



Eugene Water & Electric Board

REQUEST FOR PROPOSALS for Carmen-Smith Mitigation Fund Administrator

RFP No.: 26-171-PSC

Closing Date: Monday, November 2, 2026

Time: 2:00 PM PST

Description: The Eugene Water & Electric Board (EWEB) requests proposals from firms capable of managing mitigation funds for the purpose of implementing aquatic habitat or water quality improvement projects in the Mckenzie River Basin. The Administrator will identify, manage selection, and distribute funding for selected projects that qualify for mitigation funds. The Administrator will also report annually on expenditures, activities, and available balances.

Purchasing Contact: Sandra Hahn

(541) 685-7163

sandra.hahn@eweb.org

Pre-Proposal Microsoft Teams Video Conference: YES - Voluntary **Date:** October 14, 2026 **Time:** 1:00 PM

Refer to Section 1.6 for details and how to RSVP.

This is a **COMPETITIVE SEALED PROCUREMENT**.

ELECTRONIC PROPOSALS SUBMITTED VIA THE OREGONBUYS BID SITE ARE REQUIRED. Emailed submittals will not be accepted.

To ensure your submission is received prior to the closing date and time, it is recommended that you begin the submittal process on the OregonBuys website at least 72-hours prior to the closing date and time listed above.

SINGLE POINT OF CONTACT: There will be only one point of contact for the entire Request for Proposal process. The contact point is the EWEB Purchasing Office, and the contact person is the Purchasing Contact listed above, unless otherwise stated. Any questions or issues that may arise regarding the specifications, bidding process, and/or the award process, shall be directed via email to the Purchasing Contact listed above. EWEB's official response to any questions or requests will be in writing via the Addendum process.

FOR MORE INFORMATION please refer to Part 1 "Instructions to Proposers"

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LEGAL ADVERTISEMENT

RFP # 26-171-PSC

CARMEN-SMITH MITIGATION FUND ADMINISTRATOR

The Eugene Water & Electric Board (EWEB) requests proposals from firms capable of managing mitigation funds for the purpose of implementing aquatic habitat or water quality improvement projects in the Mckenzie River Basin. The Administrator will identify, manage selection, and distribute funding for selected projects that qualify for mitigation funds. The Administrator will also report annually on expenditures, activities, and available balances.

Proposals shall be submitted on the State of Oregon – OregonBuys website (<https://oregonbuys.gov/bso/>), before, **2:00 pm PST, November 2, 2026, Monday**. (Emailed responses will not be accepted.) Proposals will not be accepted after this hour and date.

RFP documents may be obtained by downloading the RFP documents from the State of Oregon's bid site ("OregonBuys"): <https://oregonbuys.gov/bso/>. (On OregonBuys home page, search for OregonBuys Bid # **S-P00140-00018123**. For navigation help, please call 1-855-800-5046.)

An optional Pre-Proposal Conference will be held at 1:00 PM, October 14, 2026, and will be conducted via a Microsoft Teams meeting. See Section 1.6 of the RFP document for details.

All proposals shall be submitted as set forth in Section 1 - Instructions to Proposers. EWEB is not responsible for proposals submitted in any manner, format or to any delivery point other than as required by the Solicitation Document.

No proposal may be withdrawn after the hour set for the opening thereof until the elapse of thirty (30) days from the date and time set for opening.

EWEB reserves the right to waive any or all informalities and irregularities (EWEB Rule 3-0470) and may cancel the Request for Proposals or reject any or all proposals pursuant to EWEB Rule 3-0640.

Date: October 2, 2026

Sandra Hahn
Purchasing Contact

1. INSTRUCTIONS FOR PROPOSERS

All proposals and contracts are subject to the provisions and requirements of the Oregon Revised Statutes 279A and 279B and EWEB Public Contracting Rules Divisions 1, 2, 3 and 6.

INFORMATION OF RECORD

The official source of information for this project until the Intent to Award is posted is located at the State of Oregon's bid site, located at: <https://oregonbuys.gov/bsa/>. IT IS THE SOLE RESPONSIBILITY OF THE PROPOSER TO CHECK THE WEBSITE ON A TIMELY BASIS.

PROPOSAL PREPARATION

1.1 PROPOSAL FORMAT AND COST

Proposals shall be typewritten or prepared in ink and shall be submitted electronically, on the form provided in the Request for Proposals. Proposals shall conform to the requirements of the Request for Proposals. All necessary attachments shall be submitted with the proposal and in the required format.

Proposer is responsible for all costs incurred in connection with its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, costs to participate in demonstrations, and costs associated with protests.

1.2 PROTEST OF SPECIFICATIONS / REQUIREMENTS

A Proposer who believes that the procurement process is contrary to law, or that the solicitation is unnecessarily restrictive in that specifications limit competition arbitrarily, without reasonably promoting the fulfillment of the procurement needs of EWEB, or that the solicitation document is legally flawed in that it contains terms or conditions that are contrary to law, or that the solicitation improperly specifies a brand name as defined in ORS 279B.200, may submit a protest via email to sandra.hahn@eweb.org.

Insert the following in the subject header:

RFP SPECIFICATION PROTEST, RFP # 26-171-PSC

To be considered, protests shall be received no less than 5 business days before the RFP closing date (per EW-3-0700(2)).

Protest of specifications shall include the reason for protest, any and all evidence and documented factual information that supports Proposer's protest, and any proposed changes to the requirements. The EWEB Purchasing department shall promptly respond to each written protest, and where appropriate, issue all revisions, substitutions, or clarifications via Addenda to all Proposers. Proposers must exhaust all administrative remedies before seeking judicial review.

1.3 PROPOSER'S PROPOSED TERMS AND CONDITIONS Rule 3-0230(7)(b)

Proposers may include in the Cover Letter of their response proposed revisions to the contractual terms and conditions in the MS Word Sample Contract (Exhibit 1) and the Scope of Work stated in this RFP document. (Proposer may show proposed changes by **using Word Track Changes tool OR providing proposed revisions in cover letter**.) Proposers may not protest or make a request to change the entire terms and conditions of the solicitation. For example, you may not seek to replace EWEB's terms and conditions in whole with your company's terms and conditions, standard contract, master services agreement, etc.

Terms included with Proposer's proposal documents will not be considered unless they are listed in the Cover Letter as requested terms to negotiate.

EWEB reserves the right to negotiate the proposed terms and/or conditions with Proposer, and either accept or reject the proposed terms and/or conditions. **REQUESTS FOR REVISION OF EWEB CONTRACTUAL TERMS AND CONDITIONS MAY BE MADE AT TIME OF PROPOSAL SUBMISSION. THERE MAY BE NO OPPORTUNITY TO DO SO AT A LATER DATE.**

NO PROPOSED TERMS OR CONDITIONS SHALL BECOME A PART OF THE AWARDED CONTRACT UNLESS ACCEPTED BY EWEB AND INCORPORATED INTO THE CONTRACT, IN WRITING.

1.4 SIGNATURE ON PROPOSAL

Proposals shall be signed by an authorized representative of the Proposer. Signature on a proposal certifies that the proposal is made without connection with any person, firm or corporation making a proposal for the same goods and/or services and is in all respects fair and made without collusion or fraud. Signature on a proposal also certifies that the Proposer has read, fully understands, and agrees with all solicitation requirements, terms, and conditions. No consideration will be given to any claim resulting from proposing without fully comprehending all requirements of the Request for Proposals.

Proposers shall only enter information within the proposal document where it is requested or required. Proposers shall NOT make any alterations to the original solicitation document. Any proposal that has been altered may be rejected.

1.5 CANCELLATION, REJECTION, DELAY OF RFP

Pursuant to Rule 3-0640, EWEB may cancel, reject in whole or in any part of any proposals, without liability incurred by EWEB at any time after issuing an RFP, if EWEB believes it is in EWEB's interest to do so.

1.6 PRE-PROPOSAL CONFERENCE

A voluntary Pre-Proposal Conference will be held at **1:00 PM, October 14, 2026** *via Microsoft Teams*. The purpose of the conference is to discuss the work to be performed with the prospective Proposers and allow questions regarding the project work. Please RSVP beforehand to the following email: andrew.talabere@eweb.org.

PROPOSAL SUBMISSION

1.7 PROPOSAL SUBMISSION

(a) OregonBuys Electronic Response

Please be sure to combine all documents into one pdf file before attempting to submit your bid into the OregonBuys bid site.

In order to submit an electronic proposal on the OregonBuys website, Proposer must be registered with OregonBuys and able to submit an electronic proposal. For instructions to register on OregonBuys, visit the following site: [OrBuysSupplierRegistrationSteps.pdf \(oregon.gov\)](#)

If you experience any issues registering, please contact OregonBuys at:

Phone: 1-855-800-5046

Email: support.oregonbuys@das.oregon.gov

When Proposer is submitting their proposal electronically, Proposer should follow the procedures outlined in any of the following:

<https://www.oregon.gov/das/ORBuys/Documents/OregonBuys%20Vendor%20Formal%20Solicitation%20Response.pdf> for electronic submission.

