

**Hermiston School District**

**REQUEST FOR PROPOSALS**

**Personal Services; Construction Planning Services**

**I. INTRODUCTION AND BACKGROUND**

The Hermiston School District ("Owner") is in the research and preparation stage in preparation for a possible future capital construction levy. The Owner is seeking personal/professional services, which will include construction planning, to assist in the planning and development stages for a possible comprehensive capital levy. At the Owner's discretion, the selected firm may remain contracted with Owner to serve as the Owner's representative through the construction phase pending a successful levy. The Owner is seeking competitive proposals for the work described below.

**II. GENERAL SCOPE AND DESCRIPTION OF WORK**

The services requested consist of personal/professional pre-bond planning and preparation, and pre-construction planning work, related to the renovation, addition, and new campus construction needs as identified by the Owner. The services may also include work during the construction phase of Owner's projects.

The services are more specifically described in Exhibit A to the Contract attached hereto.

Proposers are expected to have extensive construction management experience and knowledge of construction practices and costs so that knowledgeable and appropriate financial and construction planning may proceed.

**III. TIME LINE**

Issue Request for Proposal.....	9-21-15
Proposal Due Date.....	10-21-15
Selection and Ranking of Proposers....	10-30-15
Notice of Highest Ranked Proposer.....	11-2-15
Deadline for Protests .....	11-9-15

Contract Negotiations as needed .....	11-19-15
Award and Signing of Contract.....	11-24-15

VI. [reserved]

V. **PROPOSAL REQUIREMENTS/CONTENTS**

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

1. **General requirements.**

The original Proposal must be typewritten, single-spaced and on standard size (8½" x 11") paper except when to do so is impractical for a given document. The title page or cover letter must include the date, the solicitation name, the Proposer's name, contact person, telephone number, e-mail address, and complete mailing and street address of the Proposer.

A response to this RFP shall (1) be attached to the fully executed Proposal form attached hereto bearing the original signature of a person authorized to bind the Proposer in contract (printed, typed, or electronic signatures will not be accepted), and (2) have a separate section for each required element below using headings and section numbers that correspond to the section of the RFP responded to and in the sequence stated below. Five (5) copies of the proposal shall be submitted. There is no required format otherwise.

2. **Contract detail.**

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

### **3. Limitation of liability; insurance**

The Owner will not accept a Proposal that includes any attempt to limit a Proposer's liability for damages to the cost of services rendered or other amount except as stated herein. However, the Owner will consider a limit of liability if it is based upon the reasonable limits of Proposer's insurance policies for liability and malpractice. Each Proposal shall state the limits of applicable liability and malpractice coverage, and shall be accompanied with a certificate of such insurance or the declarations page of each policy providing the coverage; coverage limits shall not be less than that stated in the Section 10 of the attached Terms and Conditions for Personal Service Contracts. Submitting a Proposal shall be conclusive acceptance that there shall be no negotiations on limitations of liability except to the extent that the parties negotiate as to the limits of the insurance coverage to be provided by the Proposer.

### **4. Oregon business registration.**

Foreign corporations: ORS 60.701 requires that foreign corporations be registered in the State of Oregon, through the Office of the Secretary of State, before conducting business in Oregon. A foreign corporation (see, ORS 60.001) means a for-profit corporation incorporated under a law other than the laws of the state of Oregon. This registration must be accomplished prior to submission of a Proposal, and a copy thereof must be submitted with the Proposal.

Oregon corporations: A Proposer that is an Oregon corporation shall submit with the Proposal a copy of its Articles of Incorporation showing its current registration with the Oregon Secretary of State's office.

### **5. Evaluation and Selection Criteria**

The Owner reserves the right to accept or reject any or all Proposals in the best interest of the Owner. In connection with the evaluation, the Owner may, at its option, invite one or more Proposers to make an oral or telephonic presentation to the Owner staff and/or governing board at a time and location to be announced, and may require the submission of supplemental material intended to substantiate or clarify information

previously submitted.

The Owner does reserve the right to excuse technical omissions or errors in Proposals at the Owner's sole discretion. Omissions or errors will not be excused when to do so may give an unfair competitive advantage to the Proposer. But the Owner has no obligation to seek clarifying or supplemental information, hence all Proposers are warned that any omissions of required information, or lack of clarity, can cause a Proposal to be deemed non-responsive and thereby rejected.

