



REQUEST FOR PROPOSALS

CITY ATTORNEY SERVICES - LABOR



CITY OF HERMISTON, OREGON

Closing Date: Tuesday, March 26, 2024
(Service to begin tentatively by July 1, 2024 or before if possible)

I. Introduction

- A. The City of Hermiston (City) is seeking proposals from qualified and experienced firms or individuals for labor and employment legal services. The City plans to select one firm to award a contract based on subject matter expertise. Proposing firms should possess comprehensive knowledge in Oregon public sector labor law, specifically the Oregon Public Employees Collective Bargaining Act (PECBA), and federal and state employment laws. A complete description of services is provided under Section 3 of this document. The City's objective is to enter into one agreement that will provide these comprehensive services.

The Request for Proposals (RFP) documents may be obtained at no cost at <https://www.hermiston.or.us/rfps>

The City's expectation of any consultant the City contracts with is that the consultant's values align with the City's values of highly ethical conduct, fiscal responsibility, respect for the City and others, and responsiveness to the City's customers.

The City is committed to ensuring equity and fairness in its contracting and purchasing process and increasing opportunities for minority-owned, women-owned, service-disabled veteran-owned, and emerging small businesses enterprises. Furthermore, the City strongly encourages its consultants to utilize these businesses when providing services and materials for city contracts and projects.

Proposals must be submitted to the City of Hermiston, Attn: Crystal Inners, Human Resources Specialist, cinners@hermiston.gov. Proposals will be received until 4:00 p.m. (PST), on Tuesday, March 26, 2024, for the purpose of selecting a proposal who evidences the highest level of qualifications to provide legal services related to labor and employment law. Proposals received after the deadline will not be considered.

- B. Hermiston is a community where community members, businesses, and city government work together to ensure that the community retains its small-town character and thriving public events. The City has a population of over 20,000. The City provides a rich and vibrant atmosphere and functions as the region's retail and medical hub.

The City is a full-service municipality that operates under a council-manager form of government. The eight elected councilors (four Ward and four at-large) and the directly elected mayor comprise the City Council and act as representatives of the citizens. City Council sets policies for city government, enacts ordinances and hires, directs, and evaluates the city manager and city attorney. In turn, the city manager is the City's chief executive officer, responsible for overall management and administration.

Municipal services are provided by approximately 100 city employees. The City operates its own police department, municipal court, community development, water, sewer and electric utilities, street operations, planning, library and parks and recreation. The City cooperates and negotiates with one collective bargaining unit, the Hermiston Police Association.

II. Scope of Work

The City of Hermiston employs approximately 100 employees. From time to time, the City requires legal advice related to labor relations, including bargaining successor agreements, responding to grievances and unfair labor practices, and complex disciplinary issues. Additionally, the City seeks advice on non-labor employment issues related to new and existing legislation, federal and state requirements, and guidance through complex issues.

The City is interested in a firm that can deal with issues described below in separate categories. The categories are merely intended to indicate the diverse range of services the City may require.

Labor Representation

The City's single labor union agreement expires on June 30, 2025 and so negotiations for a successor agreement will need to begin well in advance of this date. The City requires various support in negotiations, including but not limited to, direct in-person negotiations, proposal and strategy review, and background support. Should the City find itself in interest arbitration, services may be required of the selected firm to represent the City in interest arbitration proceedings. The selected firm will assist in collective bargaining and provide ongoing, on-call support throughout the life of the collective bargaining agreements.

Additionally, the City may require assistance in responding to grievances, unfair labor practices, and/or unit clarification actions. The selected firm may represent the City in front of the Employment Relations Board (ERB), as needed.

Employment Law Assistance

On occasion, the City's human resources team requires assistance in handling complex employment issues, including reasonable accommodations under the Americans with Disabilities Act, complex family leave issues under FMLA and OFLA, implementation of the state's new paid family program, pay equity, and ongoing changes to federal and state legislation. The selected firm will serve in an on-call capacity to assist with various issues.