A video presentation on submitting an electronic proposal may be found at: [Supplier - Submitting a Quote - Overview \(periscop holdings.com\)](http://Supplier-Submitting-a-Quote-Overview(periscop holdings.com))

Terminology specific to the OregonBuys system may be found at:
<https://www.oregon.gov/das/ORBuys/Documents/Phase1TerminologyCrosswalk.pdf>

Proposals received in a manner other than through the OregonBuys website and/or after the closing date and time will not be considered and will be rejected. EWEB is not responsible for proposals submitted in any manner format or to any delivery point other than as required by the Solicitation document.

(b) REQUIRED PROPOSAL PACKAGE

Complete, sign, and return the following documents as RFP response. *Failing to include these documents could lead to rejection of Proposal.*

- **Cover Letter, with:**
 - ✓ **Contractual Acceptance:** Statement accepting ALL terms and conditions contained in this solicitation and the Sample Contract (Exhibit 1). Statement may also include request for negotiation of proposed terms and conditions as allowed per Section 1.4.
 - ✓ **Termination for Default:** Proposers shall indicate if they have had a contract terminated for default in the last five years. Termination for default is defined as notice to stop performance that was delivered to the Proposer due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and determined that the Proposer was in default.

NOTE: If a Proposer has had a contract terminated for default in this period, then the Proposer shall submit full details including the other party's name, address and phone number. EWEB will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of Proposer's past performance.

- **Response to Minimum Qualifications (Section 3)**
- **Response to All Evaluation Criteria (Section 5)**
- **Proposal Form (Section 6)**
- **All posted addenda acknowledged**

(c) RESPONSIVENESS / RESPONSIBILITY

A "Responsive" proposal is a proposal that substantially complies with the Request for Proposals instructions and requirements.

A "Responsible" Proposer can demonstrate ability to meet the requirements of the Scope of Work, has the appropriate experience, is legally qualified to do the Work, has the required certifications required, has a satisfactory record of integrity and can meet the other requirements described in ORS 279B.110(2).

1.8 ADDENDA

Any VERBAL communication cannot and shall not be construed as approval of the acceptability of any deviation to any requirement. All changes to requirements and/or the solicitation documents will be made

in the form of Addenda. The Proposer is responsible for ensuring that all Addenda have been downloaded and are acknowledged in their RFP Response.

All Addenda can be obtained electronically at the state of Oregon's bid site ("OregonBuys"): <https://oregonbuys.gov/bsa/>.

1.9 PROPOSAL MODIFICATION

If a Proposer wishes to make modifications to a submitted Proposal, Proposer must do so through OregonBuys prior to the Proposal Due Date and Time stated on the Cover Page for this RFP.

1.10 PROPOSAL WITHDRAWALS:

If a Proposer wishes to withdraw a submitted Proposal, Proposer must do so through OregonBuys, using the "Withdraw Quote" button prior to the Proposal Due Date and Time stated on the Cover Page for this RFP.

1.11 EXCEPTIONS

Any exceptions to the requirements of this solicitation MUST be submitted in accordance with Item 1.3 PROTEST OF SPECIFICATIONS / REQUIREMENTS. Exceptions submitted with your proposal, or in any manner other than the process provided herein, may cause your proposal to be ruled non-Responsive and rejected.

1.12 PROPOSAL OPENING: Unless otherwise provided by Law or Rule, proposals received in response to this Request for Proposals shall be opened at the scheduled closing date and time at the EWEB Purchasing department located at 4200 Roosevelt Blvd, Eugene, Oregon 97402. Enquiring Proposers shall be informed only of the names of Proposers submitting proposals. No other information shall be available at that time. Award decisions will NOT be made at the opening.

1.13 ALTERNATE PROPOSALS

Proposers may submit more than one proposal. All proposals must comply with the requirements of the RFP except that additional proposals may incorporate, by reference, repetitive information which is provided in the complete proposal.

1.14 PROPRIETARY DATA/PUBLIC RECORD

This Request for Proposal, together with copies of all documents pertaining to the award of a contract, shall be kept by EWEB and made a part of a file or record which shall be open to public inspection. If a proposal contains any information that is considered a trade secret under ORS 192.345(2), each sheet of such information shall be marked with the following legend:

"This data constitutes a trade secret under ORS 192.345(2), and shall not be disclosed, except in accordance with the Oregon Public Records Law, ORS Chapter 192".

The Oregon Public Records Law exempts from disclosures only bona fide trade secrets, and the exemption from disclosure applies only "unless the public interest requires disclosure in the particular instance" ORS 192.345(2). Therefore, non-disclosure of documents or any portion of a document submitted as part of a proposal may depend upon official or judicial determinations made pursuant to the Public Records Law. The above restriction may not include cost or price information, which shall be open to public inspection.

1.15 SOCIAL EQUITY

EWEB supports the use of Minority, Women, Emerging Small Businesses (M/W/ESB), local businesses, Disadvantaged Business Enterprises and Qualified Rehabilitation Facilities (QRF). EWEB encourages the awarded offeror to use the following voluntary practices to promote open competitive opportunities for disadvantaged businesses as applicable:

- a. Access lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business (OMWESB) by visiting their website at:
- b. Visit the Oregon State Qualified Rehabilitation Facilities Program website to search for Qualified Rehabilitation Facilities from whom to procure products or services.

SCHEDULE OF EVENTS

1.16

The schedule of events set out herein represent Eugene Water & Electric Board's **best estimate** of the schedule that will be followed.

Request for Proposal released	October 2, 2026
Voluntary Pre-Proposal Conference	October 14, 2026
Last day for EWEB to receive questions from Proposers	October 26, 2026
Last day EWEB will post Addenda on Bid Site	October 28, 2026
Closing date (last day to submit proposals to EWEB)	November 2, 2026
Responses evaluated	November 12, 2026
Intent to Award Announcement Posted on Bid Site	November 12, 2026
Board Approval	December 1, 2026
Contract Award	December 3, 2026

2. SCOPE OF WORK

2.1 BACKGROUND /OBJECTIVES

Throughout 2026, EWEB, the Oregon Department of Fish and Wildlife (ODFW) and Oregon Department of Environmental Quality (ODEQ) worked together, along with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to identify and investigate solutions to address the delayed implementation of fish passage at Trail Bridge Dam, as well as to mitigate effects of that delay. EWEB, ODFW, ODEQ have entered into a Memorandum of Agreement that establishes a Fish Enhancement Fund (“Fund”), to be administered by a third party. The Fish Enhancement Fund will partially or wholly fund the implementation of habitat, fish population enhancement or water quality improvements in the McKenzie River Basin for the benefit of fish and aquatic resources.

2.2 SCOPE OF WORK

The Fund Administrator will establish and act as the trustee of the Fund and will be required to maintain strict financial management protocols for the prudent management of monies contributed to the Fund, to invest Fund monies in interest-bearing accounts, and to seek matching grants where available to increase the benefits of EWEB’s annual contributions. The Fund Administrator will solicit, evaluate and establish a working relationship with a financial institution for the purposes of receiving and distributing monies contributed to the Fund. Specific Fund management protocols will be further described and agreed to in the statement of services in the Personal Services Contract awarded as a result of this Request for Proposals.

The Fund Administrator will be responsible for all initiation, management and administrative responsibilities for the Fund. The Fund Administrator may use a reasonable amount (no greater than 20%) of each annual payment for administrative costs and associated project management costs. The Fund will be funded by EWEB with an initial balance of approximately \$1.3 million followed by annual EWEB deposits of approximately \$215,000 for at least the next seven years.

The Fund Administrator will establish a technical team comprised of representatives from ODEQ, ODFW and other members of the Carmen-Smith FWG to evaluate and prioritize projects that meet the Fund’s purpose, with an emphasis on selecting projects that have secured matching funds to allow the Fund to be used for direct costs associated with meeting the Fund’s purpose. Periodic, in-person meetings with EWEB and members of the FWG may be required. The Fund Administrator may also be asked to facilitate procurement for project construction.

The Fund Administrator will prepare and distribute an annual report to ODEQ, ODFW and the FWG that summarizes expenditures over the life of the Fund, generally describes the types of projects undertaken during the prior year and itemizes the growth and expenditures of funds during the prior year and total amounts available for future funding proposals.

2.3 LENGTH OF CONTRACT.

The contract for this project (“Contract”) will start from the date of award, approximately December 3, 2026, and will last approximately 7 years.

2.4 APPROXIMATE ANNUAL TIMELINE OF WORK

- January – March - Process design, Introductory meetings with members of the ODFW, ODEQ and the FWG, initial research and solicitation of potential projects.
- March – September – Manage meetings with ODFW, ODEQ and the FWG to select projects to be funded , establish agreements with selected projects, process funding.
- October – December - Monitor and report on selected and funded projects.

2.5 LOCATION OF WORK

The location of the work to be performed, completed and managed at Contractor's business location and the McKenzie River Basin. Periodic meetings may be held at EWEB's offices in Eugene, OR. EWEB **WILL NOT** provide workspace for the Contractor. The Contractor must provide its own workspace.