In addition to the conditions set forth in Sections V.1 through V.4 above, the selection criteria shall include the subject matter of, and the information included in, the following required submissions:

**5.A.** Provide a list of projects (with a brief description of each) for which the Proposer has performed similar services for similar projects.

**5.B.** Describe the Proposer's current volume of work in relation to the resources and number of experienced staff the Proposer has committed to perform the work described in this RFP *within the applicable time limits*, including the projected workloads of such staff and the proportion of time such staff would have available for the services.

**5.C.** Describe the Proposer's capability, experience and past performance history and record in providing the services sought by Owner, including but not limited to quality of work and ability to meet schedules.

**5.D.** Describe the Proposer's geographic proximity to and familiarity with the physical location of the project. Also state the number of site visits contemplated to complete the work.

**5.E.** Describe the Proposer's ownership status and employment practices regarding women, minorities and emerging small businesses.

**5.F.** Provide a list of public contracts which Proposer has performed for public bodies within the last seven years listing Oregon projects first. You may confine your list to five provided they are the most recent projects. Include contact information and the name of the individual contact for each

public body listed. If Proposer has yet to perform a public contract in the state of Oregon, state Proposer's plan for assuring that the services rendered will be in compliance with Oregon public contracting laws. (If you have not performed five public contracts, then provide the information requested for what public contracts you have performed and enough non-public contracts so that the required information of at least five contracts is provided.)

**5.G.** State whether you have ever been advised by any governmental agency that you have been disqualified from entering into or bidding upon any public contract. If you have, explain the circumstances, contract, contracting agency, and date, and identify the agency informing you of the disqualification, state the reasons for disqualification, and state when (if at all) the disqualification ended (attach relevant documents, correspondence, etc., if needed to provide full information).

**5.H.** State whether you have ever been terminated from a public contract prior to its completion, and if "yes" explain the circumstances, contract, contracting agency, date, and reasons.

**5.I.** State whether you have ever been involved in litigation involving your services (not including worker's compensation matters), or had a claim (whether litigated or not) made against you for alleged contract breach or substandard performance. If any of such has occurred provide a full explanation.

**5.J.** Provide a list of your licenses and registration to provide the services required by this RFP in the state of Oregon, and provide all relevant license and registration numbers.

**5.K.** Identify the person who would be the lead person for the work, and for all persons who will be providing services (except for purely clerical personnel) provide his or her name, background, work history, education, experience with similar projects, and years of full time practice at the level required for the work such person will perform.

**5.L.** Costs under this contract will be limited to persons providing direct services, reimbursable expenses without markup, and sub consultant expenses with identified markup. Reimbursable expenses include: mileage rate at current IRS rate for project related travel outside Umatilla County (for the purposes of this

proposal, the "work site" is considered 305 SW 11<sup>th</sup> St Hermiston, OR, and Proposers shall not be reimbursed for time and travel to and from their place of work or residence to the work site); air fare and car rental (with prior approval of Owner); meals and subsistence for project related travel outside Umatilla County; printing and plotting charges; delivery and postal charges; material costs; and other direct expenses (with prior approval of Owner). Proposers shall provide a detailed description of fees, presented in hourly rates, for each employee who may be providing direct services and mark-up % for sub consultant work (if needed).

**VI. DATE AND TIME OF RECEIPT**

All responses to this RFP must be received at the address stated below no later than 1:00 pm (Pacific Time) on the due date specified in Section III. The responses must be sealed and clearly identified and marked "Confidential-Construction Planning Services RFP." Late submittals will not be considered, and will be returned unopened to the address indicated on the cover of the package.

**VII. SUBMITTAL ADDRESS**

*If by Mail:* Wade Smith, Deputy Superintendent  
Hermiston School District 8R  
305 SW 11<sup>th</sup> St.  
Hermiston, OR 97838

*If by private courier or other physical delivery:* Same

Each Proposer shall be responsible for ensuring that its Response to this RFP is delivered to the Owner at the time and place specified. A determination by Wade Smith, identified above, that an RFP was received untimely shall be final unless the Proposer obtains a written receipt clearly indicating otherwise.

Electronic or faxed Proposals will not be accepted, nor will the receipt date of such be relevant to the determination of the timeliness of a Proposer's response.

