



CITY OF COBURG, OREGON

Request for Design-Build Proposals & Qualifications

Project No.: RFP-2017-03

**Grant No.: 16-214 Oregon Military Department, Office of Emergency
Management, State Homeland Security Program**

CITY HALL EMERGENCY STANDBY GENERATOR

SUBMITTAL DEADLINE: **DECEMBER 13, 2017, 4:00 PM**

ISSUE DATE: **NOVEMBER 8, 2017**

DELIVER PROPOSALS TO: Office of the City Recorder, City Hall
91136 N. Willamette Street, PO Box 8316
Coburg, Oregon 97408

CITY HALL PHONE: (541) 682-7850

COPIES TO SUBMIT: 5 originals

Proposals delivered to another location will not be considered.

This is not a purchase order. The attached terms and conditions shall become part of a contract resulting from this request for proposal. Proposals shall be submitted together with the Proposal Cover Sheet and any indicated forms. Original signatures must be submitted on forms provided.

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**EXTENDED ANNOUNCEMENT
REQUEST FOR DESIGN-BUILD PROPOSALS**

The City of Coburg is requesting proposals from firms qualified and interested in providing:

**DESIGN AND CONSTRUCTION SERVICES FOR THE CITY HALL EMERGENCY BACKUP
GENERATOR**

Project No.: RFP-2017-03

ANNOUNCEMENT

Summary:

The design-build contract will be for all services required for complete design and construction necessary to install an Emergency Standby Generator at City Hall, Coburg, Oregon. The proposed contract award amount will be a fixed amount set not to exceed \$65,000 including any expenses and administrative fees, with the exception of permitting which will be owner paid. Funding for this project has been made available under the 2017 grant 16-214 from the Oregon Military Department, Office of Emergency Management, State Homeland Security Program, funding 100% of the generator components and all necessary and related building or site construction. Federal contract provisions and Davis Bacon Act may apply.

Selection Process:

This Request for Design-Build Proposals (RFP) is a single step process to select the best cost/highest scoring technical proposal.

RFP Documents:

Interested firms may obtain a copy of Design Build RFP documents **in electronic format**, via internet connection, at www.coburgoregon.org or come to Coburg City Hall to pick up copies.

Registration:

Register for pre-submittal conference and as an RFP Holder by November 17 by contacting the City Recorder at Sammy.egbert@ci.coburg.or.us or by phone at 541-682-7852. Only registered RFP holders will receive announcements or addenda to the RFP, if any.

Pre-Submittal Conference:

An optional pre-submittal conference will be held at 11:00 a.m. on November 21, 2017 at Coburg City Hall. A site walk-through will be offered at the pre-submittal conference.

Submittal Deadline:

Proposals will be received by the City Clerk's office **until Wednesday, December 13, 2017, no later than 4:00 PM (local time) at the address listed above.**

Project:

The RFP documents identify the Scope of Work in greater detail.

Publication Dates:

November 8, 2017 first publication

INVITATION TO SUBMIT PROPOSALS

The City of Coburg requests proposals from qualified firms to design, configure, furnish, install, and support an Emergency Standby Generator, all as described herein. This will also include plumbing, wiring, parts, and all equipment necessary for a fully functioning system.

Specifications will match established performance expectations as presented by the City Engineer as reflected in the Appendix materials.

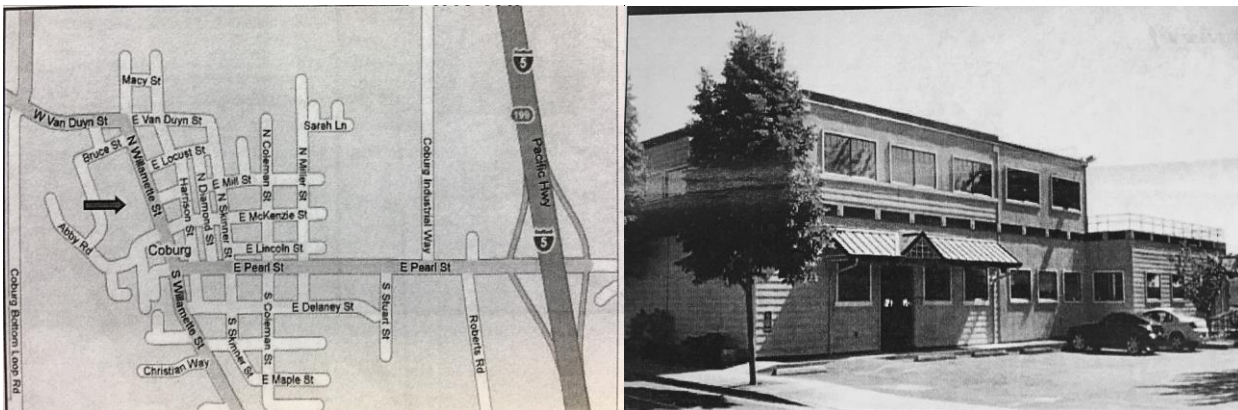
The Design-Builder selected will provide all services necessary to design and furnish the specified systems in accordance with the guidelines, standards and limitations contained in this Request for Proposals. Proposals shall include all work to complete the Project as required under the Specifications, on a “turn-key” basis, *such that nothing further is required of the Owner to operate the system for its intended purpose.*

Proposals will be evaluated for their response to selection criteria, material specifications, special features and infrastructure requirements as stated within this document. Participation in this selection process by interested Firms shall constitute an acceptance of the terms and conditions of the selection process, as stated within this document, and shall be at no additional cost or obligation to the City.