3. MINIMUM QUALIFICATIONS (PASS/FAIL)

Minimum Qualifications (Pass/Fail)

Following are the “Minimum Requirements” that shall be met by all Proposers. Response to this section will be considered on a pass or fail basis. Response to each and all requirements must pass before a proposal will be reviewed and scored by the evaluation team.

Proposers shall respond to each of the Minimum Requirements in writing in a brief and concise manner. (See Submittal section following.) EWEB does not pre-qualify Proposers; your proposal must show that your firm meets the requirements. EWEB will attempt to answer questions or clarify the requirements if needed.

1. Proposer must have been in business providing fund management experience related to aquatic design or aquatic construction valued at least an average of \$3 million annually for at least 5 years.
2. Proposer must have experience managing funds with a similar structure and trustee responsibility to the scope of work described in RFP Section 2 above. This could include grant management or other types of mitigation or restorative funding.
3. Proposer must provide client references for 3 recent contracts providing similar services to the requirements in this RFP that are either in progress or have been completed within the last 5 years that will indicate quality of performance and demonstration of financial management best practices. EWEB reserves the right to contact clients referenced.
4. Proposer must also provide experience/performance information for key sub-contractors, if any, that will provide sub-consulting services for Proposer under this Contract.

SUBMITTAL OF PROPOSER QUALIFICATIONS

Please provide the following information on individual pages labeled "Minimum Qualifications".

1. Company Information:
 - a. Indicate whether Proposer is a sole proprietor, partnership, LLC, corporation or other (specify).
 - b. Indicate how many years Proposer has continuously been in business.
 - c. Indicate the number of years Proposer has had experience providing design, consulting or fund management services comparable to that required by this RFP and valued at a minimum of \$3,000,000 per year.
 - d. Describe your firm's experience managing funds with a similar structure and trustee responsibility to the scope of work stated in RFP Section 2. This could include grant management or other types of mitigation or restorative funding.
2. Related Project Experience / References

Proposer shall provide references for 3 recent contracts providing similar services to the requirements in this RFP that are either in progress or have been completed within the last 5 years that will indicate quality of performance and demonstration of financial management best practices. For each client reference, the following information shall be provided:

- a. Name of client
 - b. Project title and one sentence description of services furnished
 - c. Contracted completion date , actual completion date, and explanation for any completions that were later than the contracted completion date.
 - d. Original contracted cost, actual cost at time of Final Completion, and explanation for any material difference.
 - e. Client contact representative who is able to attest for Proposer's performance, including email address, telephone number, and city/state located in. (This person should be notified by Proposer that EWEB may contact him/her for purposes of checking references.)
3. Sub-Contractors
Provide names of any proposed key sub-contractors providing services under this Contract, if awarded, city/state of office location, and describe at least 2 projects that sub-contractor worked on with Contractor in the last 3 years. For each project, describe whether sub-contractor submitted work on time or if time had to be extended, by how long, and for what reason.

4. EVALUATION PROCESS & CONTRACTOR SELECTION

EWEB intends to use a Single-Tier evaluation process where award is based on written evaluation response, price, and successful negotiations of contract terms. Interviews will not be held. Further details follow.

The total number of points possible for written proposals is 100.

Points are assigned as follows:

<u>Criteria</u>	<u>Total Possible Points</u>
Minimum Qualifications	Pass/No Pass only
Company Experience	20
Project Approach	20
Key Staff Experience	20
References from Past Clients	20
Pricing Proposal	20
TOTAL POSSIBLE SCORE	100

4.1 Review and Acknowledgment of Defective Proposals

Due to limited resources, EWEB generally will not completely review or analyze proposals that on their faces fail to comply with the minimum mandatory requirements of the solicitation documents nor will EWEB generally investigate the references or qualifications of such proposals. Therefore, EWEB will not acknowledge whether or not an unsuccessful proposal was complete, responsive, responsible, sufficient, or lawful in any respect. This is a public solicitation, the processes and procedures which are established and required by Oregon law and EWEB adopted rules. Proposers are advised to strictly follow the process, procedures, and requirements as set forth in the RFP documents and not anticipate or rely on any opportunity to negotiate, beyond such limitations that are identified herein.

4.2 Right of Rejection

Proposers must comply with all of the terms of the RFP, EWEB Rules, and all applicable local, state, and federal laws, administrative rules, and regulations. The Purchasing Contact may reject any proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of the RFP.

Proposers may not make stipulations or restrict the rights of EWEB. If an Proposer does so, the Purchasing Contact may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

The Purchasing Contact may waive minor informalities that:

- do not affect responsiveness,
- are merely a matter of form or format,
- do not change the relative standing or otherwise prejudice other offers,
- do not change the meaning or scope of the RFQ/RFP,
- are trivial, negligible, or immaterial in nature,
- do not reflect a material change in the work, or,
- do not constitute a substantial reservation against a requirement or provision,

EWEB reserves the right to refrain from making an award if it determines that to be in its best interest.

A proposal from a debarred or suspended Proposer shall be rejected.

4.3 References

EWEB reserves the right to request and investigate any and all references and the past performance information provided in the proposal with respect to Respondent's successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on schedule, and lawful payment of employees and workers.

EWEB reserves the right to check any and all sources for information and to include sources other than the references provided in the Proposer's proposal. EWEB may consider information available from any such source including government bodies and regulatory authorities in evaluating respondents, including past experience EWEB has had with the Proposer.

4.4 Responsibility

EWEB reserves the right to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Proposer's responsibility for performing the Contract, as defined in Rule 3-0500. Submission of a signed proposal shall constitute approval for EWEB to obtain any information EWEB deems necessary to conduct the evaluation. EWEB reserves the right to request additional information or documentation from the successful Proposer prior to award of a contract. Such information may include, but is not limited to, current and recent balance sheets, income statements, cash flow statements, or a performance bond from an acceptable surety. Failure to provide this information will result in the rescission of EWEB's Intent to Award.

EWEB may postpone the award of the Contract after announcement of the apparent successful Proposer in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate responsibility shall render the Proposer non-responsible and shall constitute grounds for rejection of the proposal.

4.5 Clarification of Response

EWEB reserves the right to request clarification of any item in any proposal, or to request additional information necessary to properly evaluate a particular proposal. All requests for clarification and responses shall be in writing.

During the evaluation of Proposals, Proposers must respond to any request for clarification from the Evaluation Committee within 24 hours of request (Monday through Friday). Inability of the Evaluation Committee to reach a Proposer for clarification and/or failure of a Proposer to respond within the time stated may result in rejection of that Proposer's Proposal.

4.6 Evaluation Process

A single-tiered process will be used for this RFP. Written proposals will be evaluated; scoring and Contract award will be based on Proposers qualifications, experience, and pricing.

Pursuant to Rule 3-0230(14)(d), EWEB may employ methods of Contractor selection that include without limitation:

- (A) An award or awards based solely on the ranking of proposals;
- (B) Discussions leading to best and final offers, in which EWEB may not disclose private discussions leading to best and final offers;

- (C) Discussions leading to best and final offers, in which EWEB may not disclose information derived from proposals submitted by competing Proposers;
- (D) Serial negotiations, beginning with the highest ranked Proposer;
- (E) Multiple-tiered competition designed to identify, at each level, a class of Proposers that fall within a competitive range or to otherwise eliminate from consideration a class of lower ranked Proposers;
- (F) Any combination of methods described in this section.

4.7 Reserved

4.8 Contractor Selection

If a Contract is awarded, EWEB shall award the Contract to the responsible Proposer whose proposal EWEB determines in writing to be the most advantageous to EWEB based on:

- a) The evaluation process and evaluation factors described in this Request for Proposals;
- b) Any applicable preferences allowed by EWEB Rules, Division 2; and when applicable,
- c) The outcome of any negotiations authorized by this Request for Proposals

The firm with the highest total score as a result of written proposal/pricing scoring and successfully negotiated terms will be awarded the Contract.

4.9 Notice of Intent to Award

After the completion of the evaluation and final ranking, the Purchasing Contact will issue a written notice of Intent to Award to all Proposers and post on the OregonBuys website. The notice will set out the names and ranks of all Proposers and identify the Contractor selected for award ("Highest Ranked Proposer" or "Finalist").

4.10 Contract Negotiation

Upon announcement of Intent to Award, EWEB will begin negotiating a Contract with the Highest Ranked Proposer and shall conduct negotiations toward obtaining written agreement on:

- a) The Statement of Work;
- b) The Contract price, to the extent affected by negotiations regarding the Statement of Work; and
- c) Any exceptions, revisions, or alternate terms specifically identified in the Proposer's Cover Letter and accepted by EWEB for negotiation.

The Owner may request a Teams meeting with the Finalist during the negotiation process to discuss the scope of work, Contract terms, and any other matters requiring clarification or resolution.

Except as expressly authorized by EWEB, no new exceptions, revisions, objections, or alternate terms may be introduced after Proposal submission.