**VIII. PROTESTS**

This Section sets forth the exclusive protest remedies available with respect to this RFP.

An adversely affected or aggrieved Proposer may submit to Wade Smith, identified above, a written protest of the Owner's decisions with respect to this RFP no later than 5:00 p.m. on the date stated above in Section III.

The protest shall be in writing and must specify the grounds upon which the protest is based.

A Proposer is adversely affected or aggrieved only if the Proposer has submitted a responsive Proposal, and if the Proposer claims and establishes (1) that the Owner committed a substantial violation of a provision in the RFP or of an applicable statute or administrative rule, (2) that the protesting Proposer was thereby unfairly evaluated, and (3) that but for such substantial violation the protesting Proposer would have been selected. Quality judgments of the Owner shall not be overturned unless it can be said that there was no substantial evidence for the finding.

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

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

#### **IX. OWNER'S RIGHTS**

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

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

- A) Reject any or all Proposals;
- B) Issue a new RFP;
- C) Cancel, modify, or withdraw the RFP;
- D) Issue addenda, supplements, and modifications to this RFP;
- E) Modify the RFP process (with appropriate notice to Proposers);
- F) Appoint a selection committee and evaluation teams to

- review RFP's and seek the assistance of outside technical experts in the response evaluations;
- G) Hold meetings and exchange correspondence with the Proposers to seek an improved understanding and evaluation of the responses;
  - H) Seek or obtain data from any source, including a Proposer, that has the potential to improve the understanding and evaluation of the responses;
  - I) Waive minor irregularities in responses;
  - J) In the negotiations for the contract with the selected proposer to change the dates for performance from that set forth in Section III hereof; and/or
  - K) Refuse to issue a contract at all.

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

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

A Proposer who submits a Proposal in response to this RFP shall be conclusively deemed to have accepted all conditions and terms stated in this RFP and in all attached documents except to the extent that these documents allow for negotiations.

#### **X. ANTI-DISCRIMINATION**

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

#### **XI. COMPLIANCE WITH APPLICABLE LAWS**

In connection with this RFP and the contract, Proposers shall comply with all applicable laws in all aspects in connection with the

procurement process of this project and the performance of the contract whether such laws are stated herein or not.

**XII. RULES OF CONTACT**

If a Proposer has questions about this RFP, or desires to visit the site, the contact person for the Owner shall be Wade Smith, who can be contacted at **541-667-6013**. However, no oral information received from a representative of the Owner shall be a part of the Contract Documents. This RFP can only be amended or supplemented by formal written addendum.

HERMISTON SCHOOL DISTRICT 8R

By: \_\_\_\_\_  
Wade Smith, Deputy Superintendent  
Date: \_\_\_\_\_

*[The rest of this page is intentionally left blank]*

PROPOSAL

TO: Owner

The undersigned Contractor declares and certifies that:

1. Contractor has carefully examined the Contract Documents which consist of the "Request for Proposals", this "Proposal" which includes the attached response of Contractor, the form of "Contract" (including the "Terms and Conditions for Personal Service Contract", "Exhibit A", and "Exhibit B"), and

\_\_\_\_\_ [insert a description of any other documents to be made a part of the Contract Documents, and if none insert "none"].

2. Contractor has made an examination of the site of the proposed work, and has made such investigations, as Contractor feels are necessary to determine the conditions to be encountered;

3. If this Proposal is accepted, at the close of authorized negotiations Contractor will contract with the Owner in the form of Contract annexed hereto, will to the extent of the Proposal provide the necessary mobilization, transportation, machinery, tools, apparatus, and other means of performance of all work, and will furnish all material and labor necessary to complete the work in the manner specified, and according to the requirements of the Owner and its representatives, all at the prices negotiated and to be inserted into Exhibit A to the form of Contract;

4. Contractor will comply with all provisions of all applicable laws, including all local, federal, and state statutes and regulations pertaining to workers compensation, payment of wages, industrial accident insurance, income tax withholding, Social Security withholding, and payment of bills for labor and materials; and

5. This Proposal incorporates by reference all of the Contract Documents and the following additional terms: (1) The prices stated shall apply to all items actually used in the work, regardless of their detail on the plans or the specifications (if any), including all applicable taxes, bonds, insurance, and costs for materials; (2) Subject to adjustments necessitated by causes stipulated in the Contract Documents, the Contractor agrees to complete the work covered by the Contract Documents within the time provided for in the Contract Documents.

