

IMPORTANT NOTICE!!

If you download these materials and wish to be added to the offeror contact list send an email to:

Jayne McMahan jmcmahan@springfield-or.gov

Information to be provided:

- RFQ# 740 Municipal Court Prosecutor Services in the subject line
- Company name
- Primary contact name
- Primary contact title
- Primary contact direct phone #
- Primary contact email

It will be the responsibility of each participating supplier to refer daily to the City of Springfield – Purchasing/Contracts website to check for any available addendum to current opportunities, cancellations or intents to award posted.



**City of Springfield
City Manager's Office**

RFQ # 740

**REQUEST FOR
QUALIFICATIONS**

FOR

Municipal Court Prosecutor Services

May 8, 2012

**CITY OF SPRINGFIELD
OREGON**

**Request for Qualifications#740
City Manager Office
Municipal Court Prosecutor Services**

Sealed letters of qualifications will be received by the Finance Department, City of Springfield, 225 Fifth St. Springfield OR, 97477, Attn: Jayne McMahan until 2:00 p.m. local time, the 24th of May 2012 for Municipal Court Prosecutor Services. Sealed letters of qualifications must be marked “**RFQ #740 Municipal Court Prosecutor Services**”.

Request for Qualification packets are available on the City’s website at www.springfield-or.gov (select the hyperlink from the left menu titled *Purchasing/Contracts* then *RFQ #740 Municipal Court Prosecutor Services*) or by contacting Jayne McMahan at (541)726-3708 or by email: jmcmahan@springfield-or.gov.

The City of Springfield reserves the right to accept or reject any or all letters of qualifications or to waive any specifications or requirements, or to negotiate with any vendor submitting a letter of qualification regarding any aspect of this Request for Qualifications when doing so is deemed to be in the best interest of the City.



Robert J. Duey
Finance Director
City of Springfield, OR

Publication Schedule:

The Register Guard: May 8, 2012

I. Qualification Overview

The City seeks qualified offerors to provide Prosecutor Services for our Municipal Court.

The City of Springfield is the ninth-largest city in Oregon, with a population of approximately 58,575 (Lane Council of Governments, December 2010 estimate) and an incorporated area of 15.57 square miles. Located in western Oregon's southern Willamette Valley, the community was first settled by Elias and Mary Briggs and their family in 1848. It was formally incorporated in February 1885 as Springfield, after the field near the spring was fenced, creating a 'springfield'.

The Springfield charter became effective December 31, 2001. It can be found on the City's web site at <http://www.springfield-or.gov>.

The City operates under a council/manager form of government. The City Council develops and adopts legislation and policies to direct the City organization, but employs a professional administrator (the City Manager) to manage and oversee all City personnel and operations to carry out the council's direction. The City is organized into six departments: Administrative Services; Public Works; Library; Development Services; Police; and Fire & Life Safety.

The City Council consists of six Councilors, who each shall reside in a specific geographic ward, and are elected by the city at large on a nonpartisan ballot for staggered four-year terms. The Mayor is the Chief Elected Officer of the city. The Mayor is elected from the city at large on a nonpartisan ballot for a four-year term.

The Municipal Court Prosecutor's office falls under the direction of the City Manager's Office. The Municipal Court has a total annual caseload of approximately 12,000 cases of which approximately 4,000 are misdemeanor criminal cases. The contracted attorney will cover approximately 4,000 criminal cases and of approximately 1,900 trials are set annually. With a 100 bed municipal jail facility available to the Court, a significant number of cases are set within 30 to 60 days if the defendant is being held pending trial. The Municipal Court strives, to the extent possible, to meet the National Trial Court Performance Standards to resolve cases within 90 days. The basic services are those legal services generally understood to be required within the field of municipal prosecutions and would include but not limited to:

1. Review and/or preparation of legal instruments, such as charging documents, settlement offers, motions to continue, dismiss, and consolidate, responses to motions, jury instructions and letters to defense attorney's and victims.
2. Review of pending files and preparation of those files so as to be ready and about to represent the City of Springfield in court on the assigned files in a professional and appropriate manner.
3. Communication with police offices, defense attorneys, victims, civilian witnesses and unrepresented defendants, both orally and in writing, when necessary for review or preparation of cases.

4. Review of files to determine appropriate resolution of charges.

Copies of the Request for Qualifications are available at the City of Springfield, Finance Department, 225 Fifth Street, Springfield, Oregon, or by contacting Jayne McMahan, Senior Management Analyst at jmcmahan@springfield-or.gov.