III. Qualifications and Experience

The proposals will be reviewed by the City Manager and the final selection will be made by the Hermiston City Council. Selection will be on the basis of the following criteria:

Any firm submitting a proposal must meet the following minimum requirements:

- A. Must be a legal entity, currently registered to do business in the State of Oregon (per ORS 60.701);
- B. Must have been in business for at least three (3) years or demonstrate assigned staff years of experience to meet this qualification;
- C. Staff assigned to this contract must be licensed by the Oregon State Bar Association and in good standing;
- D. Must have relevant experience with other public sector clients of similar scope and complexity;
- E. Demonstrated experience with reasonable accommodations under the Americans with Disabilities Act, complex family leave issues under FMLA and OFLA, implementation of the state's new paid family program, and pay equity;
- F. Ability to best respond to various needs contained within this RFP; and
- G. Agree to execute the City's personal services agreement, if awarded.

IV. Proposal Requirements

Proposals from individual or law firms will be considered. As a minimum, the proposal should include the following information:

- A. An overall introduction to the proposal, including a statement of your understanding of the work.
- B. Qualifications of you or your firm and of your support staff (include number of staff) to perform the work. By way of example, you may wish to address some or all of the following criteria:
 - 1) Law school (including year of graduation), year of admission to Oregon State Bar, and years of practice.
 - 2) Years of labor law or other related law practice.
 - 3) Arbitration experience, including descriptions of representative cases and outcomes.
 - 4) Experience, in front of the Employment Relations Board (ERB).
 - 5) Experience giving oral advice such as during the course of City Council meetings and by telephone to City staff.
- C. Project Understanding and Approach. Review the scope of work and describe the firm's approach for collaborating with city staff to conduct the work described. Provide any proposed

recommendations for changes to the scope of work to better provide an efficient and effective process that engages the community and provides sound, defensible measures to complete the requirements of legal services related to labor and/or employment law. Based on the scope of work and any proposed revisions, outline the specific tasks to be performed, indicating which team members will be conducting the work. Provide an overall schedule for major tasks. Please identify a project manager and key members of the team and include an assessment of the capacity of each staff member to perform the work given their workload forecast.

- D. List of clients for whom you have provided similar services in the past. Include a list of references the City may contact. References should include municipal clients of a similar size to Hermiston if available.
- E. Proposed Fee. Proposals may provide for hourly billing, a monthly retainer, or a combination. Any proposals including a monthly retainer must clearly set out the services that are within and outside the retainer. Provide the proposed hourly rates for paralegals, associate attorneys, partner/shareholder attorneys, and any other billable position within the firm. Include fees for other items, such as reimbursable expenses and travel.
- F. Attachment A – Standard Proposal Form. Complete and sign the form to certify representation in the submitted proposal is accurate and true. The form includes confirmation whether the proposing firm is certified as a minority-owned, women-owned, service-disabled veteran-owned and/or emerging small business enterprise.
- G. Attachment B – Sample Agreement. Written objections (if any) to the sample personal services agreement may be included in the proposal. Final contract terms will be negotiated with the selected proposer.

V. Proposal Selection and Evaluation

Each proposal will be judged on its completeness and quality of its content. The City reserves the right to reject any and all proposals or to negotiate individually with one or more firms, and to select one or more firms if determined to be in the best interest of the City. The City is not liable for any cost the Proposer incurs while preparing or presenting the proposal. All proposals will become part of the public file, without obligation to the City. Upon the completion of the evaluations and interviews, the City intends to negotiate a contract with the firm whose proposal is deemed to be most advantageous to the City.

Selection Panel

A multi-step evaluation process may be used by the City to select one or more firms that is most advantageous to the City. A Selection Panel will be comprised of at least three (3) members. The role of the Selection Panel is to evaluate all responsive proposals and make a recommendation of award to City Council.

If additional information is deemed necessary as part of the evaluations, such information will be solicited to allow the Selection Panel to complete the evaluation process.