/ / / / /

/ / / / /

ATTACHED IS THE UNDERSIGNED'S PROPOSAL WHICH IS BY THIS REFERENCE INCORPORATED HEREIN.

Address of Contractor: \_\_\_\_\_

Original Signature of Authorized Agent: \_\_\_\_\_

Printed name: \_\_\_\_\_

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

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

*[The rest of this page is intentionally left blank]*

CONTRACT

This contract, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Hermiston School District 8R, of Hermiston, Oregon, hereinafter and in the Contract Documents called the "Owner," and \_\_\_\_\_, hereinafter and in the Contract Documents called the "Contractor".

WITNESSETH:

1. Contractor's Undertaking. Contractor, in consideration of the sum to be paid to Contractor by the said Owner, as set forth in the Contract Documents, and in further consideration of the covenants and agreements contained within the Contract Documents, hereby agrees at Contractor's own costs and expense to do all the work and furnish all the materials, tools, labor, transportation, and all appliances, machinery, and appurtenances for the work called for in the Contract Documents, to the extent of the bid or proposal made by the Contractor and as accepted by the Owner, all in full compliance with the Contract Documents referred to herein.

2. Contract Documents. The Contract Documents consist of the "Request for Proposals", the "Proposal" which includes the attached response of Contractor, this "Contract" (including the "Terms and Conditions for Personal Service Contract", "Exhibit A", and "Exhibit B"), and

---

*[insert a description of any other documents to be made a part of the Contract Documents, and if none insert "none"]*. Such documents are hereby referred to and by this reference made a part of this Contract as if fully and completely set forth herein.

3. Owner's Covenant to Pay. In consideration of the faithful performance of the work herein embraced, as set forth in the Contract Documents, the Owner agrees to pay the Contractor the amount stated therein (and as may be adjusted only by written addenda signed by both parties) and to make such payments in the manner and at the time provided in the Contract Documents.

4. Contractor's Covenant to Complete Work. The Contractor agrees to complete the work reasonably promptly as tasks are assigned and to accept as full payment hereunder the amounts

computed as determined by the Contract Documents and based on the said Proposal as accepted by Owner.

5. Owner's Right to Terminate. Because much of the work contemplated by this contract is subject to the passage of a bond levy, to future planning of the Owner, to Owner's statutory budget and appropriations process, and other matters not easily predicted nor presently known, the Owner reserves the right to terminate this Contract and the engagement of Contractor for any reason and without cause at any time. In the event of such a termination, Contractor shall be entitled to payment for services rendered to the date of the termination, but shall not be entitled to any other compensation of any sort nor be entitled to any damages, whether reliance damages, consequential damages, loss of profits or business opportunity, or otherwise.

6. Anti-Discrimination. In connection with the performance of work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual orientation, gender, or age. The aforesaid proscriptions against discrimination shall apply to all employment actions of the Contractor, including but not limited to: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms compensation, and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Contractor further agrees to insert the foregoing provisions in all subcontracts entered into hereunder.

[Signature lines are on the next page]

IN WITNESS WHEREOF, the parties hereto execute this contract this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

OWNER, HERMISTON SCHOOL  
DISTRICT 8R

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Its: \_\_\_\_\_

CONTRACTOR, \_\_\_\_\_

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Its: \_\_\_\_\_

*[The rest of this page is intentionally left blank]*

TERMS AND CONDITIONS FOR PERSONAL SERVICE CONTRACT

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

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

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

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

**2. Subcontracts and assignment.**

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

**3. Termination.**

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

B. In addition, Owner may terminate or modify this contract, in whole or in part, effective upon delivery of

written notice to Contractor, or at such later date as may be established by Owner, under any of the following conditions:

(i) If Owner funding is not obtained and continued at levels sufficient to allow for the purchase of the indicated services or quantity of services;

(ii) Contractor's failure to maintain any license or certificate required by law or regulation to be held by Contractor to provide the services required by this Contract; and

(iii) Owner's good faith decision to not proceed with the project (or any portion thereof) to which the services relate.

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

D. In the event of termination by Owner without cause, Contractor shall be paid in accordance with the terms of this Contract for services provided, together with all costs arising out of such termination. For the purposes of this Section "without cause" shall mean a reason unrelated to the fault, default, breach, or failing of Contractor.