The City reserves the right (a) to terminate this selection process at any time, (b) to reject any or all proposals, and (c) to waive formalities and minor irregularities in the proposals received. All proposals submitted shall be considered the property of the City.

The City further reserves the right to conduct a pre-award survey and to interview of any firm under consideration to confirm any of the information furnished by the firm, or to require other evidence of managerial, financial, technical and other capabilities.

BACKGROUND INFORMATION AND PROJECT DESCRIPTION



Facility:

City Hall is located at 91136 N Willamette Street in Coburg.

The facility is 7,188 square feet on two floors (4,678 first floor, 2,510 second floor), 16% lot coverage. This facility was originally constructed 1978 and remodeled in 1998. Additional custom modifications were made in 2014/2015 when acquired and moved into by the City of Coburg for use as City Hall.

The City of Coburg completed move in to the building in April 2015. Today, the building houses approximately 16 staff and computer work stations including administrative functions, police, public records, temporary evidence storage, and multi-use assembly room.

There are two bathrooms on each floor, water fountain on first floor, and one kitchen on the second floor. Police administrative offices and both Municipal Court and City Records are on the first floor. Police-related rooms and offices are on both first and second floors.

Assembly room (also called Council Chambers and Municipal Court) is at the north end of the first floor, and it is approximately 2,000 square foot in size, with two attached bathrooms. The second floor does not extend over the assembly room. Assembly room without fixed seats is rated at 250 occupants (2 exits). IT services are mostly off site, i.e., servers are remote or cloud-based.

Construction is non-sprinklered, occupancy "group B" in zone C-1. Solid bearing 1000 PSF, snow load 25 PSF, seismic zone 3. Material specifications include concrete, rebar, lumber, structural steel, tube steel, anchor bolts, structural bolts, and beams. Allowable area type VB. Stairways are 36" minimum width for occupant load less than 50.

Existing Power:

City Hall is currently serviced with 120/240 3phase 50KVA (lighter pole) 100% single phase and 58% 3phase. 25KVA (power pot) 58% 3phase loading from Pacific Power source at the southerly driveway to Willamette Street in front of City. Heating, ventilation, air conditioning, electrical and lighting plans from 2014 are provided in Building Specifications. Minimal electrical work was done at the time of the remodel. Field verification of information in the drawings will be required.

Known Demand:

At City Hall, over a 13 month period, the average Kw usage was between 13 and 25, with a maximum daily Kw hours of 153. The maximum 15-minute rolling average demand for the one month period ending October 31, 2017 was 1.59 Kw. Design-Builder shall verify and evaluate power demand.

Standby Generator Intent:

Design-Builder solution will need to evaluate appropriate level of operation to be achieved and associated power supply characteristics of building (i.e., if some circuitry for emergency lighting if now separated). Power output ratings and generator set performance standards are described in the specifications. These are subject to review after discussion with the Design-Builder.

In general, in the event of power outage (i.e., from severe weather event, earthquake or other actions), City Hall should be able to operate minimum emergency operations functions plus operate the assembly room as an emergency public shelter for a minimum 3 days.

Generator Location:

The proposed location for the new Emergency Standby Generator is on the southwest side of the building, set back approximately 10 feet from the building in the vicinity of the Assembly Room.

Automatic Transfer Switch & Electrical Disconnect Location:

Automatic transfer switches and electrical disconnects shall be installed at the on the exterior of the existing building at the southeast corner, or approved alternate. All components in this section shall be installed and protected per the manufacturer's specifications and applicable building or electrical codes.

Basis of Design:

A basis of design is provided in this RFP under Specifications.

Fuel Supply:

The primary fuel supply is to be natural gas line. As an optional element, the City would like to plan for propane as a secondary fuel source, with auto-changeover. Heavy duty battery backup, battery heater, and automatic battery charger shall be supplied by generator manufacturer and designed for this use. See specifications. We are recommending natural gas as primary fuel, as it would handle 90% of emergency scenarios without a limit to supply. Liquid propane would be the backup in the case of seismic event or other that cutoff natural gas supply. Liquid propane would be sized to accommodate the specified length of service.