The Request for Qualifications may also be found on the City of Springfield website at www.springfield-or.gov (Select the **Purchase/Contracts** hyperlink from the menu on the left and then select the document titled **RFQ #740 Municipal Court Prosecutor Services**). Prospective Offerors are requested to confirm receipt of downloaded RFQ packets by email to City of Springfield, Attn: Jayne McMahan at the above email address.

It is the City's intent to establish a contract with a qualified supplier for City Prosecutor Services. The agreement may be updated annually, to extend the term for not more than two successive one year periods, upon mutual agreement of the parties. If extended, City shall consider the requirements of the Springfield Municipal Code (SMC) Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield City Council.

II. Letter of Qualification Format

The City encourages green options and discourages the use of materials that cannot be recycled such as PVC and spiral binders, plastic or glossy covers and dividers. Further, the City encourages offerors to print on both sides of a sheet of paper whenever possible. *The City does not wish Offerors to submit elaborate or detailed Letters of Qualifications, and economy of presentation should be emphasized.*

Letter of Qualifications must include the items listed below:

- A. Offerors firm name, mailing and physical addresses, telephone number, fax number, and taxpayer identification number.
- B. Primary contact person's name, title, phone number, fax number and email address.
- C. Identify whether you qualify as resident bidder as described in ORS 279A.120 (1) (b) and if you are licensed to do business in the State of Oregon.
- D. Proposing firm's experience in providing municipal court prosecutor services.
- E. Specifications of qualifications, background information and requirements are outlined in Attachment 1 and 2. Express how you propose to meet the specifications in your Letter of Qualification.
- F. Signed Attachment 4- Authorization to Legally Bind Bidder
- G. Signed Attachment 5- Minority Women Emerging Small Business Form (MWESB)

Letter of Qualifications must be signed by a principal member of the offering entity capable of binding the entity. Included with the signature should be principal's written name, title, address, and telephone number (see Attachment 4 Authorization to Legally Bind Bidder).

III. Instructions to Proposers

One original and (6) six copies of the Letter of Qualifications clearly marked “**RFQ #740-Municipal Court Prosecutor Services**” and contained in a sealed envelope or box shall be received no later than 2:00 PM local time, May 24, 2012 at the following address:

City of Springfield
Finance Department
Attention: Jayne McMahan, Sr. Management Analyst
225 Fifth Street,
Springfield, Oregon 97477

All Letter of Qualifications shall be valid through 90 days after the RFQ closing date.

IV. Contact Person

Applicants may contact Jayne McMahan for further information regarding this process. **Contact with other City officials may be grounds for disqualification.** Jayne McMahan can be reached by email at jmcmahan@springfield-or.gov or by phone at (541) 726-3708. Questions regarding specifications will be forwarded by Jayne McMahan to the appropriate personnel when more detailed explanations are required, and upon receipt of response from City personnel, Ms. McMahan will disseminate the information by written addenda issued by the City (See Section VII)

V. Schedule For Selection Process

Qualifications Advertised	May 8, 2012
RFQ Available	May 8, 2012
Requests to Consider Equal Specification Due	May 11, 2012 5pm Local Time
Requests to Consider Exceptions Due	May 11, 2012 5pm Local Time
City's Determination Regarding Equal Spec.	May 17, 2012
Qualifications Due	May 24, 2012 2pm Local Time
Interviews onsite (if necessary)	Week of June 4th, 2012 (Approximate)
Notice of Intent to Award	Week of June 11th, 2012 (Approximate)
Contract Awarded	Week of June 18th, 2012 (Approximate)

VI. Selection Procedure and Process

All Letters of Qualifications will be reviewed and screened based upon the qualifications and requirements outlined in this request. Those individuals deemed most qualified will be screened further based upon reference checks. Finalists may be invited for interviews or asked to submit additional written information. The appointment will be made by the City Manager, subject to the approval of the independent contractor contract or other similar agreement by the City Council.

VII. Late Letter's of Qualifications Not Considered

Letter of Qualifications must be received by 2:00PM local time on May 24, 2012 at the address listed above. Any Letter of Qualifications received after the deadline will not be considered. Faxed or emailed Letter of Qualifications will not be accepted.

VIII. Addenda to RFQ

In the event that it is necessary to amend, revise, or supplement any part of the RFQ, City of Springfield will post addenda on the City website (www.springfield-or.gov) and will make reasonable effort to provide addenda to all Offerors to whom are on the contact list. This includes the amendment of dates in the Schedule for Selection Process. Any addenda so issued are to be considered part of the specifications of the RFQ. City is not responsible for any explanation, clarification, interpretation or approval made or given in any manner except by written addenda issued by City.

