



AUTHORIZATION FOR AGREEMENTS, MOUs, OR OTHER DOCUMENTS OBLIGATING THE CITY

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Professional Services Agreement with Public Affairs Counsel

Date: July 1, 2024

Statement of Purpose: To enter into a three-year contract with Public Affairs Counsel, Inc. for state legislative services.

Department Head Signature: C. A. Beard

Remarks, if any: _____

City Attorney Review and Signature: See attached e-mail Date: _____

Other Signatures as Requested by the City Attorney: _____

	Signature				Name/Position
	Date:				
Budget Confirmed:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>		
Certificate of Insurance Attached:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>		
City Council Approval Needed:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		Date: June 17, 2024	

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 7/24/24

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

Chris Beatty

From: David Allen
Sent: Thursday, July 18, 2024 8:33 AM
To: Chris Beatty
Subject: Re: PAC agreement
Attachments: Professional Services Agreement - State Lobbying Services (7-1-24).docx; Cert of Ins - City of Newport, Oregon.PDF

You can use this e-mail to confirm review of attached agreement for the sign-off form (include Exhibits A and C). Attached COI needs to indicate 'OCCUR' in commercial general liability section. --David

From: Chris Beatty
Sent: Sunday, July 7, 2024 11:52 AM
To: David Allen
Subject: RE: PAC agreement

Added as requested. Please send authorization for sign-off if acceptable. -Chris

* * * * *

**CITY OF NEWPORT, OREGON
PROFESSIONAL SERVICES AGREEMENT**

LOBBYING AND STATE GOVERNMENT AFFAIRS SERVICES

THIS AGREEMENT is between City of Newport, an Oregon municipal corporation (City), and Public Affairs Counsel Inc., an Oregon corporation, which is registered to practice government affairs and advocacy (Consultant).

RECITALS

A. Pursuant to public contracting rule 137-048-0210, the City of Newport (City) solicited proposals for professional Consulting services to assist the City in Lobbying and State Government Affairs Services.

B. After reviewing all proposals, the City has selected Public Affairs Counsel, Inc. (Consultant) as a Consultant of Record to provide the proposed services.

C. Consultant is willing and qualified to perform such services.

TERMS OF AGREEMENT

1. Consultant's Scope of Services

Consultant shall perform professional Consulting services related to Lobbying and State Government Affairs Services. The City is free to utilize other Consultants or Consultant as it deems appropriate. Services include but are not limited to:

- Coordination of state government affairs activities
 - Issue/bill tracking and monitoring for City related to dam legislation, related water policy legislation, and funding opportunities for the City;
 - Continued state legislative funding strategy for Big Creek Dam project;
 - Continued legislative advocacy for Big Creek Dam project and funding request;
 - Continued regulatory advocacy for Big Creek Dam project and funding request;
- Coordination of stakeholder advocacy for Big Creek Dam project;
- Attendance and reporting at stakeholder meetings as directed by City; and
- Communications and regular state government affairs updates to stakeholders as directed by City.

2. Effective Date and Duration

This agreement is effective July 1, 2024 on execution by both parties and shall expire, unless otherwise terminated or extended, after three years. The parties may extend the term by mutual agreement.

3. Consultant's Fee and Schedules

A. Fee

Fees for services under this Agreement shall be based on time and materials and pursuant to the rates shown in Exhibit A, up to a maximum amount payable of \$171,000 payable as follows:

Fiscal Year 2024/2025 - \$4,500/month = \$54,000/year

Fiscal Year 2025/2026 – \$4,750/month = \$57,000/year

Fiscal Year 2026/2027 - \$5,000/month = \$60,000/year

Consultant will invoice monthly payments. The maximum monetary limit will not be exceeded without prior approval by the City. Projects partially completed may be paid for in proportion to the degree of completion.

Consultant will be reimbursed for direct charges such as the cost of printing, postage, delivery services, and subconsultant fees. Unless specifically noted in the Task Order, direct charges will be billed at cost without any markup. Office expenses such as computer cost, telephone calls, and overhead expenses are incidental and are included in the hourly rates shown in Exhibit A.

B. Payment Schedule for Basic Fee

Payments shall be made within 30 days of receipt of monthly billings based on the work completed. Payment by the City shall release the City from any further obligation for payment to the Consultant for service or services performed or expenses incurred as of the date of the statement of services. Payment shall be made only for work actually completed as of the date of invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

C. Payment for Contingency Tasks

When agreed to in writing by the City, the Consultant shall provide services described as Contingency Tasks in a Task Order.

D. Certified Cost Records

Consultant shall furnish certified cost records for all billings to substantiate all charges. Consultant's accounts shall be subject to audit by the City. Consultant shall submit billings in a form satisfactory to the City. At a minimum, each billing shall identify the Task Order under such work is performed, work completed during the billing period, percentage of work completed to date, and percentage of budget used to date for each task.

E. Identification

Consultant shall furnish to the City its employer identification number.

F. Payment – General

- 1) Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- 2) Consultant shall pay employees at least time and a half pay for all overtime worked in excess of 40 hours in any one week except for individuals under the contract who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 209 from receiving overtime. Any subconsultant utilized by Consultant under this Agreement will be paid according to the then prevailing wage.
- 3) 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.
- 4) Consultant shall make payments promptly, as due, to all persons supplying services or materials for work covered under this contract. Consultant shall not permit any lien or claim to be filed or prosecuted against the City on any account of any service or materials furnished.
- 5) If Consultant fails, neglects or refuses to make prompt payment of any claim for labor, materials, or services furnished to Consultant, sub-consultant or subconsultant by any person as such claim becomes due, City may pay such claim and charge the amount of the payment against funds due or to become due to the Consultant. The payment of the claim in this manner shall not relieve Consultant or its surety from obligation with respect to any unpaid claims.

G. Schedule

Consultant shall provide services under this Agreement in accordance with the Project Schedule.