E. Under no circumstances shall Contractor be entitled to claim, or receive compensation for, anticipated profits, consequential damages, reliance damages, or lost opportunity.

F. Except as limited by the terms hereof, the rights and remedies of either party provided for in this Section are not exclusive and are in addition to any other rights and remedies provided to the parties by law or under this Contract.

#### **4. Records maintenance; access.**

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

**5. Compliance with applicable law.**

A. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VII of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990; (iv) ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

B. Persons employed under this Contract shall receive at least time and a half pay for work performed on legal holidays and for all overtime work in excess of 40 hours in any one week, except for individuals who are excluded under ORS 653.010 to 653.261 or under 29 USC 201 to 209 from receiving overtime.

C. The parties enter this Contract with the expectation that prevailing wages do not apply to any of the work hereunder. However, if at any time it is determined that prevailing wages (whether state or federal) were, or are, required to be paid any persons, Contractor shall have the sole responsibility therefore without reimbursement or other extra compensation from Owner, and Contractor shall indemnify, defend, and hold harmless the Owner from any liability therefore.

**6. Standard of care.**

The services provided by the Contractor to Owner under this Contract will be performed in accordance with the Contract and in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances in the State of Oregon.

**7. Contractor's registration.**

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

**8. Governing law.**

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

Circuit Court of the State of Oregon for Umatilla county (all parties conclusively consenting to the jurisdiction thereof) except when litigation is required in a different forum such as when a claim or issue is a matter exclusively tried in federal bankruptcy court.

**9. Indemnity.**

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

**10. Insurance.**

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

A. If Contractor has one or more workers, as defined by ORS 656.027, Contractor shall provide workers compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers compensation coverage for all their subject workers.

B. Professional liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000.00 for each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to any professional services to be provided under this Contract.

C. General liability insurance with combined single limits, or the equivalent, of not less than \$2,000,000.00, for each occurrence for bodily injury and property damage. The policy shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the Owner and their officers, employees, and agents are additional insureds but only with respect to the Contractor's services to be provided under this Contract.

D. Automobile liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000.00 for each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable.

E. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew any of the insurance coverages without at least ten

days' written notice from the Contractor or its insurer to Owner.

F. Certificates of insurance. As evidence of the insurance coverages required by this Contract, the Contractor shall furnish acceptable insurance certificates to Owner prior to the commencement of services under this Contract. The certificate will specify all of the parties who are additional insureds, and shall acknowledge the limitations on cancellation or change set forth in the preceding paragraph. If requested, complete copies of insurance policies shall be provided to the Owner. The Contractor shall be financially responsible for all pertinent deductibles.

**11. Attorney's fees.**

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

**12. Severability.**

The parties agree that if any terms or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

**13. Waiver.**

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

**14. Merger clause.**

The "CONTRACT DOCUMENTS" AND ANY WRITTEN ADDENDA EXECUTED BY BOTH PARTIES CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. No waiver, consent, supplement, modification or change of the terms of this Contract shall bind either party unless in writing and signed by both parties.

**EXHIBIT A**

**STATEMENT OF THE WORK; CONSIDERATION; EXPENSES**

**PROJECT GENERAL DESCRIPTION:**

The project is for personal/professional planning services as further described in the Contract Documents.

**SCOPE OF WORK:**

The Contractor shall provide the following services all as requested by the Owner, it being expressly understood that Owner reserves the right to reduce the scope of work in Owner's discretion by eliminating any of the listed services:

**●Pre-Construction Services and Management**

Initial consultation and advice concerning the overall planning and coordination of the Owner's capital construction projects in order to produce a functionally and financially viable project. This is a collaborative effort among all parties including the owner and all professionals on the project, utility companies, and local municipalities, as needed.

Cost projection for the considered projects of Owner.

Assist in the selection process for additional consultants as needed and contractors if applicable.

As requested, review contracts between Owner and Contractors, and advise and assist Owner in regard to them.

This process may include but not be limited to (1) Feasibility and Cost Studies, (2) Constructability & Design Preparation and Review, (3) Scope Definition, (4) Preliminary Budgeting, (5) Scheduling, (6) RFIs, Bid Forms, and a complete set of construction contracts, if applicable, and (7) Bid Review & Comparison if applicable.