Addenda may be downloaded from the City of Springfield home page (www.springfield-or.gov) by clicking on the Purchase/Contracts hyperlink, or by contacting Jayne McMahan at jmcmahan@springfield-or.gov. Prospective Offerors are requested to confirm receipt of downloaded Addenda by email to City of Springfield, Attn: Jayne McMahan at the above email address.

In case of any doubt or differences of opinion as to the services to be furnished hereunder, or the interpretation of the provisions of the RFQ, the decision of City shall be final and binding upon all parties.

IX. Contract

The successful Offeror will be expected to enter into a contract with the City. An example of said contract is attached herein as Attachment 3.

Contract shall commence on July 1, 2012 shall continue for one year unless, extended, modified, or terminated as provided in the contract. Contract term will be for one year and then may be extended for two additional one-year periods upon compliance with the provisions of the contract and agreement of both parties.

X. Negotiation Of Agreement

City reserves the right to negotiate a final contract which is in the best interest of City considering cost effectiveness and quality control. Once a tentative selection has been made by the evaluation committee, Staff will attempt to negotiate a contract with the preferred Offeror. If the negotiations are not successful, staff will negotiate with other qualified Offerors in the order of their respective qualifications until an agreement is reached or staff decides to terminate the selection process. If contract negotiations are successful, the contract will be forwarded to the appropriate City authority for award.

XI. City Selection Discretion

City reserves the right to reject any or all Letter's of Qualifications and to waive irregularities and informalities in the selection process. The City further reserves the right to negotiate, amend, and refine Letter of Qualifications in consultation with one or more of the prospective Offerors.

XII. Letter of Qualification Ownership

All material submitted by the Offerors shall be considered property of City, and City shall not be required to return same to any Offeror. The material submitted by Offerors will be treated in the same manner as City's own records.

After Letter of Qualification opening, all Letter's of Qualifications become part of the public record and are available for public review unless exempt under Oregon Public Records Law. Offerors wishing to exempt appropriate portions of their Letter of Qualifications from disclosure as public records are encouraged to discuss their concerns with City's Finance Director (address listed below) prior to the submissions of their Letter of Qualifications.

Bob Duey, Finance Director
City of Springfield Finance Department
225 Fifth Street
Springfield, OR 97477

XIII. Exceptions To RFQ

If, for any reason, an Offeror should desire an interpretation of a term or condition of this RFQ, find fault with the structure of this RFQ or with the evaluation process, concerns may be submitted by email to jmcmahan@springfield-or.gov or in writing to:

Jayne McMahan
City of Springfield
225 Fifth Street
Springfield, OR 97477
Phone: (541) 726-3708

City will make every effort to answer questions and, if warranted, amend the RFQ. Responses to questions and amendments to the RFQ will be posted on the City of Springfield home page (www.springfield-or.gov), click on the Purchase/Contracts page). Offerors who are unable or unwilling to meet one or more of the requirements of this RFQ should include, as part of their response, written exceptions to those requirements. Such request shall be delivered on or before **May 11, 2012**.

XIV. Equal Specification Change Requests

A prospective Offeror may deliver to Jayne McMahan, Sr. Management Analyst at City of Springfield Finance Department, a written request for change to any of the requirements listed in this Request for Letter of Qualification. Such request shall be delivered on or before **May 11, 2012**. A written request for change shall include:

- A detailed description of the legal and factual grounds for the request,
- A description of the resulting prejudice to the prospective Offeror,
- A statement of the form of relief requested or any Letter of Qualification changes to the specifications.

The City will review the change request and notify the prospective Offeror of the decision in writing prior to the RFQ closing date. Responses to questions and amendments to the RFQ will be posted on the City of Springfield home page (www.springfield-or.gov), click on the Purchase/Contracts page). To the extent possible, the City will notify other prospective Offerors of any changes or modifications to the Request for Letter of Qualification.

XV. Cost of Letter of Qualification

The City of Springfield is not liable for any costs incurred by suppliers for the preparation and presentation of their Letter of Qualifications. This includes any costs in the submission of a Letter of Qualification or in making necessary studies or designs for the preparation thereof.

XVI. Submission Requirements

Your Letter of Qualification must contain all of the information requested in the request for Letter of Qualification. Specific requirements, including background information are included in Attachment 1 and 2. A completeness check will be conducted for each Letter of Qualification. Incomplete Letter of Qualifications will not be accepted.