4. Ownership of Plans and Documents: Records; Confidentiality

A. Definitions. As used in this Agreement, the following terms have the meanings set forth below:

- 1) Consultant Intellectual Property means any intellectual property owned by Consultant and developed independently from this Agreement that is applicable to the Services or included in the Work Product.
- 2) Third Party Intellectual Property means any intellectual property owned by parties other than City or Consultant that is applicable to the Services or included in the Work Product.

- 3) Work Product means the Services Consultant delivers or is required to deliver to City under this Agreement. Work Product includes every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports and other materials, whether completed, partially completed or in draft form.

B. Work Product

- 1) Except as provided elsewhere in this Agreement, all Work Product created by Consultant pursuant to this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a “work made for hire” or an employment to invent, shall be the exclusive property of City. City and Consultant agree that such original works of authorship are “work made for hire” of which City is the author within the meaning of the United States Copyright Act. To the extent that City is not the owner of the intellectual property rights in such Work Product, Consultant hereby irrevocably assigns to City any and all of its rights, title, and interest in all original Work Product created pursuant to this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon City’s reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in City. Consultant forever waives any and all rights relating to original Work Product created pursuant to this Agreement, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 2) In the event Consultant Intellectual Property is necessary for the use of any Work Product, Consultant hereby grants to City an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use Consultant Intellectual Property, including the right of City to authorize Consultant, Consultant and others to use Consultant Intellectual Property, for the purposes described in this Agreement.
- 3) In the event Third Party Intellectual Property is necessary for the use of any Work Product, Consultant shall secure on City’s behalf and in the name of City, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third-Party Intellectual Property, including the right of City to authorize Consultant, Consultant and others to use the Third-Party Intellectual Property, for the purposes described in this Contract.
- 4) In the event Work Product created by Consultant under this Agreement is a derivative work based on Consultant Intellectual Property or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to City an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of Consultant Intellectual Property employed in the Work Product, including the right of City to authorize Consultant, Consultant and others to use the pre-existing elements of Consultant Intellectual Property

employed in a Work Product, for the purposes described in this Agreement.

- 5) In the event Work Product created by Consultant under this Agreement is a derivative work based on Third Party Intellectual Property, or a compilation that includes Third Party Intellectual Property, Consultant shall secure on City's behalf and in the name of City an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property, including the right to authorize Consultant, Consultant and others to use the pre-existing elements of the Third Party Intellectual Property, for the purposes described in this Agreement.
- 6) To the extent permitted by the Oregon Constitution and by the Oregon Tort Claims Act, Consultant shall be indemnified and held harmless by City from liability arising out of re-use or alteration of the Work Product by City which was not specifically contemplated and agreed to by the Parties in this Agreement.
- 7) Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless otherwise specified, Consultant may use standard line drawings, specifications and calculations on other, unrelated projects.

C. Confidential Information

- 1) Consultant acknowledges that it or its employees, Sub-Consultant, subconsultant or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is the confidential information of City or City's residents. Any and all information provided by City and marked confidential, or identified as confidential in a separate writing, that becomes available to Consultant or its employees, Sub-Consultant, subconsultant or agents in the performance of this Agreement shall be deemed to be confidential information of City ("Confidential Information"). Any reports or other documents or items, including software, that result from Consultant's use of the Confidential Information and any Work Product that City designates as confidential are deemed Confidential Information. Confidential Information shall be deemed not to include information that: (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by City to others without restrictions similar to those imposed by this Agreement; (c) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; (d) is obtained from a source other than City without the obligation of confidentiality; (e) is disclosed with the written consent of City; or (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information; or (g) is required to be disclosed by law, subpoena, or other court order.
- 2) Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce,

sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to City under this Agreement, and to advise each of its employees, Sub-Consultant, subconsultant and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist City in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall advise City immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Consultant will at its expense cooperate with City in seeking injunctive or other equitable relief in the name of City or Consultant against any such person. Consultant agrees that, except as directed by City, Consultant will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Agreement, and that upon termination of this Agreement or at City's request, Consultant will turn over to City all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

- 3) Consultant acknowledges that breach of this Section 4, including disclosure of any Confidential Information, will give rise to irreparable injury to City that is inadequately compensable in damages. Accordingly, City may seek and obtain injunctive relief against the breach or threatened breach of this Section 4, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of City and are reasonable in scope and content.

5. Assignment/Delegation

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other. If City agrees to assignment of tasks to a subconsultant, Consultant shall be fully responsible for the acts or omissions of any subconsultant. Any approval of a subconsultant does not create a contractual relationship between the subconsultant and City.

6. Consultant is Independent Consultant

- A. The City's project director, or designee, shall be responsible for determining whether Consultant's work product is satisfactory and consistent with this Agreement, but Consultant is not subject to the direction and control of the City. Consultant shall be an independent Consultant for all purposes and shall not be entitled to compensation other than the compensation provided for under Section 3 of this Agreement. The City's acceptance of the work product as satisfactory does not relieve the Consultant from responsibility for any errors in the work product.
- B. Consultant is an independent Consultant and not an employee of City. Consultant acknowledges Consultant's status as an independent Consultant and acknowledges that Consultant is not an employee of the City for purposes of workers compensation law,

public employee benefits law, or any other law. All persons retained by Consultant to provide services under this Agreement are employees of Consultant and not of City. Consultant acknowledges that it is not entitled to benefits of any kind to which a City employee is entitled and that it shall be solely responsible for workers compensation coverage for its employees and all other payments and taxes required by law. Furthermore, in the event that Consultant is found by a court of law or an administrative agency to be an employee of the 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 the Agreement, to the full extent of any benefits or other remuneration Consultant receives (from City or third party) as a result of the finding and to the full extent of any payments that City is required to make as a result of the finding.