Generator Foundation:

Design-Builder shall provide foundation as required, including site preparation, and concrete slab. Foundation shall be per the design drawings included in the appendix. The foundation shall be sized sufficiently to maintain clearances specified in design drawing, per applicable building codes or a minimum of 3'-0" from slab edge to tank or generator. Design of permanent anchorage to the foundation slab shall be per the Engineer, upon submittal of approved generator and/or tank technical specifications. See specifications.

Outdoor Generator Set Enclosure:

Sound attenuated aluminum housing and mountings. See specifications.

Drawings:

Drawings of the building are provided in the Building Specifications appendix. See specifications for engineered site work/drawings of the Standby Generator Improvements. Field verification of information in both sets of the drawings may be necessary. **We do not have engineered drawings of the generator, as one has not been selected.**

SUBMITTAL REQUIREMENTS

The successful proposer will:

- **Provide all engineering**, design, labor, equipment and parts such that the functional needs as described in this RFP are fully met and operational on a turn-key basis. The contractor shall provide consultation and expert advice to the City of Coburg (Owner) as necessary to fully understand and implement the intent and requirements of this RFP.
- Provide new Standby Generator and Pad/Bollards and Enclosure, all required.
- The work is further described under ENGINEER PERFORMANCE SPECIFICATIONS.
- Train personnel on use of the equipment.
- Agree to submit the reports, technical details, drawings, expense documentation, and invoices as may be required by the City of Coburg.
- Be able to meet the project schedule in order to completely finish all aspects of the project and provide all required paperwork **no later than Thursday, March 15, 2018.**

Submittal Sections:

Proposals submitted by interested firms must include the following elements:

- Proposal Cover Sheet, using the form provided in this RFP
- Company Information
 - Years in business
 - Form of business and business license information
 - Ownership
 - Number of Employees
- Qualifications
 - Provide a concise description of your firm's capabilities
 - Provide a concise summary of your firm's experience with systems similar to this project.
 - Proposed structure to manage the project, including identification of individuals to fill key roles.
 - Include brief resumes for:
 - Firm, including years in business under the same name
 - Superintendent / Project Manager (one person may fill both roles)

- Systems Designer(s); Registered Engineers & Administrators, all required.
 - Subcontracted Specialty Trades & Consultants
- Project Approach/Proposal Work Detail
- Project Schedule Detail
 - Submit a project schedule based upon the number of calendar days required to perform the work following Notice to Proceed under the Agreement:
 - Owner Meetings and consultation
 - Technical Proposal including design / construction narrative
 - Final Construction Documents and Building Permit, as may be required by the City of Coburg. Building Permit shall be applied for by the selected firm, at the owner's expense.
 - Materials Delivered and Commencement of the Work
 - Substantial Completion of the Work (functioning)
 - Close-out, training for Owner staff, O&M manuals and warranty.
- Cost Elements
 - Fixed price proposal form
 - Cost elements of the price
- Bonds, Insurance, and Certifications
- Technical Data to Submit
 - Submit Technical Proposal cover letter including any content introductory to the design / construction narrative
 - Submit the following Technical Data:
 - System Certification / Authorized Dealer -Installer: Design-Builder shall provide written evidence that all work will be completed by an authorized representative – installer for the manufacturer, including certifications required by the manufacturer.
 - Equipment Codes and Compliance: A listing of, and statement that the system(s) and associated components meet and comply with all required codes and regulations, such as electrical, fire, building, fuel gas, plumbing, manufacturers, UL, or others.
 - Drawings: Include in your proposal preliminary floor and equipment plans that depict the Proposer's response to the Owner's requirements. Drawing can be schematic in form, sufficient to clarify the Proposer's solution.
 - Equipment List and Cut Sheets: Provide a list of all proposed equipment including manufacturer, capacity, features, and cut sheets.

- Warranties: Equipment Manufacturer's and Vendor warranties that will be provided with this work, two-year minimum for labor, equipment warranties as specified by manufacturer. Any special extended generator warranty, Specifications.

OPTIONAL PROPOSAL ELEMENTS

Bidders should identify any other optional design elements or equipment features that might have a system cost impact but not a significant impact on system performance. For example, proposer may indicate what they think the cost impact may be of including or not including both natural gas and LP in the system design.

UPS, battery, solar or other sources might be considered in a future Phase II depending on future availability of funding but are not included in this or required by this RFP.

PROPOSAL SUBMISSION

All proposals are due at the **Office of the City Recorder, Coburg City Hall, 91136 North Willamette Street, Coburg, Oregon 97408**, no later than the day and time indicated in the announcement on page 3 of this RFP document.

Proposals shall be considered proprietary and confidential information, until completion of the Design/Builder Selection Procedure.

Upon completion of the Selection Procedure, the written proposals submitted by all interested firms shall be considered the property of the City.

EVALUATION CRITERIA

The following criteria will serve as evaluation guidelines for each Evaluation Committee Member. The Proposer is advised to address each criterion directly.