A sample contract (Exhibit #1) is attached for Proposer reference.

At any time during discussions or negotiations, EWEB may terminate such discussions or negotiations with the highest-ranked Proposer if it reasonably believes that:

- a) The Proposer is not discussing or negotiating in good faith; or
- b) Further discussions or negotiations with the Proposer will not result in the parties agreeing to the terms and conditions of a final Contract in a timely manner.

If EWEB terminates negotiations, EWEB may commence negotiations with the next highest ranked Proposer and continue the process until EWEB has determined to award the Contract to the Proposer with whom it is currently discussing or negotiating. If negotiations with any Proposer does not result in a Contract within

a reasonable amount of time, as determined solely by EWEB, EWEB may reject all proposals and cancel the RFP. Nothing in the rule precludes EWEB from proceeding with a new formal solicitation for the same Work described in the RFP that failed to result in a Contract.

4.11 Protests and Judicial Review of Competitive Bidding and Proposals

Pursuant to Rule 3-0740, a bidder or proposer may protest the award of a public contract or a notice of intent to award a public contract, whichever occurs first, if the bidder or proposer is adversely affected because the bidder or proposer would be eligible to be awarded the public contract in the event that the protest were successful; and the reason for the protest is that all higher ranked proposals are nonresponsive; EWEB has failed to conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials; EWEB has abused its discretion in rejecting the protestor's proposal or proposal as nonresponsive; or EWEB's evaluation of proposals or EWEB's subsequent determination of award is otherwise in violation of EWEB Rules.

Eligible Proposers protesting award shall follow the procedures described herein. Protests that do not follow these procedures will not be considered. This protest procedure constitutes the sole administrative remedy available to Proposers.

- a) Protests must be emailed to the Purchasing Contact and received within seven (7) days after the notice of intent to award the Contract has been posted on the bid site. "Protest of RFP 26-171-PSC" shall be entered in the subject header of the email. The Purchasing Contact will email a reply acknowledging receipt of the notice. EWEB will not consider late protests.
- b) All protests must be in writing, signed by the protesting party or an authorized Agent and submitted to the EWEB Purchasing Contact listed on page 1. The protest must state all facts and arguments on which the protesting party is basing the protest.
- c) Only protests stipulating an issue of fact concerning a matter of bias, discrimination or conflict of interest, non-compliance with procedures described in the procurement documents, or EWEB policy shall be considered. Protests based on procedural matters will not be considered.
- d) EWEB's Purchasing Supervisor will review the protest and will email the protesting party a written response within three (3) business days of receipt of the written protest to the email provided in Proposer's proposal. Any written response may be comprised of a determination of the protest, a notice to the protesting party of the need for additional time in which to evaluate the matter, or other notice to the protesting party.
- e) If the Purchasing Supervisor's determination (response) is adverse to the protester, any further appeal of the Purchasing Supervisor's determination (response) by the party must be submitted via email to EWEB's General Manager within three (3) business days of issuance of the Purchasing Supervisor's determination (response).
- f) EWEB's General Manager will review any appeal of the Purchasing Supervisor's determination and shall email the protesting party a written response within three (3) business days of receipt of written appeal to the email provided in Proposer's RFP response,
- g) If the determination of the General Manager is adverse to the protesting party's interest, the protesting party may only appeal to EWEB's Board of Commissioners by filing an emailed notice of appeal to the Board with the General Manager within two (2) business days of issuance of the General Manager's written determination.

- h) The Contract Review Board, in considering the protest, shall review the documentation presented to the Purchasing Supervisor and the General Manager on or before the next regularly scheduled Board Meeting, but in no event shall they be required to review in less than ten (10) business days, and thereafter, base their decision on such material. The Board review will be limited to the evaluation of compliance with EWEB's policies and procedures, requirements of the RFP and the equal and fair application of EWEB's contracting rules. The Contract Review Board's determination shall be EWEB's final decision.

An adversely affected or aggrieved Proposer must exhaust all avenues of administrative review procedures and relief before seeking judicial review of EWEB's Contractor selection or Contract award decision.

5. EVALUATION CRITERIA

Instructions - Include in your proposal package a response to the following questions, listing the question first and the response directly beneath. ***Failure to respond to one or more questions could lower total score or cause the response to be deemed Non-Responsive and rejected.***

5.1 Company Experience (20 points possible)

- a. Demonstrate qualifications to complete the requested services.
- b. For each of the 3 projects cited by Proposer for Section 3 ***Submittals for*** Minimum Qualifications, question #2, provide the following :
 - 1) Project Title
 - 2) Complete description of work contracted and performed.
 - 3) Discuss how the work performed relates to the scope of work provided in Section 2 of this RFP.

5.2 Project Approach (20 points possible)

Demonstrate Proposer's ability to clearly define the desired action to be taken and to perform the tasks and subtasks identified in the Scope of Work. Response should include the proposed schedule for delivery of major task milestones and indicate management approach to be utilized when addressing key issues of the project.

Points will be awarded based on a clear demonstration of ability to meet the deadline while accounting for unanticipated delays. Points will also be awarded for a complete project timeline that indicates the critical path and tasks that require EWEB personnel to complete.

5.3 Key Staff Experience (20 points possible)

Demonstrate Proposer's team qualifications and experience relating to the requested services. References listed, or other documented references may be used by EWEB during the evaluation of this criterion.

Response should address the following:

- Extent of principal involvement;
- Names of key members who will or likely will be performing the work on [these/this] project(s) and their responsibilities;
- Short description of experience using teams on similar or related projects; and
- Project Manager's experience with similar projects and interdisciplinary teams.
- Percent of time each key person will be working on EWEB's project.

5.4 References from Past Clients (20 points possible)

EWEB will contact the client references listed in 5.1 above (and submitted for Section 3 Minimum Qualifications). Please ensure your client representatives are still available at the contact email and phone provided and that they are willing to speak to EWEB regarding your past project(s).

5.5 Pricing Proposals (20 points possible)

The Proposer's total not-to-exceed fee for the seven-year contract term will be compared to the lowest total fee proposed. Fee scores will be based on the percentage by which each Proposer's total fee exceeds the lowest proposed fee.

Proposed Fee

- A. The table below is for the purpose of determining pricing proposals and, if awarded the Contract, Proposer's proposed fees will be reflected in the resulting Contract as the Base Fees. Each year however, the annual contribution will be adjusted by the rate of inflation, in which case, the Consultant's fee will be adjusted by the same rate.

Consultant's proposed fee: _____%

as a % of annual EWEB contributions (not to exceed 20%)

Please note the following for any reimbursable expenses:

- i. Reimbursable out-of-pocket expenses will be included in the fee proposed above and reimbursed at Contractor's actual cost, with no additional mark-up applied. Expense receipts will be attached to invoices for reimbursement.
- ii. Travel expense, including transportation, lodging, meals etc. will comply with federal per diem requirements. Expense receipts for travel only under Federal GSA are not required. Detailed information can be found at:

<https://www.gsa.gov/travel-resources>

6. PROPOSAL FORM

Proposals should be prepared and organized in a clear and concise manner and must include all information required by this RFP. Separate and clearly identify all sections and include a Table of Contents. Headers and titles should be used to identify required information.

A. PROPOSAL PACKAGE

RETURN THE FOLLOWING WITH YOUR RFP RESPONSE, PER SECTION 1.8(B).

(Failing to include these documents could lead to rejection of Proposal.)

Place a check in front of each item indicating inclusion in your response)

☐

COVER SHEET, with introduction of firm and the following:

- **Contractual Acceptance:** Statement accepting ALL terms and conditions contained in this solicitation. Statement may include request for negotiation of proposed terms and conditions as allowed per Section 1.8(B).
- **Termination for Default:** Proposers shall indicate if they have had a contract terminated for default in the last five years. Termination for default is defined as notice to stop performance that was delivered to the Proposer due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and determined that the Proposer was in default.

NOTE: If a Proposer has had a contract terminated for default in this period, then the Proposer shall submit full details including the other party's name, address and phone number. EWEB will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of Proposer's past performance.

☐

RESPONSE TO MINIMUM QUALIFICATIONS per Section 3

☐

RESPONSE TO ALL EVALUATION CRITERIA listed in Section 5

☐

PROPOSAL FORM – This Section 6

☐

ALL POSTED ADDENDA ACKNOWLEDGED

☐

ALL DOCUMENTS COMBINED INTO ONE PDF FILE

B. ACKNOWLEDGMENT OF RECEIPT OF ADDENDA TO RFP DOCUMENTS:

Proposer acknowledges all Addenda and agrees to be bound by their contents.

Circle each RFP Addendum received: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10

Check if not applicable or no Addenda were received: _____

C. MWESB STATUS

EWEB encourages contracting with minority owned, woman owned, and emerging small businesses (MWESB). The State of Oregon offers a certification process. Indicate below if your business is a MWESB and if so, which categories have been state certified.