- C. The Consultant 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 the Consultant, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.
- D. Consultant and its employees, if any, are not active members of the Oregon Public Employees Retirement System.
- E. Consultant certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- F. Consultant is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. Indemnity

- A. The City has relied upon the professional ability and training of the Consultant as a material inducement to enter into this Agreement. Consultant represents to the City that the work under this Agreement will be performed in accordance with the professional standards of skill and care ordinarily exercised by members of the Civil Engineering profession under similar conditions and circumstances as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of an Consultant's work by the City shall not operate as a waiver or release. Acceptance of documents by City does not relieve Consultant of any responsibility for design deficiencies, errors or omissions.
- B. Consultant shall defend, hold harmless and indemnify the City, its officers, agents, and employees from all claims, suits, or actions to the extent caused by the alleged negligent or otherwise wrongful acts or omissions of Consultant or its subconsultant, sub-Consultant, agents or employees under this Agreement. This indemnification does not extend to indemnification for negligent or otherwise wrongful acts or omissions of the City. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, the illegality or invalidity shall not affect the validity of the remainder of this indemnification.
- C. Consultant shall defend, hold harmless and indemnify the City, its officers, agents, and

employees from all claims, suits, or actions and all expenses incidental to the investigation and defense thereof, to the extent caused by the professional negligent acts, errors or omissions of Consultant or its subconsultant, sub-Consultant, agents or employees in performance of professional services under this Agreement. Any design work by Consultant that results in a design of a facility that does not comply with applicable laws including accessibility for persons with disabilities shall be considered a professionally negligent act, error or omission.

- D.** As used in subsections B and C of this section, a claim for professional responsibility is a claim made against the City in which the City's alleged liability results directly or indirectly, in whole or in part, from the quality of the professional services provided by Consultant, regardless of the type of claim made against the City. A claim for other than professional responsibility is a claim made against the City in which the City's alleged liability results from an act or omission by Consultant unrelated to the quality of professional services provided by Consultant.

8. Insurance

Consultant and its subconsultant shall maintain insurance acceptable to City in full force and effect throughout the term of this Agreement as detailed in this section. The insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder, including the operations of its subconsultant of any tier.

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

A. Commercial General Liability Insurance

Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form with policy limits of at least per occurrence. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement in an amount of \$2,000,000.

B. Professional Liability

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 \$1,300,000, or the equivalent. Annual aggregate limit shall not be less than \$2,000,000 and filed on a "claims-made" form.

C. Commercial Automobile Insurance

Commercial Automobile Liability coverage on an "occurrence" form including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,300,000.

D. Workers' Compensation Insurance

The Consultant, its subconsultant, if any, and all employers providing work, labor or materials under this Agreement 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 Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Consultant who perform work without the assistance or labor of any employee need not obtain such coverage.

E. Additional Insured Provision

The Commercial General Liability Insurance Policy shall include the City its officers, directors, and employees as additional insureds with respect to this Agreement. Coverage will be endorsed to provide a per project aggregate.

F. Extended Reporting Coverage

If any of the liability insurance is arranged on a "claims made" basis, Extended Reporting coverage will be required at the completion of this Agreement to a duration of 24 months or the maximum time period the Consultant's insurer will provide if less than 24 months. Consultant will be responsible for furnishing certification of Extended Reporting coverage as described or continuous "claims made" liability coverage for 24 months following Agreement completion. Continuous "claims made" coverage will be acceptable in lieu of Extended Reporting coverage, provided its retroactive date is on or before the effective date of this Agreement. Coverage will be endorsed to provide a per project aggregate.

G. 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. The 30 days' notice of cancellation provision shall be physically endorsed on to the policy.

H. Insurance Carrier Rating

Coverage 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.

I. Certificates of Insurance

As evidence of the insurance coverage required by the Agreement, the Consultant shall furnish a Certificate of Insurance to the City. No Agreement shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this Agreement. A renewal certificate will be sent to the address below ten days prior to coverage expiration.

J. 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.

K. Copy of Policy or Certificate of Insurance

A cross-liability clause or separation of insureds clause will be included in the general liability policy required by this Agreement. Consultant shall furnish City with at least 30-days written notice of cancellation of, or any modification to, the required insurance coverages. 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:

Chris Beatty, PE
Acting City Engineer
City of Newport
169 SW Coast Highway
Newport, OR 97365

Thirty days' cancellation notice shall be provided City by certified mail to the name at the address listed above in event of cancellation or non-renewal of the insurance. The procuring of the required insurance shall not be construed to limit Consultant's liability under this agreement. The insurance does not relieve Consultant's obligation for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

9. 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 Agreement pursuant to this section, Consultant shall be entitled to payment for services provided prior to the termination date.

10. 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 subconsultant, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

Any termination of this agreement under paragraph (A) 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 Agreement) to Consultant, may terminate this Agreement:
 - 1) If Consultant fails to provide services called for by this Agreement within the time specified, or
 - 2) If Consultant fails to perform any of the other provisions of this Agreement, or 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 days or such other period as City may authorize.
- C. If City terminates this Agreement, it shall pay Consultant for all undisputed invoices tendered for services provided prior to the date of termination.
- D. Damages for breach of Agreement shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

11. 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.

12. Notice

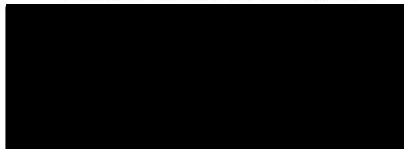
All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

IF TO CITY OF NEWPORT

Chris Beatty, PE
Acting City Engineer
City of Newport
169 SW Coast Highway
Newport, OR 97365
541-574-3376
c.beatty@newportoregon.gov

IF TO CONSULTANT

J.L. Wilson
President
Public Affairs Counsel, Inc.



The date of deposit in the mail shall be the notice date for first class mail. All other notices, bills and payments shall be effective at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

13. 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.

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 disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, 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 disabled shall within ten 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-Discrimination

Consultant agrees to comply with all applicable requirements of federal and state statutes, rules, and regulations. By way of example only, 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.