QUALIFICATIONS (35 Total Points Maximum)

- Firm / Team Qualifications (20 Points Maximum)
 - Brief history, references, and financial stability of Design/Build Team.
 - Performance History – Proposer's previous performance in installation of Standby Generation & related systems. Completed previous installations of similar nature in the last 7 years.
 - Experience of technical and systems design personnel. Design/Build Team's ability, capacity, and skill to manage projects similar to that required under this RFP.
 - Project team organization; provide organizational chart.
- Administrators/ Engineers / Project Manager Qualifications (15 Points Maximum)

- Personal qualification and prior experience with project of similar type
- Roles of each during design and construction phase

QUALITY OF PROPOSED SYSTEM (50 Total Points Maximum)

- General Design Ideas and Presentation (25 Points Maximum)
 - Proposed Consultation Process with Owner
 - Proposed design strategy meets Owner requirements for function, maintenance and durability.
 - Functional Concept addresses City Hall and IT Department standby power needs.
- Standby Generator (25 Points Maximum)
 - Technology solutions are optimal and well supported by narrative / graphic description
 - Reliability and Quality of Products Submitted
 - Proposal reflects best “feature set” within the budget
 - Completeness and efficiency of the total design and installation package
 - System Expansion Capabilities

SCHEDULE (5 Points Maximum)

- Submit Schedule and Completion Date.
 - **The Owner’s desired FULL completion date is March 15, 2018. This requires substantial completion by March 2, 2018.** Design-Builder must be able to meet the project schedule in order to completely finish all aspects of the project and provide all required paperwork no later than March 15, 2018. This deadline is driven by the project grant which expires on March 30, 2018.
 - Proposers shall submit a detailed schedule from inception through completion. Schedules will be evaluated on how closely the overall schedule and completion date conforms to the Owner’s expectations.

TRAINING, SUPPORT & WARRANTY PROGRAM (10 Points Maximum)

- Staff Training, Specifications, Quality Assurance and Warranty as generally required for Generator. Indicate knowledge and full compliance with these requirements, or deviation from these requirements. Points will be awarded based on completeness of Proposers’ response.

TOTAL MAXIMUM POINTS = 100

SELECTION PROCEDURE

The selection of a Firm for the proposed project shall be based upon a thorough but potentially subjective consideration of each firm's ability to perform the services described in the RFP. The City reserves the right to reject any and all proposals in response to this RFP that are deemed not to be in its best interest. The City further reserves the right to cancel or amend this RFP at any time and will notify all registered Proposers accordingly.

The following procedure may be observed in the selection of the Firm for the project:

- **Evaluation, Step 1- Qualifications and Technical Proposal, Quality Points.**
 - THE CITY's selection team will evaluate each responsive proposal submitted. Evaluation of each firm will be based upon the Proposers' written narrative, Technical Proposal, and Qualifications Submittal, compared against the Evaluation Criteria.
 - The Evaluation Committee will place a stress on qualifications and reliability to complete the work as required and on time.
 - SPECIAL NOTE: Proposer submittals will first be scored on a "Yes" / "No" (pass / fail) for completeness, determining that the proposer did submit an answer for each question. The proposal will next be scored for award of quality points.
 - The scores as awarded by each evaluation committee member will be averaged, to determine Step 1 evaluation scores for each Proposal. The average score for each Proposal shall constitute its award of Quality Points.
- **Evaluation, Step 2- Fixed Price Proposal and Quality Per Price Point**
 - After proposal scores are established under Step 1, Proposer's Fixed Price Proposal Form shall be considered. The dollar total of each Fixed Price Proposal (measured in \$10,000 increments) shall be divided into the total Quality Points assigned to that Proposal, the result of which will be a Quality per Cost Point result that will enable easier comparison of proposals. Example: (93 Quality Points / 6.2= 93 Quality Points Per Cost Increment.
- **Evaluation, Step 3 – Interviews Conducted with Top Candidates (Maximum 2)**
- **Evaluation, Step 4 – References Checked**
 - References may be contacted for each of the two highest ranked proposal submitters. After this step, the Evaluation Committee will finalize their selection.
- **Contract Award.**
 - A binding contract between the successful Proposer and the City is subject to final review and approval by the City Administrator and City of Coburg Mayor. Prompt approval is anticipated.

PROJECT SCHEDULE

Subject to the requirements and constraints outlined in the paragraph below, the Contracting Agency estimates the following schedule for the referenced Project:

- RFP Issued November 9, 2017
- Deadline for Optional Registration November 17, 2017
- Pre-Submittal Conference 11:00 AM, on-site November 21, 2017
- Deadline for Proposer Requests for Information (RFI's) December 6, 2017
- Last addendum published December 8, 2017
- Deadline for receipt of technical and cost proposals: 4:00 PM local time on Wednesday, December 13, 2017
- Selection Committee evaluates technical proposals and awards quality points according December 14 to 15, 2017 to selection criteria in the RFP and checking the references of the two highest ranked submitters.
- City issues Notice of Intent to Award Contract to the Proposer with the proposal that has December 18, 2017 the lowest Cost/Quality Point. All proposers notified.
- City Awards Contract and issues "Notice-To-Proceed" and turns project over to contractor. December 21, 2017.
- Proposers' start of on-site installation (Per Proposer Schedule) **SUBMIT DATE**
- System Installation FULLY Complete and FULLY FUNCTIONAL by March 15, 2018. This is driven by the project grant expiration on March 30, 2018. Details below:
 - **Substantial completion date is March 2, 2018**
 - **Final completion date is March 15, 2018**
 - **Contractor fully paid and confirmation of payment received by City on or before March 28, 2018**

The Owner reserves the right to modify the Competition Schedule prior to proposal submittals, or to terminate the RFP at any time. Any modification to the Preferred System Installation Complete and Fully Functional date would require approval by the grantor agency.



CITY OF COBURG, OREGON

PROPOSAL COVER SHEET

Project: City Hall Emergency Standby Generator, Project No.: RFP-2017-03

Date of Submission _____

PROPOSER Name _____

SSN or Federal ID _____

Business License Number _____ Contractor Registration _____

Contact Name and Title _____

Complete Address _____

Phone _____

Email _____

Fax _____

Other _____

Signature

Date



CITY OF COBURG, OREGON

FIXED PRICE PROPOSAL FORM

<p>Project: City Hall Emergency Standby Generator, Project No.: RFP-2017-03</p> <p>Date of Submission _____</p> <p>PROPOSER Name _____</p>
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The PROPOSER, in compliance with your Request for Design-Build Proposals (RFP) for the design and construction of the Project indicated above, having examined the RFP and the related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the design and construction of the proposed project, including the availability of materials and labor, hereby proposes to furnish all professional design services, labor, materials, and supplies and to design and construct the Project in accordance with the Contract Documents, within the time set forth therein, and for the price stated below.

The PROPOSER hereby agrees to commence work under the Contract on a date to be specified in the written Notice of Award of the Owner and to fully complete the Project within the time stipulated in the Contract Documents. The PROPOSER further agrees to pay all applicable liquidated damages in the sums as set forth in the Contract Documents.

Standby Generator System, Complete Cost: Dollars (\$ _____) (In figures)

This proposal shall remain subject to acceptance for 60 days after the deadline of Receipt of Proposals indicated in the RFP Project Schedule. The acceptance date may only be extended by written consent of the Proposer. The PROPOSER understands that the City reserves the right to reject any or all Proposals. The PROPOSER certifies that it possesses valid license and registration and submits the corresponding numbers as evidence.

Respectfully submitted, by _____ Typed Name and Title

<p>Signature</p> <p>_____</p>	<p>Date</p> <p>_____</p>
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Federally Required Contract Provisions

A grantee's and sub-grantee's contracts may contain contract provisions as outlined in 44 CFR 13.36 (i). The below provisions are required to be incorporated when utilizing federal grant funds for contracts. These requirements if applicable will be confirmed at time of finalizing the contract. Proposers should review these and be prepared to agree and comply with these requirements if required to be included in the contract by the Grantor Agency.

- Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)
- Termination for cause and for convenience by the grantee or sub-grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub-grantees)
- Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and sub-grants for construction or repair)
- Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and sub-grantees when required by Federal grant program legislation)
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and sub-grantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)
- Notice of awarding agency requirements and regulations pertaining to reporting.
- Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- Access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

- Retention of all required records for three years after grantees or sub-grantees make final payments and all other pending matters are closed.
- Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and sub-grants of amounts in excess of \$100,000)
- Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

GENERAL CONDITIONS

The following general conditions apply to the proposal process or the requirements that will be included in any contract with the successful bidder.

General Information:

The City of Coburg, Oregon will receive at its office located at City Hall, 91136 N. Willamette Street, or by mail directed to the mailing address provided, bid responses. Bids shall be submitted as previously outlined in "proposal content". Bids shall be written in ink, computer generated, or by typewriter. Mistakes may be crossed out and corrections inserted adjacent thereto and must be initialed in ink by the person signing the bid. Bids are to be verified before submission as they cannot be corrected or altered or signed after bids are opened.

Interpretation of Bids:

Should a bidder find discrepancies in, or omissions from the specifications, or should bidder be in doubt as to their true meaning, bidder may submit to the City Administrator a written request for an interpretation thereof prior to the bid opening. The person submitting the request shall be responsible for its prompt delivery. Any interpretation of, or change in the proposed documents will be made only by an addendum issued to each person to whom specifications have been issued, and shall become part of any contract awarded. The City will not be responsible for any other explanation or interpretations.

Amendments:

The City reserves the right to amend this RFP prior to the proposal due date. All amendments and additional information will be posted on the **City of Coburg** at www.coburg.oregon.org. Proposers should check this web page for new information. Any addenda issued by the City during the time of bidding shall be covered in the bid and shall be made a part of the contract.