ATTACHMENT 1

SCOPE OF SERVICES

Act as the City Prosecutor pursuant to an independent contractor contract or other similar agreement administered by the City Manager, or the City Manager's designee. More specifically, the City Prosecutor shall:

1. Authorize, file, prepare, and try major misdemeanor criminal cases, major traffic cases, and attorney-represented infraction cases, including those outside the usually criminal offense categories (nuisance, zoning, building, licensing, and so forth), in the City of Springfield Municipal Court, and if appealed, in the Lane County Circuit Court first.
2. Negotiate and settle cases prior to trial including yet not limited to pretrial conferences, and or settlement offers as a first step prior to settings of trial dates. Evaluate cases and provide discovery to defendants and their attorneys. Establish settlement policies to protect victims, obtain restitution, and recommend appropriate settlement penalties on defendants.
3. Provide legal counsel and opinions to Police personnel concerning criminal matters potentially or actually under Springfield Municipal Court jurisdiction. Advise the Police Department of changes in statutory and case law as they affect Police procedures.
4. Provide advice and information to Springfield citizens regarding criminal law generally and the applicability of City ordinances, with referral to other agencies as appropriate.
5. Provide legal advice to the City Council and City Manager on criminal matters and draft City ordinances.
6. Be responsible for the City Prosecutor's budget, including the preparation of proposals and authorized expenditures within appropriations.
7. Maintain office hours in the office space provided by the City Monday through Friday 8am – 5 pm and staffed with Prosecutor present from 8:30 a.m. to noon, Monday through Friday and when attorney trials are scheduled. Be available for arraignments and other matters on Mondays and other hours during the week such that satisfactory service is provided to the public, city staff, and others who interact with the City Prosecutor. The City Prosecutor will provide monthly time records of the amount of time expended. The compensation will be reviewed annually, and may be adjusted according to time to be expended on the basis of an annual performance evaluation.
8. Employ all secretarial and clerical support necessary to effectively carry out the work of the City Prosecutor's Office.
9. In order to provide the City Prosecutor access to the regional Law Enforcement Data System (LEDS) and maintain the system's security and integrity, the City will provide office space, hardware, computer records management software and office supplies in the Justice Center for the City Prosecutor and support staff at no charge. The City Prosecutor will be required to ensure that all staff members who access or run LEDS records are able to complete and obtain LEDS certification, re-certify as required LEDS and otherwise comply with all LEDS requirements. Failure to comply with LEDS requirements would result in denial of access to the LEDS system.

10. In the event that back up prosecutor services are required resulting from conflict of interest, workload, scheduling or other issues the City Prosecutor will secure those services from the City Attorney's Office unless conflict of interest, workload, scheduling or other issues preclude the City Attorney's Office from providing those services.

Performance Standards

Submit quarterly reports which include data and/or narrative related to the following information: Attorney Cases Scheduled in Court, Cases Resolved, Average Number of Days Cases Remain on Docket, and Documents Prepared, and number of cases resolved prior to day of trial.

The above information should be provided for the existing quarter and in a format that compares the existing quarter to previous quarter and the same quarter for the previous year. Conclusions regarding trends and actions which need to be taken regarding trends should be provided in a written narrative.

1. Propose and implement where appropriate cost containment measures and process improvement with regard to prosecution in the City of Springfield Municipal Court. As a stakeholder in the criminal justice system, participate in change processes as the Springfield Police Department and Springfield Municipal Court continues to move towards near-paperless processes. As funding and opportunity arises, this will include participation in changes pertaining to a new City Prosecutor computer records management system.
2. Maintain professional and harmonious working relationships with the Springfield Police Department, Municipal Court, City Attorney's Office, City Manager's Office, and public.
3. Arrive at meetings and trials on time and respond to all phone calls in a timely fashion, normally within 24 hours or sooner in the case of emergencies.
4. Advise the City Attorney's Office of potential civil liability on the part of the City as it may pertain to the prosecution function.
5. Stay abreast of statutory and case law concerning matters of potential prosecution in the Municipal Court. Advise the Police Department and other city offices as appropriate.
6. Submit a monthly itemized record of the time and services provided under this contract. (City will provide a template for the data.)
7. Submit billings under this contract to the City on a monthly basis.
8. Maintain good standing with the state and local bar associations.
9. Meet with the City Manager or his/her designee monthly.