Evaluation Criteria

In accordance with this document, the criteria listed below will be used to determine the apparent successful proposer. Proposals will be scored by the Selection Panel as follows:

- A. Proposal submitted on time (pass/fail)
- B. Qualifications (15 points)
- C. Service understanding and approach (30 points)
- D. Service timeframe (5 points)
- E. Fee evaluation (15 points)
- F. Interview (if selected and held) – (15 points)

Ranking of Proposals

The Selection Panel will verify compliance with the minimum requirements of this RFP and provide an initial screening of all responsive proposals. This initial screening will consider the criteria under Evaluation Criteria and apply tentative scoring to determine the top proposals. The Selection Panel will select from the highest scored proposals up to three (3) proposers who exhibit the highest level of qualification.

If the Selection Panel elects to hold interviews, the top selected proposers will be invited to be interviewed by the Selection Panel. Following interviews, final scores will be applied including points for the interview.

If interviews are not held, the Selection Panel will complete evaluations and apply final scoring to the top selected proposals in accordance with the criteria above.

Proposals will be ranked based on evaluation of responses with the highest-ranked proposal being that Proposer which is deemed to be the most appropriate and fully able to perform the services in a specific category, and the second highest-ranked proposal being the Proposer next most appropriate, all in the sole judgment of the City.

Any proposal in response to this RFP will be considered de facto permission to the City to disclose the results, when completed, to selected reviewers at the sole discretion of the City.

Proposal Rejection

The City reserves the right to:

- Reject any and all proposals not in compliance with all public procedures and requirements;
- Reject any proposal not meeting the specifications set forth herein;
- Waive any or all irregularities in proposals submitted;
- Award any or all parts of any proposal; and
- Request references and other data to determine responsiveness.

VI. Selection Schedule

Review of the proposals and recommended selection will be made by the City Manager and other City Staff and could include an in-person interview of the lead candidate(s). Cost of the services will be negotiated between the parties as part of the selection process.

VII. Limitations

In addition to all other rights granted to it under Oregon law, the City of Hermiston reserves the right to waive formalities in the proposal process, to accept or reject any or all proposals received as a result of this request, to negotiate with qualified attorneys, or to cancel, in part or in its entirety, the request for proposals if it is in the best interest of the City to do so. City also reserves the right to negotiate separately with any Proposer whatsoever, in any manner necessary to serve the best interests of the City. This request for proposals does not commit the City to pay any costs incurred in the preparation of a proposal.

VIII. Contract Requirements

Contract

Selected Proposer will be asked to sign a personal services agreement with the City. A sample contract is attached as part of these RFP documents. The City will require specific levels of insurance, a Hermiston business license, and a federal tax identification number.

Contract Negotiations

The City reserves the right to negotiate final terms of the agreement as the City determines to be in its best interest. The City will begin negotiations once the Selection Panel has chosen the highest-ranked Proposer and issued a notice of intent to award. If the City cannot come to terms with the highest-ranked Proposer, the City will formally terminate negotiations and enter into negotiations with the second highest-ranked Proposer. This process will continue until the City reaches an agreement which the City deems appropriate for the services or determines a new solicitation is necessary.

Contract Award

The award of a contract is accomplished by executing a written personal services agreement that incorporates the proposal, clarifications, addenda, additions, and insurance. All such materials constitute the complete contract documents. City Council may be required to authorize the award of contract at a regular session.

Please contact City Manager, Byron Smith, or City Attorney Rich Tovey at (541) 567-5521 with any questions or for further information.