16. 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.

17. Extra Work

Extra work or work on Contingency Tasks is not authorized unless the City authorizes the additional or contingency work in writing. Failure of Consultant to secure written authorization for extra work shall constitute a waiver of all right to adjustment in the Agreement price or Agreement time due to unauthorized extra work and Consultant shall be entitled to no compensation for the performance of any extra work not authorized in writing.

18. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict of law principles. Any action or suits involving any question arising under this

Agreement must be brought in the appropriate court of the State of Oregon, and the parties hereby consent to venue in Lincoln County Circuit Court, Oregon, unless exclusive jurisdiction is in federal court, in which case venue shall be in federal district court for the District of Oregon.

19. Compliance with Applicable Law

Consultant shall comply with all federal, state, and local laws and ordinances applicable to the work under this Agreement, including but not limited to those set forth in ORS 279A, 279B and 279C. While all required contractual provisions are included in Exhibit B, Consultant shall be familiar with and responsible for compliance with all other applicable provisions of the Oregon Public Contracting Code.

20. Conflict Between Terms

This document shall control in the event of any conflict in terms between this document and the RFP and/or proposal.

21. Access to Records

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

22. 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 Agreement period. Consultant agrees to permit City or its duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

23. 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.

24. Industrial Accident Fund Payment

Consultant shall pay all contributions or amount due the Industrial Accident Fund that Consultant or subconsultant incur during the performance of this Agreement.

25. Arbitration

All claims, disputes, and other matters in question between the City and Consultant arising out of, or relating to this Contract, including rescission, reformation, enforcement, or the breach thereof except for claims which may have been waived by the making or acceptance of final payment, may be decided by binding arbitration in City's sole discretion, in accordance with the Oregon Uniform Arbitration Act, ORS 36.600, et seq. and any additional rules mutually agreed to by both parties. If the parties cannot agree on rules within ten (10) days after the notice of demand, the presiding judge of the Lincoln County Circuit Court will establish rules to govern the arbitration.

A claim by Consultant arising out of, or relating to this Contract must be made in writing and delivered to the City Administrator not less than 30 days after the date of the occurrence giving rise to the claim. Failure to file a claim with the City Administrator within 30 days of the date of the occurrence that gave rise to the claim shall constitute a waiver of the claim. A claim filed with the City Administrator will be considered by the City Board at the Board's next regularly scheduled meeting. At that meeting the Board will render a written decision approving or denying the claim. If the claim is denied by the Board, the Consultant may file a written request for arbitration with the City Administrator. No demand for arbitration shall be effective until the City Board has rendered a written decision denying the underlying claim. No demand for arbitration shall be made later than thirty (30) days after the date on which the City has rendered a written decision on the underlying claim. The failure to demand arbitration within said 30 days shall result in the City Board's decision being binding upon the City and Consultant.

Notice of demand for arbitration shall be filed in writing with the other party to the agreement, subject to applicable statutes of limitation, except as set forth above. The City, if not the party demanding arbitration, has the option of allowing the matter to proceed with binding arbitration or by written notice within five (5) days after receipt of a demand for arbitration, to reject arbitration and require the Consultant to proceed through the courts for relief. If arbitration is followed, the parties agree that the award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modifications or appeal except to the extent permitted by Oregon law.

26. Attorney Fees

If suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this contract, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney fees incurred in such proceeding, in both the trial and appellate courts, as well as the costs and disbursements. Further, if it becomes necessary for City to incur the services of an attorney to enforce any provision of this contract without initiating litigation, Consultant agrees to pay City's attorney fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by losing party

27. Complete Agreement

This Agreement and any exhibit(s) hereto and any and all Task Orders executed by the parties constitute 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. Any 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. In the event of a conflict between the documents comprising this Agreement, interpretation shall occur in the following manner: 1) each individual Task Order; 2) this Agreement and any exhibits hereto; and 3) the RFP and Response. The following exhibits are attached to and incorporated into this Agreement:

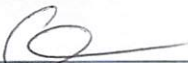
- A. Exhibit A – Consultant's Proposal and Fee Schedule
- B. Exhibit B – Oregon Public Contracting Code/required contractual provisions
- C. Exhibit C – Request for Proposals

28. Miscellaneous

- A. Consultant agrees that news releases and other publicity relating to the subject of this Agreement will be made only with the prior written consent of City.
- B. Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of City when using, having access to, or creating systems for any of City's computers, data, systems, personnel, or other information resources.
- C. Consultant will include in all contracts with subconsultant appropriate provisions as required by ORS 279C.580.
- D. Consultant will comply with environmental and natural resources regulations as set forth in ORS 279B.225 and regulations relating to the salvaging, recycling, composting or mulching yard waste material, and salvage and recycling of construction and demolition debris as set forth in ORS 279B.225 and 279C.510.


By their signatures hereunder, the parties acknowledge they have read and understand this Agreement and agree to be bound by its terms. This Agreement is effective on the date last signed below by a party below:

CITY OF NEWPORT:



Nina Vetter, City Manager
Date: 7/22/24

PUBLIC AFFAIRS COUNSEL, INC:

By: 

Its: PRESIDENT
Date: 7.1.24

EXHIBIT A
Consultant's Proposal and Fee Schedule

EXHIBIT A



June 11, 2024

Chris Beatty, PE
City of Newport
169 SW Coast Highway
Newport, OR 97365

RE: RESPONSE FOR LOBBYING AND STATE GOVERNMENT AFFAIRS SERVICES, CITY OF NEWPORT

Dear Chris:

Attached you will find Public Affairs Counsel's proposal to coordinate the City of Newport's state government affairs program and advocacy before the Oregon Legislature and executive agencies.

Public Affairs Counsel (PAC) is a full-service government and public affairs firm specializing in legislative lobbying, regulatory advocacy, strategic communications, marketing, public opinion survey research, and grassroots and coalition management. Public Affairs Counsel has specialized in these services since 1981 and has successfully represented dozens of clients, including the City of Newport since March 2019.