ATTACHMENT 2

Application Questions

1. Describe your experience with criminal law processes.
2. Describe your background, including the number of years in prosecution work and litigation experience. Describe any specific experience in Municipal prosecution. Include a statement describing why are you qualified to perform the work outlined in this RFQ and detailing the proposed approach to performing this work.
3. Submit an up-to-date resume(s). Also, include proof that you are licensed to practice law in the State of Oregon and are an active member in good standing with the Oregon State Bar.
4. What steps will you take as Prosecutor to assure that violators are prosecuted to the full extent of our community's standards?
5. Please discuss fully your philosophy pertaining to pretrial settlement processes, plea bargaining and or trials and how you would apply it in this position.
6. What steps would you take to assure a timely resolution of cases, staff requests and related matters?
7. How would you describe the role of City Prosecutor and its relationship to the Court, Police Department, victims, witnesses and the community?
8. Describe the approach you would use to communicate and coordinate with Prosecution Office staff, defense attorneys, victims, and the Municipal Court Staff.
9. As Prosecutor how will you handle subpoenas, discovery and related public disclosure requests?
10. The City strives to continually improve internal processes. Please discuss what your philosophy is regarding how technology might improve your processes. Please include your ideas on improvements that can be made in the criminal justice system (stakeholders such as Police, Courts, Criminal Defense Attorneys, forensic service providers, etc) from your personal observations and or experiences in dealing with criminal case work.
11. If not using the office space, hardware, computer records management software provided by the city discuss your plans for providing a network system that can interface with the City system to provide for the transmission of e-mail, documents, spreadsheets and any necessary billing data.
12. What level of availability would you have to Police department and other staff during both working and off hours?
13. Provide three references who can be contacted for confirmation regarding your past experience and quality of services in Municipal Court Prosecution. Include contact name, current phone number and email address.

14. Please submit a proposed schedule of fees and costs you would be seeking as compensation. (Final agreement will be negotiated under an independent contractor contract or other similar agreement.)
15. Please submit a transition plan that includes- timing, roles and responsibilities.
16. Provide any other information you believe is important or relevant to the RFQ.

The person selected will be required to undergo a comprehensive background investigation prior to appointment; agree to a review of his/her files with the Oregon Bar Association and any other state he/she has been admitted to practice (documented history of discipline with the Bar Association is not acceptable); and provide proof of professional liability insurance to the City.

The City of Springfield is an Equal Opportunity Employer and does not discriminate on the basis of sex, marital status, race color, creed, national origin, age or disability.

- 3. Services to be Performed by Independent Contractor.** Contractor will provide Municipal Court Prosecutor services. Independent contractor shall perform the services in Attachment 1. Attachment 1 – “Supplier” RFQ #740 response dated “xxxx”.
- 4. Solicitation Process.** This contract was awarded pursuant to the City’s RFQ #740 Municipal Court Prosecutor Services.
- 5. Term.** This Agreement is effective as of the date first set forth above and shall continue until **INSERT DATE** unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties. The Agreement may be amended annually, to extend the term stated herein, for not more than two (2) successive one-year periods, upon mutual agreement of the parties. In negotiating any extension CITY shall consider the requirements or SMC Section 2.708(3) and each extension shall not be effective until reviewed and approved by the Springfield Common Council.
- 6. Independent Contractor Status.** By its execution of this Agreement, Independent Contractor certifies its status as an “Independent Contractor” as that term is used under the laws of the State of Oregon, and that all performance of any labor or services required to be performed by Independent Contractor under the terms of this Agreement shall be performed in accordance with the standards set forth in ORS 670.600, and as more specifically set forth on Exhibit “A” attached hereto and incorporated herein by this reference.
- 7. Conformance with Oregon Public Contracts Law (ORS Chapter 279).** Independent Contractor shall comply with all applicable provisions of Oregon law for public contracts, including, but not limited to ORS 279B.220, ORS 279B.225, ORS 279B.230, and ORS 279B.235, and as more fully set forth on Exhibits “A” and “B” attached hereto and incorporated herein by this reference.
- 8. Work Performed.** The work to be performed by Independent Contractor includes services generally performed by Independent Contractor in his/her/its usual line of business.
- 9. Tax duties and Liabilities.** Independent Contractor shall be responsible for all federal, state and local taxes, if any, applicable to any payments received pursuant to this Agreement, including but not limited to income tax, payroll tax, social security and self-employment tax. CITY shall not withhold, pay, or in any other manner be responsible for payment of any taxes on behalf of Independent Contractor.
- 10. Reimbursement Of Expenses.** Independent Contractor shall not be entitled to reimbursement by CITY for any expenses incurred by Independent Contractor unless otherwise agreed in writing.
- 11. Materials and Supplies.** Independent Contractor shall supply all materials and supplies needed to perform the services required unless otherwise agreed in writing.
- 12. No Authority To Bind CITY.** Independent Contractor shall have no authority to enter into contracts on behalf of CITY, its’ officers, agents and employees. This Agreement shall not create a partnership or joint venture of any sort between the parties.
- 13. Federal Employment Status.** In the event payment made pursuant to this Agreement is to be charged against federal funds, Independent Contractor hereby certifies that it is not