Cost for Preparing Proposal:

The cost for developing the proposal is the sole responsibility of the proposer. All proposals submitted become the property of the City.

Bid Openings:

Bids shall be delivered to the City of Coburg on or before the day and hour set for the opening of bids in the published Notice to Bidders. A bidder may withdraw his bid, either personally or by written request, at any time prior to the scheduled time for opening of bids.

Late Bids:

Any bids received after the scheduled time of opening will be noted as received, but they will not be opened or considered.

Contract Discussions:

Prior to award, the apparent successful firm may be required to enter into discussions with the

City to resolve any contractual differences. These discussions are to be finalized and all exceptions resolved within one (1) week from notification. If no resolution is reached, the proposal may be rejected and discussions will be initiated with the second highest scoring firm.

Assignment:

No assignment by the contractor or any contract to be entered into hereunder or of any part thereof, except of funds to be received there under by the contractor, will be recognized by the City unless such assignment has had the prior written approval of the City.

Governing Law:

This contract shall be construed and interpreted according to the laws of the State of Oregon.

Insurance Requirements:

The City of Oregon requires that licensees, lessees, and vendors have an approved Certificate of Insurance (not a declaration or policy) on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful proposer must furnish the City with the Certificates of Insurance proving coverage as specified in the provision entitled "Liability Insurance" in Appendix C (Sample Contractor Agreement)

Please carefully review the Sample Contractor Insurance Requirements before responding to the Request for Proposal enclosed herein. The terms of the agreement, including insurance requirements have been mandated by City Council. Your response to the Request for Proposal must indicate if you are unwilling or unable to execute the agreement as drafted as well as providing the insurance requirements. The City will consider this in determining responsiveness to the Request for Proposal.

Adequate Funds Available:

Owner represents and warrants that it has adequate funds available and committed to fulfill all of owner's contractual obligations under the contract documents.

Mutual Cooperation:

Owner and Design-Builder will commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the contract documents.

Owner shall, throughout the performance of the work, exercise due diligence to cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance. owner shall provide timely reviews and approvals of interim design submissions and construction documents consistent with the turnaround times set forth in Design-Builder's schedule.

Design-Builder's representative shall be reasonably available to owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's representative may be replaced only with the written mutual agreement of owner and Design-Builder.

Design-Builder shall provide owner with a monthly status report detailing the progress of the work, including whether (i) the work is proceeding according to schedule, (ii) discrepancies, conflicts, or ambiguities exist in the contract documents that require resolution, (iii) health and safety issues exist in connection with the work, and (iv) other items require resolution so as not to jeopardize Design-Builder's ability to complete the work for the contract price and within the contract time(s).

The Design-Builder shall correct, through re-performance at its expense, any service which are deficient or defective because of the Design-Builder's failure to perform said services in accordance with professional standards, provided owner has notified the Design-Builder in writing within a reasonable time, not to exceed 60 days, of the discovery of any such deficiency during the performance of the services and within 12 months of the date of final payment under this Agreement.

Regulatory Requirements:

Design-Builder shall perform the work in accordance with all regulatory requirements. Government approvals and permits are all applicable. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the work, and Design-Builder and subcontractors shall comply with all regulatory requirements relating to safety. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the work to owner's representative and, to the extent mandated by regulatory requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the project or the work.

Obligation to Achieve the Contract Times:

Design-Builder agrees that it will commence performance of the work and achieve the contract time(s) in accordance with the Agreement. If Design-Builder is delayed in the performance of the work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, and such delay(s) can be shown to extend the time necessary to achieve substantial completion, the contract time(s) for performance shall be reasonably extended by change order.

By way of example, events that will may entitle Design-Builder to an extension of the contract time(s) include acts or omissions of owner or anyone under owner's control (including separate contractors), changes in the Work directed by the owner, differing site conditions, hazardous conditions, wars, floods, labor disputes, unusual delay in transportation, epidemics abroad, earthquakes, adverse weather conditions not reasonably anticipated, and other acts of God.

In order to be entitled to an extension of contract time, the Design-Builder must demonstrate

through analysis and other reliable evidence that the event complained of was not one for which the Design-Builder was responsible and, through Critical Path Method, that the event complained of affected one or more critical elements of the work for a reasonably certain period of time.

Fixed Price Contract:

In the event of a change of schedule, there will be no change to the budgeted expenses or agreed to compensation amount. The contracted work will be delivered at a fixed price (not to exceed).

Subcontractors:

Design-Builder shall employ only subcontractors who are duly licensed in the State of Oregon and qualified to perform the work consistent with the contract documents. Design-Builder shall coordinate the activities of all subcontractors. Design-Builder assumes responsibility to owner for the proper performance of the work of subcontractors and any acts and omissions in connection with such performance. Nothing in the contract documents is intended or deemed to create any legal or contractual relationship between owner and any subcontractor or sub-subcontractor.