Public Affairs Counsel employs three full time lobbyists and a full complement of support staff including two support lobbyists, an operations manager, and a business manager. This level of staffing allows us to deal proficiently with all aspects of the lobbyist/client relationship. Public Affairs Counsel employs several additional professionals with expertise in communications, digital marketing, social media and public opinion survey research.

The City of Newport has a five-year history of success working with Public Affairs Counsel. We have successfully served the City through some of the City's most important legislative issues, including millions in state funding for Big Creek Dam and other City priorities, as well as successful legislative navigation of complicated water rights issues.

More specifically, the City, in partnership with PAC lobbyist Jenny Dresler, secured \$14 million in state lottery bond funding for Big Creek Dam in 2021, \$3.8 million in lottery funding for the City's wastewater treatment infrastructure, and passage of HB 3211 (2023) – a complicated bill that transferred the City's existing water rights to a new reservoir so that the City could secure its \$60 million federal allocation and move forward with construction of a replacement dam.

These issues were highly complex and also required strong and unrelenting advocacy from many corners. Public Affairs Counsel was the firm to deliver.



Our firm continues to have strong working relationships with Newport's legislative delegation (Senator Dick Anderson and Representative David Gomberg) and their respective staffs. We feel strongly that our track record of success in partnering with the City and its legislative delegation will continue to pay dividends for the City and allow it to successfully navigate Oregon's ever-changing legislative and regulatory landscape on future issues.

Public Affairs Counsel is an Oregon corporation with a principal place of business is located at 991 Liberty St SE, Salem, OR 97302.

Federal EIN: [REDACTED]

State ID: [REDACTED]

We thank you for your time and look forward to talking to you further about the opportunity to continue our work on behalf of the City of Newport before the Oregon legislature. If you have any questions about this proposal, please don't hesitate to contact me.

Respectfully submitted,



J.L. Wilson
President

[REDACTED]

** Public Affairs Counsel accepts all the terms and conditions contained in the Request for Proposals and that this proposal shall be considered valid for 120 days after the submission deadline.*

*** As is customary, all materials and documents acquired or produced by Public Affairs Counsel in conjunction with a resulting contract will be delivered to and become property of the City of Newport without restriction or limitation of their future use.*

City of Newport, OR

Response for Lobbying and State Government Affairs Services

June 11, 2024

Scope of Work, Understanding and Approach

Public Affairs Counsel employs a full team of talented professionals that are experts in lobbying and government affairs, coalition management, strategic communications, and public affairs campaigns.

Public Affairs Counsel's reputation in the lobbying profession is for partnering with clients to provide influential and strategic representation. Our firm provides clients with gavel-to-gavel coverage during the legislative session and legislative/regulatory representation during the legislative interim. We work with legislators, the Governor's office, staff, agencies, and other allies and organizations to influence positive outcomes for our clients.

Specifically, the City has requested the following activities which PAC will deliver:

- Coordination of state government affairs activities, including continued strategy and legislative and regulatory advocacy for the Big Creek Dam project;
- Coordination of stakeholder advocacy for the Big Creek Dam project;
- Attendance and reporting at stakeholder meetings as directed by City; and
- Communications and regular state government affairs updates to stakeholders as directed by City.

Generally, the City can expect the following services and approach from Public Affairs Counsel:

Strategy Setting & Issue Identification

- PAC partners with clients to identify issues of importance that are likely to be considered by the legislature and develop strategies to address these issues. In this case, PAC has long been the primary lobby advocate for the Big Creek Dam project. With respect to the 2025 session, we also know that the Governor's Office and House Committee on Agriculture, Land Use, and Water are advancing parallel conversations related to new water rights that the City should be involved in.

Process, Access and Diligence

- The PAC team puts their insider’s knowledge of the legislative process to work for our clients. Nowhere is this felt more than in the budget process. The Ways & Means process is opaque. The City’s success in securing funding for multiple projects is testament to our knowledge of process and access to key decision-makers.

Monitoring of Legislation

- On a daily basis, PAC reviews all legislation and amendments that are introduced in the legislature and flags all bills that relate to our client’s identified interests. PAC works to ensure that the City is tracking all legislative conversations around dam safety, project planning and infrastructure funding.

Meetings with Legislators

- PAC lobbyists meet regularly with legislative leadership, committee chairs, and other legislators to advocate and educate on issues of importance to our clients. All of Newport’s issues – especially those pertaining to Big Creek Dam – have required a significant investment of time to educate legislators on the critical nature of the project.

Testimony to Legislative Committees

- PAC coordinates testimony on client issues before legislative committees. In many instances, the client will be asked to provide testimony. In other cases, PAC lobbyists do the speaking. PAC has organized many such testimonies to committees from the City on issues pertaining to Big Creek Dam, water rights, and funding for City projects.

Liaison with Other Interest Groups/Lobbyists

- PAC maintains on-going relationships with lobbyists and organizations who share common interests and positions with clients. In this way, effective coalitions can be formed to advance or defeat particular issues. In many cases, Newport will be aligned with League of Oregon Cities (LOC), for instance.

Opening Doors & Providing Access for Clients

- We recognize that in many cases, the City is the subject matter expert. A key part of our advocacy is putting our clients in best position to develop relationships and tell their story. PAC will continue to work to put the City in front of legislators, committees and staff to build relationships and rapport and become a trusted source of information.

Monitoring of Interim Legislative Activity

- PAC monitors the interim activities of all legislative committees and task forces that are dealing with issues of interest to clients. Clients are updated on the status of issues

being discussed by these committees when the legislature is not in session. This is a critical time to engage as emerging legislative issues take shape, such as the conversation related to water rights.