MWESB Certified? (Indicate Yes or No) _____

If yes, please indicate which of the following applies: _____

Minority Owned, Woman Owned, Emerging Small Business, or Veteran Owned

D. BIDDER RESIDENCY

ORS 279A.120 states, "For the purposes of awarding a public contract, a contracting agency shall":

- (a) Give preference to goods or services that have been manufactured or produced in this state if price, fitness, availability and quality are otherwise equal; and
- (b) Add a percent increase to the bid of a nonresident bidder equal to the percent, if any, of the preference given to the bidder in the state in which the bidder resides.

"Resident Bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid whether the bidder is a "Resident Bidder" under this paragraph.

"Non-Resident Bidder" means a bidder who is not a "Resident Bidder" as defined above.

a. CHECK ONE: Bidder is a () RESIDENT Bidder () NON-RESIDENT Bidder.

b. If Resident Bidder, enter your Oregon business address: (physical and mailing address)

c. If a Non-Resident Bidder, enter state of residency:

d. If a Non-Resident Bidder, do you or your Company receive, or are you or your Company eligible for any preference in award of contracts with your state's government or with other governmental bodies in your state?

CHECK ONE: () YES () NO

If YES, state the preference percentage: _____%

If YES, but not a percentage of bid price, describe the preference:

If YES, state the law or regulation that allows the preference described (legal citation):

E. ACKNOWLEDGEMENT OF INDEPENDENT CONTRACTOR STATUS

The undersigned acknowledges that:

1. Contractor certifies its status as an independent contractor in satisfaction of Oregon law, including ORS 670.600, and shall perform all required Work as an independent contractor. EWEB holds the right (i) to determine the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, but EWEB cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.
2. The parties covenant that Contractor, its sub-contractors, agents, officers and representatives do not qualify as officers, employees, or agents of EWEB as those terms are used in ORS 30.265 nor shall they seek such qualification relating to performance of the Work.
3. Contractor agrees it is responsible for all federal and state taxes or other payments or withholdings applicable to compensation or payments paid to Consultant under this Contract and shall hold EWEB harmless from such financial exposures.

PROPOSER SIGNATURE / EXECUTION OF RFP SUBMISSION

F. ASSURANCES:

The undersigned attests that they:

Have read and understand all instructions, requirements, Addenda, site conditions, and terms and conditions contained herein (including the attachments and exhibits listed in this solicitation).

Have the authority and/or responsibility to submit a proposal and to bind their organization in all phases of this RFP process.

Confirm the information provided is true and accurate to the best of their knowledge.

Understand that any false statement may disqualify this offer from further consideration or may be cause for Contract termination.

Have not and will not discriminate against a sub-contractor in the awarding of a sub-contract because the sub-contractor is a disadvantaged minority, women or emerging small business enterprise certified under ORS 200.055.

Represent and warrant to EWEB that they have the power and authority to enter into and perform work under an awarded Contract and that the Contract, when executed by EWEB and Contractor, the Contract shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms.

Arrived at the specifics of the proposal, including price and amounts, independently and without communication or agreement with another Proposer, except as disclosed in a separately attached statement;

Will arrive at price and amounts independently and without communication or agreement with another Proposer;

Have not directly or indirectly induced or solicited another Proposer, in order to benefit a third person, to submit a false or sham proposal, to refrain from proposing, or to change a proposal;

Will not directly or indirectly disclose the Proposer's proposal price, a breakdown of the price, the contents of the price or information or data related to the price to another Proposer;

Will not seek through communication or agreement with a person to fix the proposal price of the Proposer or another Proposer, to fix an overhead, profit or cost element of the proposal price of the Proposer or another Proposer or to secure any advantage against the contracting agency or any other person interested in the public contract;

Have not directly or indirectly expressed an interest or lack of interest in the public contract, or paid or offered to pay a fee to a person, to cause a collusive or sham proposal;

Contractor, by signing this Proposal Form, represents and warrants that, if awarded, Contractor's performance under this contract will create no potential or actual conflict of interest, including but not limited to conflicts of interest as defined in ORS 244.020. Contractor further warrants that no state or federal law or EWEB rule will prevent Contractor's lawful performance of an awarded contract. If Contractor is currently performing work for EWEB or another governmental entity, Contractor's participation in other public contracts will not create a potential or actual conflict of interest in performance of this Contract, if awarded.

PROPOSER INFORMATION:

Proposer Company Name

Company Address (from which work will be performed)

Telephone Number

Company Web Address

Person Signing RFP _____ Title _____
Please print or type Name

Signature: _____

Email Address: _____

RFP CONTACT (if different than above)

RFP Representative _____ Title _____
Please print or type Name

Signature: _____

Email Address: _____

Phone: _____



Personal Services Contract

Carmen-Smith Mitigation Fund Administrator

Contract No. 26-171-PSC

By and between

Eugene Water & Electric Board

and

Contractor

This Contract is entered into by and between the **Eugene Water & Electric Board**, hereinafter called EWEB, and _____, hereafter called Contractor.

WHEREAS, EWEB has need for the services of an independent contractor with the particular training, knowledge, and experience offered by the Contractor; and

WHEREAS, EWEB has negotiated the following Agreement in Eugene, Oregon, and Contractor has agreed to deliver its services in Eugene, Oregon and Linn County, Oregon;

NOW THEREFORE, in consideration of a sum agreed to by the Parties, the Contractor agrees to perform the services as described in this Contract, in accordance with all requirements, terms and conditions of this Contract, as set forth below:

DEFINITIONS

"Consultant" or "Contractor" means the Person with whom EWEB enters into a Contract.

"Contract" or "Contracts" means the Written agreement(s), resulting from the Solicitation Document that sets forth the rights and obligations of the parties.

"Contract Administrator" or "Project Manager" means the person designated by EWEB to administrate the Contract on EWEB's behalf.

"Deliverable" means the outcomes resulting from the Work in accordance with the terms and conditions of this Contract.

"Person" means a natural person capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, any other person with legal capacity to contract or a public body.

"Personal services" requires specialized knowledge and skill in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgement and usually requiring a license, certification, or registration.

"Rule" means a Rule within the EWEB Public Contracting Rules.

"Services" and "Work" means the furnishing of all materials, equipment, labor, and incidentals necessary to successfully complete any individual item or the entire Contract and successful completion of all duties and obligations imposed by the Contract.

"Working hours" means EWEB's regular business hours, which currently are Monday through Friday, 8 a.m. to 5 p.m., excluding EWEB recognized holidays.

All other terms not expressly identified above shall have the meanings as set forth in EWEB Public Contracting Rules, Division 1 - Definitions.

ARTICLES

HEADINGS: The section ("Section" or "Article") headings in this Contract are included for convenience only; they do not give full notice of any portion of the terms of this Contract and are not relevant to the interpretation of any provision of this Contract.

CONTRACT COMMENCEMENT

1. Effective Date And Duration

This Contract shall become effective on the date this Contract has been signed by every party hereto and, when executed by EWEB's Purchasing Supervisor. Unless terminated or extended, this Contract shall expire on _____, 2031. Expiration shall not extinguish or prejudice EWEB's right to enforce this Contract with respect to any breach of a Contractor warranty or any default or defect in Contractor's performance that has not been cured.

PRICING AND PAYMENT

2. Contract Consideration

The "Maximum, Not-to-exceed Compensation" payable to Contractor under this Contract (based upon the established fees herein), which includes any allowable expenses, is \$_____. Additional pricing detail, if any, is provided in Attachment A – Statement of Services.

3. Invoicing & Payment

a. **Contract Administrator** - EWEB's Contract Administrator is **insert name**.

b. **Payment Process** - Interim payments to Contractor shall be made according to the following:

Cost Calculation: The Contract establishes an estimated number of hours for Contractor to complete all Work described in Attachment A - Statement of Services, as well as a Maximum Not-to-Exceed Compensation amount (Section 2) for the overall Contract. The cost of the Services shall be determined by multiplying the number of Contractor hours for each Contractor employee providing services during the invoice period multiplied by the applicable hourly billing rate identified in the Contract for each employee.

Contractor understands and agrees that it is responsible for performing all Work under this Contract without exceeding the total number of hours allocated for the Work or the maximum not-to-exceed compensation stated in the Contract. Contractor is responsible to complete the Work to EWEB's satisfaction without further compensation.

Invoicing: EWEB shall pay Contractor not more than once per month upon Contractor's submission of a sufficiently detailed invoice for Services provided to EWEB during that month. Invoices shall be submitted to EWEB's Contract Administrator for this Contract.

All invoices shall describe:

- Itemization of all Work performed, specifying by whom it was performed, including name, job title, and reference to the specific Work activity.
- All itemized expenses for which reimbursement is claimed.

EWEB Review: EWEB will have the right to review each invoice for compliance with the requirements and any other pertinent provisions of this Contract. If Contractor uses a billing agent, responsibility for billing errors remains with Contractor.