ATTACHMENT A
STANDARD PROPOSAL FORM

Proposer Representations

The undersigned and authorized representative hereby certifies and represents the following:

1. Proposer is properly licensed and adequately experienced, equipped, organized, and financed to furnish and deliver the equipment specified and perform the services required.
2. Proposer has examined and is thoroughly familiar with the solicitation and fully understands its intent, has carefully reviewed for accuracy all statements in this proposal and attachments, and agrees that the City will not be responsible for any errors or omissions of the Proposer in preparing this proposal. Proposer agrees that this proposal may not be revoked or withdrawn for 60 calendars days after the date on which proposals are received.
3. Proposer agrees that if this proposal is accepted it will promptly execute and return to the City the formal contract in the form provided and will, at or before that time, deliver any other documentation as required.
4. Proposer acknowledges that it has received the following Addenda No(s): _____, and agrees that all addenda issued are a part of the RFP documents and have been considered in preparing this proposal. (Proposer: insert the number of each addendum received; if no addenda were received, write "none" or "zero" in the space.)

Compliance with Laws

Proposer hereby agrees to comply with all applicable federal, state and local laws, rules and regulations, the provisions of which are hereby made a part of the awarded contract.

Cooperative Purchasing

Proposer _____ agrees / _____ disagrees to extend the terms, conditions and prices of the original City of Hermiston contract to any other governmental agency. Pursuant to ORS 279A.215, other governmental agencies may establish contracts or price agreements under the terms, conditions and prices of the original contract. Other public agencies will have the power and authority to contract directly with the awarded Proposer.

Non collusion

Proposer certifies that the proposal has been arrived at by the proposer, independently, and has been submitted without collusion with, and without any agreement, understanding or planned course of action with, any other contractor, proposer, or vendor on materials, supplies, equipment or services, described in the solicitation documents, designed to limit independent offers or competition. The contents of the proposal herein presented and made have not been communicated by the Proposer or their employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the solicitation and will not be communicated to any such person prior the closing time of the solicitation.

Conflict of Interest

Proposer and each person signing on behalf of the Proposer certifies, and in the case of sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the City Council, officer, employee, or person, whose salary in whole or in part by the City, has a direct or indirect financial interest in the award of this proposal, or in the services to which this proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

COBID Certification

The State of Oregon’s Certification Office for Business Inclusion and Diversity (COBID) certifies minority-owned, women-owned, and service-disabled veteran-owned businesses and emerging small businesses interested in contracting with state, county and city government agencies.

The City is committed to ensuring equity and fairness in its contracting and purchasing processes and increasing opportunities for minority-owned, women-owned and emerging small businesses and service-disabled veteran-owned business enterprises to promote growth, capacity-building, and economic success of these businesses.

Proposer must acknowledge the following:

YES -Proposer certifies that they are a State of Oregon COBID-certified business.
Certification No. _____

NO -Proposer is not a COBID-certified business with the State of Oregon.

THEREFORE, the undersigned hereby certifies that the information contained in these certifications and representations is accurate, complete and current.

Firm Name

Address, City, State, Zip

Phone Number

Printed Name of Authorized Representative

Email Address

Date

ATTACHMENT B
SAMPLE PERSONAL SERVICES AGREEMENT
WITH THE CITY OF HERMISTON, OREGON
FOR LABOR AND EMPLOYMENT LEGAL SERVICES



THIS AGREEMENT made and entered into this _____ day of _____ 2024 by and between the City of Hermiston, a municipal corporation of the State of Oregon, hereinafter called "City," and [Consultant's Name], a(an) [State] [corporation/partnership], hereinafter called "Consultant."

RECITALS

WHEREAS, City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Consultant; and

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

THEREFORE, the Parties agree as follows:

1. SERVICES TO BE PROVIDED

Consultant shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Consultant shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

2. EFFECTIVE DATE AND DURATION

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, by June 30, 2028. The City reserves the right to extend the contract for two (2) additional years. All work under this Agreement shall be completed prior to the expiration of this Agreement.

3. COMPENSATION

City agrees to pay Consultant for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Consultant for performance of services under this Agreement includes all expenses incurred by Consultant, with the exception of any expenses identified in this Agreement as separately reimbursable.
- B. As compensation for services as described in Exhibit A, the Consultant shall be paid at the hourly rates outlined in Exhibit B of this Agreement, which shall constitute full and complete payment for said services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement. Hourly rates may be increased by Consultant once each calendar

year and must be provided to City no less than 30 days prior to the effective date of the new rates.