Correction of Defective Work:

Design-Builder agrees to correct any Work that is found to not be in conformance with the contract documents within a period of one year from the date of substantial completion of the work or any portion of the Work. The above applies only to Design-Builder's obligation to correct nonconforming work and is not intended to constitute a period of limitations for any other rights or remedies owner may have regarding Design-Builder's other obligations under the contract documents. This remedy of correction shall be in addition to, and not exclusive of, any other remedy allowed by law.

Suspected Hazardous Materials or Waste:

Unless otherwise expressly provided in the contract documents to be part of the work, Design-Builder is not responsible for any existing hazardous materials encountered at the site. Design-Builder is responsible for any and all hazardous materials and waste generated by himself or by any subcontractor to the Design-Builder, of any tier, including, but not limited to, discharges of hazardous materials and waste onto or into the ground, or into any body of water, or into the air.

Design-Builder is not responsible for any and all hazardous materials and waste generated by the owner or the owner's agents, separate contractors, or third parties not parties to this contract. Upon encountering suspected discharges of hazardous materials or waste, the Design-Builder will stop work immediately in the affected area and duly notify the owner, and if required by regulatory requirements, all government or quasi-government entities with jurisdiction over the project or site.

Owner and design-builder will jointly determine the origin of the hazardous materials or waste discharge. If it is determined that the Design-Builder is responsible for the hazardous material or waste, then the Design-Builder shall remove the material and remediate the site at its own cost. If it is determined that the owner is responsible for the discharge or if responsibility cannot be

determined, than the owner will cause the material to be removed from the site and the site remediated at owner's cost.

Payments:

Design-Builder shall submit invoices for **payments based upon progress up to 60% of the contractual amount**. The balance shall be paid upon successful completion of the project. The application for payment shall be accompanied by all supporting documentation required by the contract documents and/or established a meeting with the City of Coburg Finance Director. The application for payment shall constitute Design-Builder's representation that the work has been performed consistent with the contract documents, has progressed to the point indicated in the application for payment, and that title to all work will pass to owner free and clear of all claims, liens, encumbrances, and security upon Design-Builder's receipt of payment. Upon application for final payment, Design-Builder will deliver to owner all operating manuals, warranties and other deliverables required by the contract documents.

Design-Builder shall pay design consultants and subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from owner on account of their work. Design-Builder will impose similar requirements on design consultants and subcontractors to pay those parties with whom they have contracted.

Design-Builder will indemnify and defend owner against any claims for payment and mechanic's liens. Each application for payment shall be accompanied by releases of lien from the Design-Builder and each of his subcontractors, whatever tier, for the full amount of the previous application for payment. Release of liens is a condition precedent for processing the current application for payment.

EXAMPLE: Fixed Sum Design-Build Contract

The following is an example contract. The actual contract may contain modifications, additional sections or details to be determined, along with a specifically-detailed project budget, project work schedule and general conditions.

EXAMPLE ONLY

IN CONSIDERATION OF THE MUTUAL CONVENANTS CONTAINED HEREIN, THE PARTIES AGREE TO THE FOLLOWING TERMS, PROVISIONS AND CONDITIONS:

RECITALS

- 1. The Contractor was selected via a formal procurement process to provide services to complete the installation and maintenance of an Emergency Engine-Generator system.
- 2. Contractor has the training, ability, knowledge and experience to provide the services desired by the City.

TERMS OF AGREEMENT

- 1. **Effective Date.** This Agreement is effective when signed by both parties and approved by the City’s legal counsel. This agreement will expire on December 31, 2017, unless earlier terminated in accordance with the provisions of this Agreement or by mutual consent of the parties. Termination or expiration shall not extinguish or prejudice the City’s right to enforce this Agreement with respect to any default or defect in performance that has not been cured.
- 2. **Services.** Contractor shall complete services previously agreed to and as listed in (**REFERENCE: EXHIBIT**), and as listed in the _____ proposal dated _____.
- 3. **Consideration.** City shall pay Contractor for the services based on time and materials as set forth in (**REFERENCE: EXHIBIT**). The total payment for all services to complete the work under this Agreement, which includes allowable expenses or reimbursement and work performed to date, shall not exceed \$_____.

 - a. Invoices will be directed to the City of Coburg, Attention: Finance Department, P.O. Box 8316 Coburg, Oregon 97408. Invoices may also be emailed to Anne Heath at anne.heath@ci.coburg.or.us. If an invoice is delivered on a non-business day, the invoice shall be considered received on the next day the City’s Finance Department is open for business.

- 4. **Standard of Care.** Contractor will provide services with the degree of skill and diligence normally employed by professional performing the same or similar services at the time the services are performed. Contractor shall, at all times during the term of this

Agreement be duly licensed to perform the Work, and if there is no licensing requirement for the profession or Work. Be duly qualified expert.