Regulatory Advocacy

- PAC monitors and actively engages with state agencies that are in a position to affect client interests. In some instances, this involves issues of agency rulemaking. In others, it concerns influencing policy decisions through direct contact with agency administrators and staff. PAC is currently working with the City's permitting team to ensure that appropriate conversations are taking place with regulators.

PAC Personnel dedicated to serving the City of Newport

JL Wilson is the President of Public Affairs Counsel. He has worked over 25 years in the Oregon legislature – 23 as a lobbyist. His career began as the Legislative Director for two Speakers of the Oregon House of Representatives. JL then served as Senior Vice President at Associated Oregon Industries before joining Public Affairs Counsel in 2014. JL works in partnership with PAC's lobby team of Jenny Dresler and Justen Rainey to carry out the objectives of clients.

Jenny Dresler is the Director of Regulatory Affairs and lobbyist at Public Affairs Counsel and has worked with the Oregon legislature for over 10 years. She previously served as Director of State Public Policy at the Oregon Farm Bureau, where she oversaw the execution of OFB's statewide legislative agenda. She is the foremost practitioner of regulatory advocacy in Oregon and specializes in natural resources policy.

Jenny has served as the City of Newport's primary lobbyist since 2019, helping secure critical funding for the Big Creek Dam replacement project, supporting the City's efforts to qualify for federal funding, and ensuring passage of the City's water right transfer bill in 2023.

Alicia Givens is the Operations Manager, providing administrative, scheduling and other operational services for the PAC team. She oversees agenda tracking, bill tracking, and legislative reports for clients. Alicia handles all filings with the Oregon Government Ethics Commission to ensure that clients and lobbyists are fully compliant with all reporting requirements.

Erin Gillins is Public Affairs Counsel's controller and administers PAC's business transactions. She is responsible for billing, bookkeeping, and financial reporting.

Past Performance, Team Experiences and Outcomes

The Public Affairs Counsel team of three primary lobbyists has a combined 45 years of working the Oregon political process and is trained to navigate difficult political environments. We have had great successes in crafting and passing client-directed policy and securing funding through the Joint Ways and Means process. The following examples over the past five years includes a full range of ways in which PAC was successful in serving our public sector clients:

- Public Affairs Counsel worked the Ways and Means process to identify funding to replace the seismically unstable Big Creek Dams in Newport, OR. We secured funds in 2019 to advance dam design work, but economic circumstances ultimately led to the cancellation of the lottery bond sale. In 2021, PAC secured \$14 million in state funds for the project, \$10 million over the previous session's authorization. **Client: City of Newport**
- In 2023, PAC helped the City of Newport secure \$3.8 million to replace wastewater system infrastructure. On the policy front, PAC worked with Representative Gomberg and the City to pass HB 3211 – a necessary transfer of water rights to allow the Big Creek Dam project to proceed. **Client: City of Newport.**
- PAC played a key role in securing new early learning investments for the Oregon Head Start Association. These new investments almost doubled the amount of General Fund dollars that were previously allocated to fund Head Start programs, securing an additional \$132 million plus cost-of-living adjustments for the Oregon Pre-Kindergarten Program and Early Head Start. **Client: Oregon Head Start Association.** (*Donna Schnitker, Past President,* [REDACTED])
- After years of state support funding being threatened, PAC was hired by the Oregon Fairs Association to lobby for sustained funding. PAC restored \$1 million in funding cuts proposed for Oregon's 36 county fairs in the 2020 special session. In 2021, OFA secured over \$16 million for county fair infrastructure/capital needs, and operations. In 2023, PAC secured another \$3 million for reimbursements for lost sales due to COVID closures. **Client: Oregon Fairs Association** (*Geoff Hinds, President,* [REDACTED])
- The Willamette Career Academy is a ground-breaking regional CTE program that serves thousands of students in the mid-Willamette Valley. PAC worked successfully with legislative leadership and champions in the Ways & Means process to secure over \$7 million in state capital funding for the Academy. And finally, in 2023 and 2024, PAC

secured \$1 million in state operational funds. **Client: Willamette Education Service District** (Joe Morelock, Superintendent, [REDACTED])

- In 2024, PAC supported local community corrections agencies and helped to secure \$16 million in additional funds to ensure that counties and sheriff's offices are able to maintain staff capacity and client services. This infusion of funding is critical as local governments prepare for the enactment of Measure 110 reforms in September 2024. **Client: Oregon Association of Community Corrections Directors** (Nate Gaouran, President, [REDACTED])
- In 2021 and again in 2023, PAC worked with the Family Justice Center of Washington County to secure two separate tranches of funding. In 2021, we secured \$6.25 million for the purchase of a new building. When the sale of the building fell through in 2022 and more money was needed, we again secured \$4 million from the legislature in 2023 to help FJC secure its location. **Client: Family Justice Center of Washington County** (Rachel Schutz, Executive Director [REDACTED])

Lead Lobbyist Designation

PAC proposes that Jenny Dresler continue to serve as primary lobbyist and point of contact for the City. JL Wilson will also directly assist in the execution of the scope of work and will serve as a backup point of contact. As is customary, the entire PAC lobby team will register for the City and support the work on behalf of City when needed and appropriate.

Contract & Pricing

For purposes of this proposal, PAC proposes a 3-year retainer contract split into equal monthly payments. PAC would be pleased to perform the specified services for the City on Year 1 for \$54,000; Year 2 for \$57,000; and Year 3 for \$60,000. This would be divided into 12 monthly retainer payments accordingly. Year 1 represents no increase from the recently-expired service agreement between PAC and City of Newport. The monthly retainer is all-inclusive and reflects the cost of services rendered and corresponding administrative costs.

PAC represents that it carries Professional Liability Insurance covering any damages caused by an error, omission or any negligent act with policy limits that meet the City's requirements. PAC also represents that it will abide by the City's public contracting procedures and that it has no pending legal actions against it – now or ever.