- C. Payment will be made in installments based on Consultant's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice. Payment terms shall be net 30 days from date of invoice.
- D. Payment by City shall release City from any further obligation for payment to Consultant, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- E. Where applicable, Consultant must make payment promptly as due to persons supplying Consultant labor or materials for the execution of the work provided by this order. Consultant must pay all contributions or amounts due from Consultant to the Industrial Accident Fund incurred in the performance of this order. Consultant shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Consultant further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- F. If Consultant fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Consultant or a subconsultant by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Consultant. The payment of the claim in this manner shall not relieve Consultant or their surety from obligation with respect to any unpaid claims.
- G. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.261 or under 29 USC SS 201-219.
- H. Consultant shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Consultant or all sums which Consultant agrees to pay for such services and all moneys and sums which Consultant collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- I. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. OWNERSHIP OF WORK PRODUCT

City shall be the owner of and shall be entitled to possession of any and all work products of Consultant which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by

Consultant prior to termination of this Agreement by Consultant or upon completion of the work pursuant to this Agreement.

Nothing in this section is intended to be construed as waiving the City's right to assert the attorney-client privilege with regard to any record produced by Consultant, or to restrict the right of the City to withhold disclosure of that record as may be permitted under Public Records Law.

5. ASSIGNMENT/DELEGATION

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Consultant shall be fully responsible for the acts or omissions of any subconsultants and of all persons employed by them, and neither the approval by City of any subconsultant nor anything contained herein shall be deemed to create any contractual relation between the subconsultant and City.

6. STATUS OF CONSULTANT AS INDEPENDENT CONTRACTOR

Consultant certifies that:

- A. Consultant acknowledges that for all purposes related to this Agreement, Consultant is and shall be deemed to be an independent contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Consultant is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Consultant under the terms of this Agreement, to the full extent of any benefits or other remuneration Consultant receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Consultant or to a third party) as a result of said finding.
- B. The undersigned Consultant hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Consultant, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

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

Consultant and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Consultant certifies that it currently has a Hermiston business license or will obtain one prior to delivering services under this Agreement. A business license is required for the duration of this Agreement.

- D. The service or services to be rendered under this contract are those of an independent contractor. Consultant is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. INDEMNIFICATION

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

Consultant agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers’ compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

8. INSURANCE

Consultant and its subconsultants shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all activities of the consultant arising directly or indirectly out of Consultant's work performed hereunder, including the operations of its subconsultants of any tier. Such insurance shall be primary and non-contributory.

The policy or policies of insurance maintained by the Consultant and its subconsultant shall provide at least the following limits and coverage:

A. Commercial General Liability Insurance

Consultant shall obtain, at Consultant’s expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an “occurrence” form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

Coverage	Limit
General Aggregate	\$3,000,000
Products-Completed Operations Aggregate	3,000,000
Personal & Advertising Injury	2,000,000
Each Occurrence	2,000,000
Damage to Rented Premises (each occurrence)	500,000
Medical Expense (any one person)	5,000

B. Commercial Automobile Insurance

Consultant shall also obtain, at Consultant's expense, and keep in effect during the term of this contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000.

C. Professional Liability Insurance

Consultant shall obtain, at Consultant's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per claim shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.

D. Workers' Compensation Insurance

The Consultant, its subconsultants, if any, and all employers providing work, labor or materials under this contract who are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that complies with ORS 656.126. Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident shall be included.

E. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.

F. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City.

Notice shall be provided to the City at the address listed below in the event of cancellation or non-renewal of the insurance.

G. Insurance Carrier Rating

Coverages provided by the Consultant must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

H. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Consultant shall furnish a Certificate of Insurance to the City. No contract shall be effective until the required certificates have been received and approved by the City. The

certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read "Insurance certificate pertaining to contract for labor and employment legal services." The City of Hermiston, its officers, directors and employees shall be added as additional insureds with respects to this contract. "Insured coverage is primary" should read in the description portion of certificate.