Payment Terms: EWEB will make payment in accordance with its regular payment schedule: Net 30 days from receipt of a valid, undisputed invoice.

c. Non-Compliance with Payment Terms:

- No payment will be made for any Work performed before the beginning date or after the expiration date of this Contract.
- Contractor shall not submit invoices for and EWEB shall not pay any amount in excess of the Maximum Not-to-Exceed Compensation stated in the Contract. If this maximum amount is increased by amendment of this Contract, the amendment must be fully approved and executed before Contractor performs Work subject to the amendment.
- EWEB reserves the right to withhold payment for Services not performed.

4. Annual Rate Increases

EWEB will approve price increases of 3% maximum on each anniversary of Contract execution date.

EWEB will not accept price increases of any kind the first 12 months of the Contract period.

CONTRACTOR'S SERVICES

5. Statement of Services

Statement of Services / Scope of Work

The Statement of Services, including the scope of work (the "Work"), the delivery schedule for such Work, and description of outcomes ("Deliverables"), is contained in Attachment A, attached and incorporated by reference into this Contract. Contractor agrees to perform the Work in accordance with the terms and conditions of this Contract.

Non-Interference with Work Site.

If Contractor has need to perform any of its work activities on an EWEB work site, Contractor shall perform such work activities in such a manner that they will not interfere with the normal work activities of EWEB. Contractor shall not block access to any work areas and shall maintain a safe passage for normal EWEB business activities.

6. Key Persons or Reserved [BUYER: Enter names of Key Persons, if any, in Attachment A]

Contractor acknowledges and agrees that a significant reason EWEB is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the Contract. Under this Contract, EWEB is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless EWEB provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide EWEB with such Key Person's services unless EWEB provides prior written consent to such reassignment or transfer.

In the event Contractor requests EWEB to consent to a delegation, reassignment, transfer or other replacement of a Key Person, EWEB may interview and review the qualifications of the proposed substitute personnel before providing its consent or rejecting such replacement. Any such replacement shall have substantially equivalent or better qualifications than the Key Person being replaced. Contractor shall not charge EWEB and EWEB shall not pay for any proposed replacement personnel while such replacement acquires the necessary skills and project knowledge to proceed with the services required hereunder. Any replacement personnel approved by EWEB shall thereafter be deemed a Key Person for purposes of this Contract and the Contract shall be deemed amended to include such Key Person.

Contractor shall provide adequate staff to complete the Work and the Deliverables in accordance with the delivery schedules set forth in the Statement of Services, as it is amended from time to time. In the event that a Key Person or other employee of Contractor shall be subsequently found to be unacceptable to EWEB, EWEB shall notify Contractor in writing of such fact and Contractor shall immediately remove such employee from all responsibilities hereunder. Contractor shall provide a replacement acceptable to EWEB within three (3) business days of receipt of EWEB's written notice provided under this Section. The provisions of this Section shall be applicable to the replacement of a Key Person. At EWEB's sole discretion, EWEB may elect to terminate this Contract for convenience, pursuant to Sections 12 and 13 of this Contract, if Contractor is unable to provide a replacement acceptable to EWEB.

The Key Person(s) for this Agreement, if any, shall be formally noted in Attachment A.

7. Reserved

PERFORMANCE

8. Performance

Contractor shall perform all services required by this Contract within the time specified in this Contract, including extensions. The Work under this Contract will be performed in accordance with the professional standards of skill and care ordinarily exercised by members of that profession under similar conditions and circumstances, and if there is no licensing requirement for the profession or work required for this Contract, that they will be duly qualified and professionally competent in accordance with the standards of the profession.

Failure to meet the performance requirements of this Contract shall constitute breach of contract, per Section 10 below.

9. Inspection & Modification

The Contractor is responsible for the completion of all Work set out in the Contract. All Deliverables are subject to EWEB inspection, evaluation, and final approval by the Contract Administrator. EWEB may employ all reasonable means to ensure that the Work is progressing and being performed in compliance with the Contract. Should the Contract Administrator determine that corrections or modifications are necessary in order to accomplish its intent, the Contract Administrator may direct the Contractor to make such changes. The Contractor will not unreasonably withhold such changes.

10. Deficiencies and Remedies

Quality Issues - If EWEB determines that any Deliverables are not Acceptable and that any deficiencies are the responsibility of the Contractor, EWEB shall issue a formal Notice to Cure, including a detailed written description of any deficiencies and an associated time frame for correction, and deliver such notice to

Contractor. Contractor shall submit a plan to correct any deficiencies within the time frame allotted, and if accepted by EWEB, shall perform the corrections at no cost to EWEB.

Contractor On-Time Delivery of Service - Time is of the essence in the performance of this Contract. **(A.21)** If the Work will be delayed due to Contractor performance, EWEB will issue a formal Notice to Cure and the Contractor will submit a plan for regaining the project schedule for remaining Work under the Contract, at no additional cost to EWEB.

Delay Due to EWEB - If EWEB determines the Contract schedule must be modified due to EWEB delay, a Contract amendment will be executed to extend the Contract or task.

Contractor Failure to Correct Deficiencies - If a formal Notice to Cure has been issued and the identified deficiencies have not been corrected within the specified timeline, EWEB, by written notice to Contractor, may terminate the whole or any part of this Contract for breach of Contract.

Non-Exclusive Rights and Remedies - The rights and remedies of EWEB provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

11. Acceptance of Deliverables.

When EWEB determines that all Deliverables conform in accordance with the Statement of Services; then EWEB shall notify Contractor in writing / email that "Acceptance" of submitted Deliverables has occurred.

EARLY TERMINATION

12. Early Termination

This Contract may be terminated as follows:

a. Termination for Convenience

1. EWEB and Contractor, by mutual written agreement, may terminate this Contract at any time.
2. EWEB in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.

b. EWEB Termination for Cause

1. **EWEB Non-Appropriation of Funds** - If payment for Deliverables purchased under this Contract extends into EWEB's next fiscal year, EWEB's obligation to pay for such Deliverables is subject to approval of future appropriations to fund this Contract by the EWEB Board of Commissioners. If EWEB fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work, *EWEB shall terminate the Contract immediately.*
2. **Regulatory Changes** - EWEB may terminate this Contract if Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this Contract is prohibited or EWEB is prohibited from paying for such Work from the planned funding source. *Termination shall take effect on the date the law, regulation or guidelines takes effect, or with 30 days written notice, whichever comes first.*
3. **Contractor Loss of Licensure** – *EWEB may terminate this Contract immediately* if Contractor no longer holds an applicable license or certificate required to deliver the Goods required by the Contract.

4. **Contractor Breach of Contract** - EWEB may terminate this Contract if Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within the time specified in the Notice to Cure issued by EWEB. If Contractor fails to cure the breach or default, *Contract will be formally terminated either upon the date specified in the Notice to Cure or on the date specified in a separate Notice of Contract Termination issued by EWEB.*

c. Contractor's Right to Terminate for Cause

1. **EWEB Non-payment** – Contractor may terminate the Contract *within 15 calendar days after receipt of Contractor's notice*, or such longer period of cure as Contractor may specify in its notice, if EWEB fails to pay Contractor under a formally issued purchase order for Accepted Goods pursuant to the terms of this Contract.
2. **EWEB Material Breach of Contract** - Contractor may terminate this Contract, for reasons other than nonpayment, if EWEB commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the times specified, or so fails to perform as to substantially endanger Contractor's performance under this Contract, and such breach, default or failure is not cured *within 15 business days after delivery of Contractor's notice, or such longer period as Contractor may specify in such notice, whichever is the longer period.*
3. **EWEB Rejection of Requested Price Increase** - Contractor may opt to terminate this Contract *with 6 months' formal written notice of termination* if EWEB rejects requested price increases, per Section 4 of this Contract.

13. Payment Upon Early Termination

Upon termination pursuant to Section 12, payment shall be made as follows:

- a. If terminated for any reason other than EWEB's Termination due to Contractor breach of Contract, EWEB shall pay Contractor for all Goods and Services delivered under any formal EWEB purchase order issued prior to the email date of Notice of Termination ("Termination Date") if Deliverables are Accepted by EWEB in accordance with the Contract requirements and terms. EWEB will not pay for Non-Accepted Goods and Services and will return them to Contractor FOB Shipping Point if Contractor authorizes within 15 business days. EWEB shall not be liable for direct, indirect, special, or consequential damages. Termination shall not result in a waiver of any other claim EWEB may have against Contractor.
- b. Termination by EWEB for Contractor Breach of Contract - If terminated under 12(B)(4) by EWEB due to a breach by the Contractor, then EWEB shall pay the Contractor for all Accepted Goods and Services delivered under authorized EWEB purchase orders, less any other setoff to which EWEB is entitled. (For example, EWEB may require the Contractor to reimburse monies paid based on the identified portion of unacceptable work received and may seek associated damages.)

EWEB will not pay for Non-Accepted Services and will return them to Contractor FOB Shipping Point, if Contractor so authorizes within 15 business days. EWEB shall not be liable for direct, indirect, special, or consequential damages. Termination shall not result in a waiver of any other claim EWEB may have against Contractor.