currently employed by the Federal Government and the amount charged does not exceed Independent Contractor's normal charge for the type of services provided

14. Indemnification and Hold Harmless. The Independent Contractor shall assume all responsibilities for the work, and bear all losses and damages directly or indirectly resulting to the Independent Contractor, the City, or to others on account of the character or performance of the work, unforeseen difficulties, accidents, or any other cause whatsoever. The Independent Contractor shall assume defense of, indemnify and save harmless the City, its officials, agents, and employees from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from activities in the performance of the Contract, the ownership, maintenance or use of motor vehicles in connection therewith, or the acts, omissions, operations, or conduct of the Independent Contractor or any Subcontractor under the Contract or any way arising out of the Contract, irrespective of whether any act, omission or conduct of the City connected with the Contract is a condition or contributory cause of the claim, liability loss, damage or injury and irrespective of whether act, omission, or conduct of the Independent Contractor or Subcontractor is merely a condition rather than a cause of a claim, liability, loss damage or injury. The Independent Contractor shall not be liable for nor be required to defend or indemnify, the City relative to claims for damage or damages resulting solely from acts or omissions of the City, its officials, agents or employees. The absence of or inadequacy of the liability insurance required in section 15 below shall not negate Independent Contractor's obligations in this paragraph.

15. Insurance.

15.1. General Insurance. The Independent Contractor shall maintain in force for the duration of this agreement a Commercial General Liability insurance policy written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$3,000,000 in the aggregate for bodily injury or property damage. The policy will contain a "per project" aggregate endorsement. Automobile Liability (owned, non-owned and hired) insurance with limits not less than \$1,000,000 per occurrence shall be maintained. The City, its employees, officials and agents will be named as an Additional Insured where operations are being conducted related to this contract, on the General Liability policy as respects to work or services performed under this agreement to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the Independent Contractor or the fault of the Independent Contractor's agents, representatives or subcontractors. This insurance will be primary over any insurance the City may carry on its own.

15.2. Professional Liability. Independent Contractor shall maintain in force during the duration of this Agreement (and, if it is a claims made policy, for a year following completion of the project) a professional liability policy, approved by the City's Risk Manager as to terms, conditions and limits.

15.3. Workers' Compensation. Independent Contractor shall provide and maintain workers' compensation coverage for its employees, officers, agents, or partners, as required by applicable workers' compensation laws. If Independent Contractor is exempt from coverage, a written statement signed by Contractor so stating the reason for the exemption shall be provided to the City.

15.4. Evidence of Insurance Coverage. Evidence of the required insurance coverages issued by an insurance company satisfactory to the City shall be provided to the City by way of a City approved certificate of insurance before any work or services commence.

15.5. Notice of Cancellation or Material Change in Coverage. The certificate of insurance shall contain a requirement that the Insurance company notify the City 30

days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30 day notice, the Contractor shall provide written notice to the City contract manager within 2 days after the Contractor becomes aware that their coverage has been canceled or has been materially changed. The Contractor shall either fax 541-726-3782 said notice or email it directly to Bob Duey (rduey@springfield-or.gov), Finance Director at the City. Regardless of what circumstances caused Contractors insurance coverage to cease or be modified, it is the contractor's responsibility to notify the City. Failure to maintain proper insurance or provide notice of cancellation or modification shall be grounds for immediate termination of this contract. _____ **(Contractor initials)**

15.6. Equipment and Material. The Independent Contractor shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.

15.7. Assignment/Subcontract. Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

15.8. Exception or Waivers. Any exception or waiver of these requirements shall be subject to review and approval from the City's Risk Manager.

16. Termination. The performance of work under this Agreement may be terminated by CITY, in whole or in part, whenever for any reason CITY shall determine that such termination is in the best interest of CITY. Any such termination shall be effected by delivery to the Independent Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective.