**●Preliminary Budgeting**

Cooperate with Owner and consultants to develop a reliable project cost estimate based on the scope of work, material and construction techniques. Establish baseline project definitions, schedules and costs.

**•Construction Activities**(if applicable and as requested):

- a. Act as liaison between the owner and affected project stakeholders. Provide project status information as requested.
- b. Act as liaison between contractor and design consultants as appropriate for the selected project delivery method.
- c. Conduct project meetings and keep accurate meeting records.
- d. Review and make recommendations to the Owner relating to Contractor's Requests for Information (RFI) and Change Order Requests (COR).
- e. Monitor project schedule and take appropriate action to promote compliance with agreed milestones and completion dates.
- f. Monitor project costs and take appropriate action to promote compliance with agreed project budget.
- g. Monitor project quality and take appropriate action to promote compliance with contract documents.
- h. Review and make recommendations to Owner for approval of progress billings.
- i. Manage project close-out process to promote timely and acceptable completion of punch-lists, as-built drawings, O & M manuals, occupancy permits and final payment releases.
- j. Maintain files of all pertinent correspondence and documentation.

Other duties:

Consultant will perform other duties relating to the planning and construction of various projects as assigned by the owner and agreed to by the Consultant.

**•Scheduling**

Prepare a comprehensive list of a project's elements with intended start and finish dates.

**DELIVERY SCHEDULE:**

Begin: As determined by Owner

End: As determined by Owner.

**CONSIDERATION:**

a. The consideration for all work performed under this Contract is as follows:[to be determined]

---



---



---



---



---

b. Payments shall be made to Contractor as requests for payment are made to, and approved by Owner. Progress payments may be requested by Contractor no more frequently than \_\_\_\_\_ [to be determined] \_\_\_\_\_. Upon approval by the Owner, payment to Contractor shall be made within 15 days.

C. All billings shall describe all work performed with particularity, and shall state by whom it was performed and the rate for each person. The billings also shall include the running total amount billed to date by Contractor prior to the current invoice.

*[The rest of this page is intentionally left blank]*

EXHIBIT B

PERSONAL SERVICES CONTRACT

CERTIFICATION OF INDEPENDENT CONTRACTOR STATUS

I. Contractor certifies that he/she meets the following standards:

1. If the work required under this Contract includes services for which registration is required under ORS Chapter 701 (construction contracting), I am registered.

2. I have filed federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, or expect to file federal and state income tax returns, for labor or services performed as an independent contractor in the previous year.

3. If I employ employees, I have the authority to hire and fire them.

4. Except for any incidental use of onsite office equipment of Owner which I may be authorized to use, I supply all the necessary tools and equipment necessary for the performance of my services.

5. I am solely responsible for obtaining all assumed business registrations and professional occupational licenses required by law to conduct my business.

6. I represent to the public that the labor or services are to be provided by my independently established business, as four (4) or more of the following circumstances exist. **(Please check four or more of the following that apply):**

\_\_\_\_\_ A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.

\_\_\_\_\_ B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership;

\_\_\_\_\_ C. A telephone listing is used for the business that is separate from the personal residence listing.

\_\_\_\_\_ D. Labor or services are performed only pursuant to written contracts.

\_\_\_\_\_ E. Labor or services are performed for two or more different persons within a period of one year.

\_\_\_\_\_ F. I assume financial responsibility for defective workmanship or for services not provided as evidenced by the ownership of performance bonds, warranties, errors and omissions insurance or liability insurance relating to the labor or services to be provided.

I agree to indemnify, defend, and hold harmless the Owner for any inaccuracies or incorrect information set forth in the above certifications.

[name of contractor]

\_\_\_\_\_  
Contractor's signature

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

II. Owner certifies that the contracted work meets the following standards:

A. The Contractor is free from direction and control over the means and manner of providing the labor and services, subject only to the specification of the desired results.

B. The Contractor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local ordinances.

C. The Contractor furnishes the tools or equipment necessary for the contracted labor or services.

D. The Contractor has the authority to hire and fire employees of Contractor to perform the labor or services.

/ / / / /

/ / / / /

E. Payment to the Contractor is made upon completion of the performance or is made on the basis of periodic payments as outlined in the Contract.

HERMISTON SCHOOL DISTRICT 8R

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

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