EWEB shall also be entitled to any other equitable and legal remedies that are available.

RISK

14. Insurance

Contractor shall provide certificates of insurance as described below. No work under this Contract shall commence until all insurance requirements have been met.

- a. **Certificates of Insurance.** As evidence of the insurance coverage required by this Contract, the Contractor shall furnish certificate(s) of insurance to the EWEB Purchasing Department, before final award can be authorized and must list the Contract number in the "Description of Operations" section. The insurance coverage required under this Contract shall be obtained from insurance companies or entities having a minimum financial rating of A.M. Best's Key Rating A-; VII or higher. The Contractor shall be financially responsible for all deductibles, self-insured retention and/or self-insurance included hereunder.

Contractor shall ensure Contractor's subcontractors procure the same types/categories of insurance as required for Contractor; limits shall be commensurate with each subcontractor's scope of work.

- b. **Commercial General Liability.** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance written on the current ISO occurrence form (or a substitute form providing equivalent coverage) including coverage for premises, operations, independent contractors (performing Work on Contractor's behalf), completed operations and contractual liability. The limit shall not be less than \$1,000,000 per occurrence and subject to an aggregate limit of no less than \$2,000,000.

The insurance must include EWEB, its' divisions, officers, and employees as additional insureds and must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by EWEB or other additional insureds is in excess of Contractor's insurance, contingent and non-contributory.

The insurance must include a waiver of subrogation in favor of EWEB, its' divisions, officers, and employees.

- c. **Automobile Liability.** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Automobile Liability Insurance to cover liability arising out of any auto (including owned, hired and non-owned) used in connection with the Work or Services. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent.

The insurance must include EWEB, its' divisions, officers, and employees as additional insureds and must apply as primary insurance without any contribution from any other insurance or self-insurance afforded to such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured. Insurance or self-insurance maintained by EWEB or other additional insureds is in excess of Contractor's insurance, contingent and non-contributory.

The insurance must include a waiver of subrogation in favor of EWEB, its' divisions, officers, and employees.

- d. Workers' Compensation.** All subject employers working under this Contract are either employers that will comply with ORS 656.017 which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers, or employers that are exempt under ORS 656.126. [2003 c.794 §76c] In addition, Contractor will obtain, at Contractor's expense, and keep in effect during the term of this Contract, Employers Liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and a \$1,000,000 policy limit for bodily injury by disease.

The insurance must include a waiver of subrogation in favor of EWEB, its' divisions, officers, and employees.

- e. Notice of Cancellation or Change.** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days' written notice from Contractor or its insurer(s) to EWEB.

Failure to Maintain Insurance. If at any time Contractor fails to maintain insurance complying with the requirements reflected herein, in full force and effect, they shall be responsible for any resulting losses or costs sustained by EWEB and shall hold EWEB harmless from actions brought against Contractor as the result of the absence of the required insurance, and (ii) EWEB shall not be required but may elect to do any of the following: (A) immediately suspend all or a portion of the Work and be entitled to an equitable adjustment in the price, schedule and other terms of the Contract for the impact of the suspension (B) pay premiums or purchase alternate insurance at the Contractor's expense; or (C) pursue such other remedies as may be allowed by law.

Failure to Comply. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by EWEB.

- f. Professional Liability insurance (Errors and Omissions)** With a minimum single limit of \$2,000,000 to cover claims arising out of Contractor's professional services hereunder. This policy shall be maintained for a minimum of one (1) year after EWEB's acceptance of Contractor's Work.

g. Waiver of Insurance Requirements

Contractor's failure to provide certificates of insurance as specified herein and/or in the manner specified herein does not constitute a waiver of the insurance requirements. Any waiver of the insurance requirements will only be made in writing.

15. Force Majeure

Unless this contract is executed to remedy an act(s), occurrence(s), or event(s) stated herein, neither Party shall be liable for delays in the execution of its obligations due to causes beyond its reasonable control, including, but not limited to acts of God, fires, strikes, labor disturbances, floods, epidemics, quarantine restrictions, war, insurrection or riot, acts of a civil or military authority, compliance with priority orders or preference ratings issued by the federal Government, acts of Government authorities with respect to revocation of export or re-export permits/licenses, wrecks, or unusually severe weather. The parties shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of ~~its~~ their obligations under this Contract.

In the event of any such delay, the required date of services will be extended for a period of time equal to the period of the delay, or as short a period as is reasonably possible.

EWEB may terminate this Contract for Convenience per Sections 12 and 13 upon written notice after reasonably determining that such delay or default will likely prevent successful use of the Services provided under this Contract due to quality or timing issues.

- 16. Indemnification.** Contractor shall defend, save, hold harmless, and indemnify EWEB, its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses by either Contractor or any third parties resulting from, arising out of, or relating to any error, omission, breach of contractual duty, or negligent act of the Contractor or its officers, employees, subcontractors, or agents in the performance of services under this Contract.

OWNERSHIP

17. Ownership of Work / Work Made for Hire

- a. All Work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of EWEB. EWEB and Contractor intend that such Work Product be deemed "Work made for hire" of which EWEB shall be deemed the author. If for any reason the Work Product is not deemed "Work made for hire", Contractor hereby irrevocably assigns to EWEB all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as EWEB may reasonably request in order to fully vest such rights in EWEB. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- b. To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, the Contractor shall be released, indemnified, and held harmless by EWEB from liability arising out of re-use or alteration by EWEB, which was not specifically contemplated and agreed to by the parties.
- c. Contractor, despite other conditions of this provision, shall have the right to utilize the Work Product on its brochures or other literature that it may utilize for its sales and, in addition, unless specifically otherwise exempted, the Contractor may use standard line drawings, specifications and calculations on other, unrelated projects.

18. Reserved

EMPLOYEES AND SUBCONTRACTORS

19. Anti-Discrimination

Contractor shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, source of income, or political affiliation in programs, activities, services, benefits or employment. Contractor shall not discriminate against minority-owned, women-owned or emerging small businesses.

20. Equal Opportunity Employer

EWEB is an Equal Employment Opportunity and Affirmative Action employer and requires contractors and their subcontractors to follow EEO/AA practices in their performance of this Contract.

21. Hours of Labor

Contractor shall pay employees for overtime work performed under the public contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

22. Reserved

23. Tobacco Free Workplace

EWEB campuses, worksites, vehicles, and equipment (known collectively as "EWEB Campus"), are smoke-free. Contractors and their staff may not use or distribute tobacco products in any EWEB Campus, nor can they inhale, exhale, burn, or carry any lighted smoking material or vapor. Contractors and staff must extinguish or cease use prior to entering any EWEB campus and must dispose of tobacco products appropriately prior to entry. Improper disposal includes littering, spitting smokeless tobacco, or any measure which creates a fire or hazard or could disrupt the campus or worksite.

24. EWEB Payment of Contractor Claims

- a. Contractor shall make payment promptly, as due, to all persons supplying Contractor labor, equipment or material for work under this Contract; pay all contributions or amounts due the Industrial Accident Fund from Contractor or any subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against EWEB on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- b. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, EWEB may, but is not obligated to pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of this Contract. The payment of a claim under this section shall not relieve Contractor or Contractor's surety from any obligation with respect to any unpaid claims. ORS 279B.220.

25. Payment for Medical Care

Contractor agrees to make payment promptly, as due, to any person, co-partnership, association or corporation furnishing medical, surgical, hospital or other needed medical care to Contractor's employees. Such payment shall be made from all sums which Contractor has agreed to pay for such services and from all sums which Contractor has collected or deducted from the wage of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such services.

All subject employers working under this contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. [2003 c.794 §76c]

INDEPENDENT CONTRACTOR

26. Independent Contractor; Responsibility for Taxes and Withholding

- a. Contractor certifies its status as an independent contractor in satisfaction of Oregon law, including ORS 670.600, and shall perform all required Work as an independent contractor. EWEB holds the right (i) to determine the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, but EWEB cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.
- b. The parties covenant that Contractor, its subcontractors, Agents, Officers and Representatives do not qualify as officers, employees, or agents of EWEB as those terms are used in ORS 30.265 nor shall they seek such qualification relating to performance of the Work.

- c. Contractor agrees it is responsible for all federal and state taxes or other payments or withholdings applicable to compensation or payments paid to Contractor under this Contract and shall hold EWEB harmless from such financial exposures.

ADMINISTRATION OF CONTRACT AND RECORDS

27. Confidentiality / Non-Disclosure

- a. Confidential Information. Contractor acknowledges that it and its employees or agents may, in the course of performing its responsibilities under this Contract, be exposed to or acquire information that is confidential to EWEB or EWEB's clients. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract shall be deemed to be confidential information of EWEB ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is furnished by EWEB to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information; or (e) is required to be disclosed by law.
- b. Non-Disclosure. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of services to EWEB hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.
- c. Unauthorized Use. Contractor shall use its best efforts to assist EWEB in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise EWEB immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Contractor will at its expense cooperate with EWEB in seeking injunctive or other equitable relief in the name of EWEB or Contractor against any such person.