EXHIBIT B
Oregon Public Contracting Requirements
ORS CHAPTERS 279B AND 279C REQUIREMENTS

- (1) Consultant shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any SubConsultant. ORS 279B.220(1); 279C.505(1)(a)
- (2) Consultant shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Consultant or Subconsultant incurred in the performance of the contract. ORS 279B.220(2); 279C.505(1)(b)
- (3) Consultant shall not permit any lien or claim to be filed or prosecuted against the Contracting Agency on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted. ORS 279B.220(3); 279C.505(1)(c)
- (4) Consultant and any Subconsultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. ORS 279B.220(4); 279C.505(1)(d)
- (5) Consultant agrees that if Consultant fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Consultant or a Subconsultant by any person in connection with the contract as such claim becomes due, the City may pay such claim to the persons furnishing the labor or material and charge the amount of payment against funds due or to become due Consultant by reason of the contract. The payment of a claim in the manner authorized hereby shall not relieve the Consultant or his surety from his or its obligation with respect to any unpaid claim. If the City is unable to determine the validity of any claim for labor or material furnished, the City may withhold from any current payment due Consultant an amount equal to said claim until its validity is determined and the claim, if valid, is paid. ORS 279C.515
- (6) Consultant shall promptly, as due, make payment to any person, copartnership, association, or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such Consultant, of all sums which the Consultant agrees to pay for such services and all monies and sums which the 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. ORS 279B.230(1); 279C.530(1)
- (7) All subject employers working under the Consultant are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126. ORS 279B.230(2); 279C.530(2)
- (8) Consultant shall pay employees for overtime work performed under the contract in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq). ORS 279B.235(3); 279C.520(3)
- (9) The Consultant must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work. ORS 279B.235(2); 279C.520(2)

- (10) All sums due the State Unemployment Compensation Fund from the Consultant or any Subconsultant in connection with the performance of the contract shall be promptly so paid. ORS 701.430
- (11) The contract may be canceled at the election of City for any willful failure on the part of Consultant to faithfully perform the contract according to its terms.
- (12) Consultant certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.
- (13) Consultant certifies that it has not discriminated against minorities, women, service-disabled veterans, or emerging small business or disadvantaged business enterprises in obtaining any required subConsultant. ORS 279A.110
- (14) As used in this section, "nonresident Consultant" means a Consultant that has not paid unemployment taxes or income taxes in the state of Oregon during the 12 calendar months immediately preceding submission of the bid for the contract, does not have a business address in this state, and stated in the bid for the contract that it was not a "resident bidder" under ORS 279A.120. When a public contract is awarded to a nonresident Consultant and the contract price exceeds \$10,000, the Consultant shall promptly report to the Department of Revenue on forms to be provided by the department the total contract price, terms of payment, length of contract and such other information as the department may require before the bidder may receive final payment on the public contract. ORS 279A.120
- (15) If the contract price exceeds \$50,000 and this contract is not otherwise exempt, workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840. The applicable prevailing rate of wage may be accessed online at: <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>. ORS 279C.830
- (16) If the project is subject to both the Davis-Bacon Act and state prevailing rate of wage, Consultant and every subconsultant shall pay workers not less than the higher of the applicable state or federal prevailing rate of wage. ORS 279C.830
- (17) Consultant and every subconsultant must have a public works bond filed with the Oregon Construction Consultant Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9). ORS 279C.830

EXHIBIT C
Request for Proposals

EXHIBIT C



**REQUEST FOR PROPOSALS
FOR LOBBYING AND STATE GOVERNMENT AFFAIRS SERVICES**

Proposals should be delivered via e-mail to the contact below with the subject "**REQUEST FOR PROPOSALS FOR LOBBYING AND STATE GOVERNMENT AFFAIRS SERVICES**". Proposal must be received by the City by the proposal deadline. Late proposals will not be considered. There will be no formal bid opening.

DEADLINE FOR RECEIPT OF PROPOSAL: Tuesday, June 11, 2024 by 5:00 P.M.

INFORMATION CONTACT: Chris Beatty, PE
Acting City Engineer
City of Newport
169 SW Coast Highway
Newport, OR 97365
(541) 574-3376
c.beatty@newportoregon.gov

This request for proposal may be cancelled or any or all proposals may be rejected for failure to comply with procedures or requirements or if the City determines it is in the public interest to do so.

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SECTION 1 – INTRODUCTION

1.1 Introduction

More than 10,000 people rely on the City of Newport for water service. Approximately, an additional 1.0 million vacationers visit annually. Further, Newport is a vital regional hub to smaller neighboring communities, serving as a job center for many who live in the surrounding towns.

The City has significant aging and insufficient infrastructure that is need of replacement or upgrading. Most notably the city's sole water supply, which drives our regional economy, is stored in two reservoirs--the Upper and Lower Big Creek Reservoirs contained behind two earthen dames. This water supply infrastructure is seismically deficient. Since Newport is within the Cascadian Subduction Zone, a "megathrust" fault that stretches from Northern Vancouver Island to Cape Mendocino, California, a replacement dam is critical to resident and visitor survival. The State of Oregon's Dam Safety Engineer has identified these dams as the second and third most seismically deficient dams in Oregon. Replacement estimated costs ranges from \$100M to \$130M, a huge ask for a small community.

Additionally, the recently completed Wastewater Treatment Plant Master Plan in 2024 has identified several critical projects to provide the community with sufficient infrastructure to treat and dispose of waste water to meet Department of Environmental Quality standards. These critical wastewater projects have a total estimated cost of over \$100M. Again, a huge ask for a small community especially in conjunction with the dam replacement project.

The City of Newport is looking to secure a firm that is qualified and experienced in engaging in legislative and regulatory advocacy and counsel, Ways and Means funding request, and bill and issue tracking related to the Big Creek Dam Replacement Project.