- 5. Independent Contractor Status.** By its execution of this Agreement, Independent Contractor certifies its status as an “Independent Contractor” as that term is used under the laws of the State of Oregon, and that all performance of any labor or services required to be performed by Independent Contractor under the terms of this Agreement shall be performed in accordance with the standards set forth in ORS 670.600(1997), and incorporated herein by this reference.
- 6. Conformance with Oregon Public Contracts Law** Independent Contractor shall comply with all applicable provisions of Oregon law for public contracts. This Agreement incorporates the provisions required to be in an agreement of this type by ORS 279B.200 through 279B.235 (**REFERENCE: EXHIBIT**).
- 7. Tax Duties and Liabilities.** Independent Contractor shall be responsible for all federal, state and local taxes, if any, applicable to any payments received pursuant to this Agreement, including, but not limited to income tax, payroll tax, social security and self-employment tax. CITY shall not withhold, pay or in any other manner be responsible for payment of any taxes on behalf of Independent Contractor.
- 8. Reimbursement of Expenses.** Independent Contractor shall not be entitled to reimbursement by CITY for any expenses incurred by Independent Contractor unless otherwise agreed in writing.
- 9. Materials and Supplies.** Independent Contractor shall supply all materials and supplies needed to perform the services required unless otherwise agreed in writing.
- 10. No Authority to Bind CITY.** Independent Contractor shall have no authority to enter into contracts on behalf of CITY, its officers, agents and employees. This Agreement shall not create a partnership or joint venture of any sort between the parties.
- 11. Federal Employment Status.** In the event payment made pursuant to this Agreement is to be charged against federal funds, Independent Contractor hereby certifies that it is not currently employed by the Federal Government and the amount charged does not exceed Independent Contractor’s normal charge for the type of services provided.
- 12. Hold Harmless.** Independent Contractor shall defend and hold harmless CITY, its agents, servants and employees from and against all claims, demands and judgment (including attorney fees), made or recovered against them including, but not limited to damages to real or tangible personal property or for bodily injury or death to any person, arising out of, or in any manner connected with this Agreement, to the extent that any such damage, injury or death is caused by, or sustained in connection with the performance of, Independent Contractor, its employees, servants or agents. CITY shall

promptly notify Independent Contractor in a reasonable manner to facilitate the defense of any such claim.

13. Termination by City, in whole or in part, whenever for any reason CITY shall determine that such termination is in the best interest of CITY. Thirty days' notice of termination shall be effected by delivery to the Independent Contractor of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination is effective. Upon delivery to the Independent Contractor of a Notice of Termination under this paragraph, the Independent Contractor and CITY shall, by agreement, make an appropriate written modification to this Agreement governing completion of portions of the Independent Contractor's work and payment therefore by CITY. **A completed Federal Form W-9 shall accompany this signed document when returned by the Independent Contractor.**

14. Independent Contractor Termination: The Independent Contractor shall give the CITY a ninety-day notice of termination, which will be effected by deliverance of a Notice of Termination to the City. Such notice shall include the date on which the termination is effective. The Independent Contractor and CITY shall, by agreement, make an appropriate written modification to this Agreement governing completion of portions of the Independent Contractor's work and payment therefore by the City to the Independent Contractor.

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

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

17. Assignment/Subcontract. Independent Contractor shall not assign, sell, transfer, subcontractor sublet rights, or delegate responsibilities under this Agreement, in whole

or in part, without the prior written approval of CITY. No such written approval shall relieve Independent Contractor of any obligations of this Agreement, and any transferee or subcontractor shall be considered the agent of Independent Contractor. Independent Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

- 18. Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.
- 19. Compliance with all Government Regulations.** Independent Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for termination of this Agreement. Damages or costs resulting from noncompliance shall be the sole responsibility of Independent Contractor.
- 20. Attorney Fees.** In the event a lawsuit of any kind is instituted on behalf of CITY to enforce any provision of this Agreement, Independent Contractor shall pay such additional sums as the Court may adjudge reasonable for attorney fees plus all costs and disbursements at trial and on any appeal.
- 21. Force Majeure.** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CITY may terminate this Agreement upon written notice after determining such delay or default will unreasonably prevent successful performance of the Agreement.
- 22. Assistance regarding Patent and Copyright Infringement.** In the event of any claim or suit against CITY on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any material furnished or work or services performed hereunder, Independent Contractor shall defend CITY against any such suit or claim and hold CITY harmless from any and all expenses, court costs, and attorney's fees in connection with such claim or suit.
- 23. Severability.** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 24. Access to Records.** CITY and its duly authorized representatives shall have access to books, documents, papers and records of Independent Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

25. Waiver. Failure of CITY to enforce any provision of this Agreement shall not constitute a waiver or relinquishment by CITY of the right to such performance in the future nor of the right to enforce any other provision of this Agreement.

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

27. Nondiscrimination. Independent Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

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

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

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

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

CITY OF COBURG

Printed Name: _____

Title: _____

Signature: _____

Date: _____

DESIGN-BUILDER

Printed Name: _____

Title: _____

Signature: _____

Date: _____