Contractor is required to have policies and procedures designed to detect, prevent and mitigate the risk of identity theft to any EWEB customer, employee, or Board Member's personally identifiable information that may arise in the performance of the services on behalf of EWEB. Contractor shall provide a copy of its policies and procedures, if requested by EWEB. If a pattern, practice or specific activity or event that indicates the possible existence of identity theft (hereinafter "red flag") is detected, the Contractor is required to take appropriate steps to prevent or mitigate identity theft and to immediately notify EWEB of the red flag as well as the responsive measures taken by the Contractor.

Contractor agrees to comply with The Oregon Identity Theft Protection Act, ORS 646A.600-646A.628, and related federal compliance requirements referenced therein.

- d. Return of Confidential Information. Contractor agrees that, except as directed by EWEB, Contractor will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Contract or at EWEB's request, Contractor

will turn over to EWEB all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

- e. Injunctive Relief. Contractor acknowledges that breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to EWEB inadequately compensable in damages. Accordingly, EWEB may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of EWEB and are reasonable in scope and content.
- f. Ensuring Confidentiality. Contractor agrees to comply with all reasonable requests by EWEB to ensure the confidentiality and nondisclosure of the Confidential Information, including without limitation (a) obtaining nondisclosure agreements, in a form approved by EWEB, from each of Contractor's employees and agents who are performing Work, and providing copies of such agreements to EWEB, and (b) performing criminal background checks on each of Contractor's employees and agents who are performing Work, and providing a copy of the results to EWEB.

28. Security & Access to Records, Documents, and Property

Security of Documents and Property

All EWEB property, materials and documents and all personal property of EWEB employees are to be left undisturbed and are not to be handled, read or otherwise used by Contractor or Contractor's employees, except to the extent required by the Contract. Contractor shall consider all documents confidential. Any disclosure of confidential information or removal of EWEB property by Contractor or Contractor's employees shall be cause for immediate contract termination. Any liability, including but not limited to, attorney fees, arising from any action or suit brought against EWEB because of Contractor's willful or negligent release of information, documents or property shall be borne by Contractor.

Access to Records

Contractor shall maintain fiscal records and all other records **pertinent to this Contract**. Records shall be maintained pursuant to generally accepted accounting standards, and other records shall be maintained to the extent necessary to clearly reflect actions taken in the provision of the products required herein. All such records shall be retained and kept accessible for at least three years following final payment. EWEB's authorized representatives shall have the right to direct access to documents, papers and records **related to this Contract** for the purpose of conducting audits and examinations and making copies, excerpts and transcripts. EWEB shall reimburse Contractor for Contractor's cost of preparing copies.

29. Publicity

Any publicity giving reference to this solicitation, whether in the form of press releases, brochures, photographic coverage, or verbal announcement, shall be done only after prior approval of EWEB.

The use of media that is intended to identify Contractor as "EWEB" or "EWEB Contractor", including but not limited to vehicle magnets, decals, clothing, and other signage, is strictly prohibited unless previously authorized by EWEB. If authorized, Contractor is required to keep all such media in a secure location to deter theft.

30. Survival

Termination or expiration of this Contract does not extinguish or prejudice EWEB's right to enforce the access to records, indemnification, governing law, and remedies provisions contained within this Contract, its attachments, exhibits, and any and all subsequent Addenda or amendments.

31. Subcontracts and Assignment

Contractor shall not subcontract any of the Work required by this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of EWEB. No such written approval shall relieve Contractor of any obligations under this Contract, and any transferee or subcontractor shall be considered the agent of Contractor. Contractor shall remain liable to EWEB under the Contract as if no such transfer or subcontract had occurred.

32. Successors in Interest

The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.

33. No Third-Party Beneficiaries

EWEB and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

34. Severability

If any term 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 invalid.

35. Waiver

Waiver of any default under this Contract by EWEB shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.

REGULATORY COMPLIANCE

36. Compliance with Applicable Law

Contractor shall comply with all federal, state, and local laws applicable to the work under this Contract, and all regulations and administrative rules established pursuant to those laws.

Contractor shall maintain in effect all licenses, permits and certifications required for the performance of the work. Contractor shall notify EWEB immediately if any license, permit, or certification required for performance of this Contract ceases to be in effect for any reason.

37. Governing Law

The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and ordinances of Lane County, Oregon. Any legal action involving any question arising under this Contract must be brought in Lane County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon.

38. Reserved

39. Taxes

EWEB is a tax-exempt municipal corporation.
TIN #93-6001483; Tax exempt #93-880393K.

40. Foreign Contractor or Reserved

If the Contract includes services and the amount of those services exceeds \$10,000 and if Contractor is not domiciled in or registered to do business in the state of Oregon, Contractor shall promptly provide the Oregon Department of Revenue all information required by that Department relative to this Contract. EWEB may withhold final payment under this Contract until Contractor has met this requirement.

41. Cooperative Purchasing

Other public agencies may utilize the results of this solicitation in accordance with ORS 279A.215 and Rule 2-0210. If utilized, EWEB assumes no liability or responsibilities for the actions of the utilizing parties, or as may pertain to the resulting contract established by and between the utilizing agency and the Contractor. The utilizing agency and the Contractor assume full responsibility for any and all agreements established between the parties.

CONTACTS

42. Contractor Contacts

Contractor shall designate all key persons responsible for Contractor's Work under this Contract. Contractor shall provide EWEB the names, addresses and telephone numbers of such persons and shall keep this information current at all times. The primary representative shall be thoroughly familiar with the terms of the Contract and shall have the technical knowledge to perform the Work.

Account Representative: Name, Cell Phone, Email

Day to Day Contact (if different than above): Name, Cell Phone, Email

Accounts Receivable Contact: Name, Phone, Email

43. EWEB Contacts

Following are EWEB's contacts for this Contract:

Contract Administrator: Name, Phone Number, Email

Accounts Payable: accountspayable@eweb.org

Purchasing Contact: Sandra Hahn, 541-685-7163, sandra.hahn@eweb.org

44. Notices

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, U.S. Postal Service, or commercial delivery service to Contractor or EWEB at the address or email set forth on the signature page of this Contract, or to such other addresses or emails as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed, other than email, shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by email shall be deemed to be given within one (1) hour after being sent/transmitted. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

CONTRACT ACKNOWLEDGEMENTS AND EXECUTION

45. Contract Documents

This Contract consists of the following documents, hereby incorporated by reference, which are listed in descending order of precedence: this Contract less all attachments and exhibits, attached Attachment A – Statement of Services.

This Contract and the attached attachments and exhibits constitute the entire Agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

46. Assurances:

- The undersigned represents and warrants to EWEB that they have the power and authority to enter into and perform this Contract and that this Contract, when executed by EWEB, shall be a valid and binding obligation of Contractor, enforceable in accordance with its terms.
- By signing this Contract, Contractor agrees that, in the event of a conflict, all the terms and conditions of this Contract supersedes all preprinted terms and conditions on any forms used by the Contractor.
- Contractor, by signing this Contract, represents and warrants that Contractor's performance under this Contract creates no potential or actual conflict of interest, including but not limited to conflicts of interest as defined in ORS 244.020. Contractor further warrants that no state or federal law or EWEB Rule prevents Contractor's lawful performance of the Contract. If Contractor is currently performing Work for EWEB or another governmental entity, Contractor's participation in other public contracts does not create a potential or actual conflict of interest in performance of this Contract.
- The undersigned shall at all times during the term of this Contract be duly licensed to perform the Work, and if there is no licensing requirement for the profession or work, be duly qualified and professionally competent.

47. CONTRACT EXECUTION:

Contractor, by execution of this contract, hereby acknowledges that contractor has read this contract, understands it, and agrees to be bound by its terms and conditions.

CONTRACTOR:

Company Name

Company Address

Telephone Number

Fax Number

FEDERAL ID NUMBER

Person Signing Contract (Please print or type Name)

Title

Signature: _____

Email: _____

EXECUTION

EWEB:

Contract Administrator - Name

Date

Email Address: _____

Manager - Name

Date

Purchasing Supervisor - Name

Date of Execution

ATTACHMENT A

STATEMENT OF SERVICES

- a. Project Title:
- b. EWEB Project Manager:
- c. Required Completion Date:
- d. Location of Site:
- e. Scope of Work / Expected Deliverables:
- f. EWEB Responsibilities:
- g. Names of Consultant's Key Persons:
- h. Project Schedule:
- i. Project Fees:
 - 1. Not to Exceed Fee: \$
 - 2. Rates: See following page.
 - 3. Reimbursable Expenses:
 - a. Reimbursable out-of-pocket expenses will be reimbursed at Contractor's actual cost, with no additional mark-up applied. Expense receipts will be attached to invoices for reimbursement.
 - b. Travel expense, including transportation, lodging, meals etc. will comply with federal per diem requirements. Expense receipts for travel under Federal GSA are not required. Detailed information can be found at:
<https://www.gsa.gov/travel-resources>