be used to transmit notices, bills, payments, and other information:

CITY OF TIGARD	
Attn:	Attn:
Address: 13125 SW Hall Blvd Tigard, OR 97223	Address:
Phone: (503) 718-	Phone: ()
Email:	Email:

Notice will be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, upon successful fax. In all other instances, notices, bills and payments will be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills, and payments are to be given by giving written notice pursuant to this paragraph.

11. SURVIVAL

The terms, conditions, representations, and warranties contained in this Agreement survive the termination or expiration of this Agreement.

12. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement will be effective unless and until it is made in writing and signed by both parties.

13. TERMINATION WITHOUT CAUSE

At any time and without cause, City has the right in its sole discretion to terminate this Agreement by giving notice to Contractor. If City terminates this Agreement pursuant to this paragraph, City will pay Contractor for services rendered to the date of termination.

14. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (A) will be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

- 1) If Contractor fails to provide services called for by this Agreement within the time specified, or
- 2) If Contractor fails to perform any of the other provisions of this Agreement or fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided above related to defaults (including breach of contract) by Contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor will be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, provided, that the City may deduct the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract include those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

15. ACCESS TO RECORDS

City will have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

16. HAZARDOUS MATERIALS

Contractor will comply with all federal Occupational Safety and Health Administration (OSHA) requirements and all Oregon safety and health requirements. In accordance with OSHA and Oregon OSHA Hazard Communication Rules, if any goods or services provided under this Agreement may release, or otherwise result in an exposure to, a hazardous chemical under normal conditions of use (for example, employees of a construction contractor working on-site), it is the responsibility of Contractor to provide the City with the following information: all applicable Safety Data Sheets, the

identity of the chemical/s, how Contractor will inform employees about any precautions necessary, an explanation of any labeling system, and the safe work practices to prevent exposure. In addition, Contractor must label, tag, or mark such goods.

17. FORCE MAJEURE

Neither City nor Contractor will be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled will within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification will not be the basis for a claim for additional compensation. Each party will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

18. NON-WAIVER

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

19. HOURS OF LABOR, PAY EQUITY

In accordance with ORS 279B.235, the following are hereby incorporated in full by this reference:

- A.** Contractor may not employ an individual for more than 10 hours in any one day, or 40 hours in any one week, except as provided by law. For contracts for personal services, as defined in ORS 279A.055, Contractor must pay employees at least time and a half pay for all overtime the employees work in excess of 40 hours in any one week, except for employees who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime.
- B.** Contractor 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 positing 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.
- C.** Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits or other compensation with another employee or another person.
- D.** Contractor must comply with the pay equity provisions in ORS 652.220. Compliance is a material element of this Agreement and failure to comply will be deemed a breach that entitles City to terminate this Agreement for cause.

20. NON-DISCRIMINATION

Contractor will comply with all federal, state, and local laws, codes, regulations, and ordinances applicable to the provision of services under this Agreement, including, without limitation:

- A. Title VI of the Civil Rights Act of 1964;
- B. Section V of the Rehabilitation Act of 1973;
- C. The Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act (ADAAA) of 2008 (Pub L No 101- 336); and
- D. ORS 659A.142, including all amendments of and regulations and administrative rules, and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

21. ERRORS

Contractor will perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

22. EXTRA (CHANGES) WORK

Only the City's Project Manager for this Agreement may change or authorize additional work. Failure of Contractor to secure authorization for extra work constitutes a waiver of all right to adjust the contract price or contract time due to such unauthorized extra work and Contractor will not be entitled to compensation for the performance of unauthorized work.

23. WARRANTIES

Contractor will guarantee work for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials are the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore relieves Contractor from liability under warranties contained in or implied by this Agreement.

Any intellectual property rights delivered to the City under this Agreement and Contractor's services rendered in the performance of Contractor's obligations under this Agreement, will be provided to the City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

24. ATTORNEY'S FEES

In the event an action, suit of proceeding, including appeal, is brought for failure to observe any of the terms of this Agreement, each party is responsible for that party's own attorney fees, expenses, costs and disbursements for the action, suit, proceeding, or appeal.

25. CHOICE OF LAW, VENUE

The provisions of this Agreement are governed by Oregon law. Venue will be the State of Oregon Circuit Court in Washington County or the U.S. District Court for Oregon, Portland.

26. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor will comply with all applicable federal, state and local laws, rules and regulations applicable to the work in this Agreement.

27. CONFLICT BETWEEN TERMS

In the event of a conflict between the terms of this Agreement and Contractor's proposal, this Agreement will control. In the event of conflict between a provision in the main body of the Agreement and a provision in the Exhibits, the provision in the main body of the Agreement will control. In the event of an inconsistency between Exhibit A and Exhibit B, Exhibit A will control.

28. AUDIT

Contractor will maintain records to assure conformance with the terms and conditions of this Agreement and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

29. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions will not be impaired unless the illegal or unenforceable provision affects a significant right or responsibility, in which case the adversely affected party may request renegotiation of the Agreement and, if negotiations fail, may terminate the Agreement.

30. COMPLIANCE WITH TAX LAWS

Contractor represents and warrants that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon tax laws including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318. Contractor's failure to comply with the tax laws of this state or a political subdivision of this state before the Contractor executed this Agreement or during the term of this Agreement is a default for which the City may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or applicable law.

[Signature Page to Follow]

IN WITNESS WHEREOF, City and Contractor have caused this Agreement to be executed by their duly authorized officials.

CITY OF TIGARD	
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT A
SERVICES TO BE PROVIDED

INTRODUCTION

SCOPE OF WORK

SCHEDULE MILESTONES

COST/RATE ESTIMATES

EXHIBIT B
CONTRACTOR'S PROPOSAL