I. Primary Coverage Clarification

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

J. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in the general liability policy.

A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Hermiston
Attn: Finance
180 NE 2nd Street
Hermiston, Oregon 97838

Business Phone: 541.567.5521
Email: billing@hermiston.gov

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

9. CONTACT INFORMATION

A. All invoices shall be provided in writing and given by personal delivery, mail, or email. Payments may be made by check or electronic transfer. The following addresses shall be used to transmit invoices, payments, and other financial information, and when so addressed shall be deemed given upon deposit in the United States mail or postage prepaid. In all other instances, invoices and payments shall be deemed given at the time of actual delivery. Changes may be made to the addresses of the departments to whom invoices and payments are to be given by giving written notice pursuant to this paragraph.

City – Accounts Payable	Consultant – Accounts Receivable
180 NE 2 nd Street	[insert address]
Hermiston, Oregon 97838	[insert address]
Phone: 541.567.5521	Phone: [insert #]
Email: billing@hermiston.gov	Email: [insert address]

B. All notices and project correspondence shall be provided in writing and given by personal delivery, mail, or email. The following addresses shall be used to transmit notices and project-related information, and when so addressed shall be deemed given upon deposit in the United States mail or postage prepaid. In all other instances, notices and correspondence shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices and correspondence are to be given by giving written notice pursuant to this paragraph.

City – Project Manager	Consultant – Project Manager
Attn: Crystal Inners HR Specialist	Attn: [project manager name]
180 NE 2 nd Street	[insert address]
Hermiston, Oregon 97838	[insert address]
Phone: 541.567.5521	Phone: [insert #]
Email: cinners@hermiston.gov	Email: [insert address]

10. MERGER

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

11. TERMINATION WITHOUT CAUSE

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

12. TERMINATION WITH CAUSE

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

Any such termination of this agreement under paragraph (1) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Consultant, may terminate the whole or any part of this Agreement:
1. If Consultant fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or
 2. If Consultant fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

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

If City terminates this Agreement under paragraph (B), Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Consultant bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Consultant. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

13. ACCESS TO RECORDS

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

14. FORCE MAJEURE

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

15. NON-WAIVER

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

16. NON-DISCRIMINATION

Consultant agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

17. ERRORS

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

18. EXTRA (CHANGES) WORK

Only the City Manager may authorize extra (and/or change) work. Failure of Consultant to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Consultant thereafter shall be entitled to no compensation whatsoever for the performance of such work.

19. WARRANTIES

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

20. ATTORNEY'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

21. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

22. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Consultant shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subconsultants and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this Agreement. Consultant shall not provide or offer to provide any appreciable pecuniary or material benefit to any officer or employee of City in connection with this Agreement in violation of ORS Chapter 244.

23. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this

instrument shall control, and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

24. AUDIT

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

25. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

26. COMPLETE AGREEMENT

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

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Consultant has executed this Agreement on the date hereinabove first written.

CITY OF HERMISTON

CONSULTANT

Signature

Signature

Printed Name & Title

Printed Name & Title

Date

Date

Exhibit A
SCOPE OF WORK (SERVICES TO BE PROVIDED)

A. PROJECT DESCRIPTION

B. AMENDMENT PROCESS

If the scope of the project or the services are changed materially, Consultant shall request in writing an amendment to the Agreement before additional services are provided and before compensation is adjusted. All legally required approvals must be obtained in writing by both parties for any contract amendment before the amendment is effective and before services may be performed or payment made under the Agreement.

C. INCLUSIVE LANGUAGE

The City is deliberately playing its part to increase awareness for equity and inclusion in its organization, community and beyond. The Consultant shall make all efforts to update, remove or change any non-inclusive terminology, phrases or words to inclusive and equitable language for any written and presented deliverables resulting from this Agreement.

EXHIBIT B
SCHEDULE OF RATES

Partner	\$
Associate Attorney	\$
Paralegal	\$
Administrative	\$