17. Rights In Data. All original written material, including programs, card decks, tapes, listings, and other documentation originated and prepared for CITY pursuant to this Agreement, shall become exclusively the property of CITY. The ideas, concepts, know-how, or techniques developed during the course of this Agreement by Independent Contractor personnel can be used by either party in any way it may deem appropriate. Material already in Independent Contractor's possession, independently developed by Independent Contractor outside the scope of this Agreement, or rightfully obtained by Independent Contractor from third parties, shall belong to Independent Contractor. This agreement shall not preclude Independent Contractor from developing materials which are competitive, irrespective of their similarity to materials which might be delivered to CITY pursuant to this Agreement. Independent Contractor shall not, however, use any written materials developed under this Agreement in developing materials for others, except as provided in this section.

18. Confidentiality. During the course of performance hereunder, Independent Contractor or its agent, employees, or contractors, may receive confidential information. Independent Contractor agrees to use its best efforts to maintain the confidentiality of such information and to inform each agent and employee performing services of the confidentiality obligation that pertains to such information.

- 19. Assignment/Subcontract.** Independent Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this agreement, in whole or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.
- 20. Successors In Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 21. Compliance With All Government Regulations.** Independent Contractor shall comply with all Federal, State and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Independent Contractor.
- 22. Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal.
- 23. Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CITY may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
- 24. Assistance Regarding Patent And Copyright Infringement.** In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
- 25. Severability.** If any provision of this Agreement is declared by a court 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 Agreement did not contain the particular provision held to be invalid.
- 26. Access To Records.** CITY and its duly authorized representatives shall have access to books, documents, papers and records of Independent Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.
- 27. Waiver.** Failure of CITY to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by CITY of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.

28. Amendments. The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of CITY. No modification of this Agreement shall bind either party unless reduced to writing and subscribed by both parties, or ordered by a Court.

29. Nondiscrimination. Independent Contractor shall comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations.

30. Dual Payment. Independent Contractor shall not be compensated for work performed under this contract from any CITY agency other than the agency which is a party to this contract.

31. Remedies. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any litigation arising out of this Agreement shall be conducted in the courts of the State of Oregon, County of Lane.

32. Entire Agreement. This Agreement signed by both parties is the parties' final and entire Agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents and representatives. There are no representations, promises, terms, conditions or obligations other than those contained herein.

IN WITNESS WHEREOF the parties have executed this Agreement to be effective the date first set forth above.

CITY OF SPRINGFIELD:

INDEPENDENT CONTRACTOR

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

***NOTE:
ATTACHMENT 1
To Contract***

Offerors RFQ #740 Letter of Qualification

EXHIBIT "A"

**CITY OF SPRINGFIELD
INDEPENDENT CONTRACTOR AGREEMENT**

Independent Contractor Status

All performance of any labor or services required to be performed by Independent Contractor shall be performed in accordance with the standards set forth in ORS 670.600 (2005), and as follows:

A person is customarily engaged in an independently established business if any three of the following six requirements are met:

1. The person maintains a business location:
 - a. That is separate from the business or work location of the person for whom the services are provided; or,
 - b. That is in a portion of the person's residence and that portion is used primarily for the business.
2. The person bears the risk of loss related to the business or the provision of services as shown by factors such as:
 - a. The person enters into fixed-price contracts;
 - b. The person is required to correct defective work;
 - c. The person warrants the services provided; or,
 - d. The person negotiates indemnification agreements or purchases liability insurance, performance bonds or errors and omissions insurance.
4. The person provides contracted services for two or more different persons within a 12-month period, or the person routinely engages in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.
5. The person makes a significant investment in the business, through means such as:
 - a. Purchasing tools or equipment necessary to provide the services;
 - b. Paying for the premises or facilities where the services are provided; or
 - c. Paying for licenses, certificates or specialized training required to provide the services.
6. The person has the authority to hire other persons to provide or to assist in providing the services and has the authority to fire those persons.

EXHIBIT “B”

City of Springfield Public Contracts Conformance with Oregon Public Contractors Laws

Pursuant to Oregon law, every public contract shall contain the following conditions:

- 1) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279B.220(1)
- 2) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279B.220(2).
- 3) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279B.220(3).
- 4) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279B.220(4).
- 5) If the agreement is for lawn and landscape maintenance, it shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective. ORS 279B.225.
- 6) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279B.230.
- 7) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279A.055, the employee shall be paid at least time and a half pay:
 - a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or
 - b) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

An employer must give notice in writing to employees who work on a public contract, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.235(1)-(2).

- 8) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279B.235(3).
- 9) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. Employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number hours per day and days per week that the employees may be required to work. ORS 279B.235(5).

If this agreement is for a public improvement, the contract shall contain the following conditions:

- 10) Make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract. ORS 279C.505(1)(a).
- 11) Pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract. ORS 279C.505(1)(b).
- 12) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. ORS 279C.505(1)(c).
- 13) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167. ORS 279C.505(1)(d).
- 14) The contractor shall demonstrate that an employee drug testing program is in place. ORS 279C.505(2).

- 15) If the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or subcontractor by any person in connection with the public improvement contract as the claim becomes due, the proper officer or officers representing the state or a county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing labor or services and charge the amount of the payment against the funds due or to become due the contract by reason of the contract. If the contractor or first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and is subject to a good faith dispute as defined in ORS 279C.580. If the contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. ORS 279C.515.
- 16) The payment of a claim does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims. ORS 279C.515(4).
- 17) A person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services designated under ORS 279C.100, the employee shall be paid at least time and a half pay:
- a) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days; or,
 - b) For all overtime in excess of 10 hours in anyone day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and,
 - c) For all work performed on Saturday and on any legal holiday specified in ORS 279B.020. ORS 279C.520(1).
- An employer shall give notice in writing to employees who work on a public contract either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279B.520(2).
- 18) If the agreement is for personal services, the contract shall contain a provision that the employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under personal services contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201-209 from receiving overtime. ORS 279C.520(3).
- 19) Contracts for services must contain a provision that requires that persons employed under contracts shall receive at least time and half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B)-(G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. An employer shall give notice in writing to employees who work on a contract for services, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. ORS 279C.520(5)
- 20) Solicitation documents for a public improvement contract shall make specific reference to federal, state and local agencies that have enacted ordinances, rules or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of the contract. A solicitation document must also make special reference to known conditions at the construction site that may require the successful bidder to comply with the ordinances, rules or regulations identified under ORS 279C.525(1). If the successful bidder encounters a condition not referred to in the solicitation documents, not caused by the successful bidder and not discoverable by a reasonable prebid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations referred to under ORS 279C.525(1), the successful bidder shall immediately give notice of the condition to the contracting agency. The successful bidder may not commence work nor incur any additional job site costs in regard to the condition encountered and described in ORS 279.525(3) without written direction from the contracting agency. ORS 279C.525.
- 21) Promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All employers shall comply with ORS 656.017. ORS 279C.530.
- 22) A contract for public works shall contain a provision stating the existing state prevailing rate and wage and, if applicable, the federal prevailing rate of wage required. Every contract and subcontract shall contain a provision that workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838. ORS 279C.830(1).

If this agreement is for demolition, the contract shall also contain the following conditions:

- 23) Contractor must salvage or recycle construction and demolition debris, if feasible and cost-effective. ORS 279C.510(1)



Attachment 4

Authorization to Legally Bind Bidder

The person executing this Bid and the instruments referred to herein on behalf of the Bidder has the legal power, right, and actual authority to submit this Bid, and to bind the Bidder to the terms and conditions of this Bid.

(Signature of person authorized to bind Bidder)

Dated

Print Name of Person signing as authorized to bind Bidder

Title of Person signing as authorized to bind Bidder

Firm Name

Phone

Address

Fax

City, State, Zip

email address

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Minority, Women, and Emerging Small Business/Disadvantaged Business Enterprise



MWESB/DBE Voluntary Self-Declaration for City Procurement # _____ or Project No. P N/A

The City of Springfield is seeking information on the various business entities that submit bids and proposals for working with the City. We request that you provide the following information to assist us with evaluating our efforts at reaching the underrepresented sectors of the business and construction communities. The City does not intend to use this data as criteria for selecting the successful bidders or proposers for city-funded procurements. For procurements with state or federal DBE requirements, the City will use the forms and criteria established by the state or federal agency for selecting the successful bidders or proposers.

Please include this form with your bid/proposal submittal to the City.

Business Name: _____

Contact Person: _____

Business Address: _____

Business Phone: _____

Please check each box indicating the business certification type that your firm has with the State of Oregon or the federal government, if any:

- Oregon Minority-owned Business
- Oregon Woman-owned Business
- Oregon Emerging Small Business
- Federal Disadvantaged Business Enterprise (DBE)
- None of the above