1.2 Selection Process

The selection process will involve a number of steps as described below:

This request for proposals sets out the requirements for the submission of proposals by consultant companies who wish to, and are capable of, performing the government relations and lobbying services the City needs. A proposing Firm may seek to be considered for project areas discussed in this RFP (See Section 2).

The City will select a committee of City employees to review and rank the proposals. The committee may interview any number of proposers if it determines that interviews would assist the decision-making process. Interviews, if required, will be held via on-line meetings.

The final step in the selection process is completion of price agreements with a Consultant. The City anticipates that the price agreements will be for three years, with the possibility of two additional one-year extensions. Once a price agreement is entered into with a Consultant, the City may, consistent with the price agreement, contract with the Consultant of record directly without further competitive processes. The price agreements may include a formula for price adjustments on an annual basis.

The City intends to select one qualified professional Consultant as a resource for the City.

1.3 Qualification Based Selection (QBS)

The City, at its sole preference and in accordance with City procurement rules, may, based on evaluation results, choose a qualified proposer from the number of proposals submitted.

References to past successful work with the City of Newport and/or other similar municipalities will be considered in the selection process.

SECTION 2 - SCOPE OF SERVICES

2.1 General Scope

Services under this contract shall typically include the following:

Consultant shall perform professional Consulting services related to state legislative affairs advocacy. The City is free to utilize other Consultants or consultant as it deems appropriate. Services include, but are not limited to:

- Coordination of state government affairs activities
 - Issue/bill tracking and monitoring for City related to dam legislation, related water policy legislation, and funding opportunities for the City;
 - Continued state legislative funding strategy for Big Creek Dam project;
 - Continued legislative advocacy for Big Creek Dam project and funding request;
 - Continued regulatory advocacy for Big Creek Dam project and funding request;
- Coordination of stakeholder advocacy for Big Creek Dam project;
- Attendance and reporting at stakeholder meetings as directed by City; and
- Communications and regular state government affairs updates to stakeholders as directed by City.

2.2 Key Staff

The Consultant shall designate a key staff person to be the City's primary contact for the duration of the contract. Substitution of these persons shall be by written request and subsequent approval by the City. The City expects Consultant to strive to maintain the same project managers and key team members through the duration of the Contract.

SECTION 3 - RFP PROCESS

3.1 RFP Schedule

The approximate schedule for the selection process is as follows:

Initiation of RFP.....	May 28, 2024
Proposals due.....	Tuesday, June 11, 2024 by 5:00 P.M.
Execution of Retainer Agreement.....	July 1, 2024

3.2 Reimbursement

All costs for preparing proposals, attending interviews (if applicable), and other efforts in pursuit of this RFP are the proposer's responsibility.

3.3 Further information

Additional information may be obtained from:

Chris Beatty, PE
Acting City Engineer
City of Newport
169 SW Coast Hwy
Newport, OR 97365
(541) 574-3376
(541) 265-3301 fax
c.beatty@newportoregon.gov

3.4 Proposal Withdrawal

Any proposer may withdraw its proposal prior to the final deadline for submission by providing the City with a written request stating the desire to withdraw. Withdrawal of a proposal will not prejudice the right of a firm to file a new proposal before the deadline.

3.5 Rejection or Acceptance of Proposals

The City expressly reserves the right to reject any or all proposals.

Issuing this RFP does not commit the City to any contract, project award, or financial obligation to any of the respondents. The City reserves the right to use whatever means it considers appropriate and prudent when determining which firms are offered projects.

3.6 Protests

Protests are subject to and must comply with the City's 2023 Public Contracting Rules which are available upon request.

3.7 Public Records

Any information submitted through this RFP process shall be a public record. However, during the evaluation period, the proposals shall be considered as confidential information. If any proposal contains information that is considered a trade secret under ORS 192.501(2), each sheet containing proprietary information should be marked as follows:

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

The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted, and claims arising out of any public record request. Such information shall be at the Consultant's expense.

Identifying the proposal in whole as a trade secret is not acceptable. Failure to identify a portion of the proposal as a trade secret shall be deemed a waiver of any future claim of that information as a trade secret.

3.8 Tax ID Numbers

Proposers must provide their Federal and State of Oregon Taxpayer ID Number.

3.9 Local/State/Federal Requirements

The selected proposer(s) shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this contract, including, without limitation, the provisions of ORS 279 A, B & C. In addition, the proposers agree to comply with: (1) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1991 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. The City of Newport's programs, services, employment opportunities and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, disability or political affiliation.

SECTION 4 – PROPOSAL CONTENT REQUIREMENTS

4.1 Length and Format of Proposal

The City is imposing a five (5) page limit on proposals, not including a one-to two-page introduction letter. The City is not interested in boilerplate information or company brochures. All firms responding to this RFP are directed to provide relevant information that will be useful to the selection committee.

Proposals should include the information described in this section. Additional information may be provided only if it is relevant, if it provides special insight or information about a proposer's capabilities, and fits within the five-page proposal limit.

Proposals should be prepared economically and simply. No consideration will be given to special bindings, color displays, promotional materials, etc. Emphasis should be on completeness, relevance, and clarity of content.

4.2 Proposal Requirements

Proposals are to be submitted in letter format and be concise, specific, and straightforward. All pertinent information is to be contained in the proposal. The use of artwork, special covers, and extraneous information in the proposals is discouraged and will be looked upon negatively. Proposals are to remain valid for a period of 90 days. Proposals should describe the proposer's qualifications, abilities, resources, performance examples, and other information related to the proposer's declared area(s) of expertise.

Proposals should include the following basic components and information:

1. The name, address of the office providing requested services, telephone number, fax number, email address and website.
2. A general description of your business, including size, number of employees, number of governmental relations specialists/registered lobbyists, primary business and other business services offered.
3. The name of the supervising lobbyist who will be assigned to the engagement and any other personnel who will have key roles in the work. Brief resumes should be furnished for key professional staff assigned to the engagement.
4. Describe any experience in providing lobbying and government relations services for governmental agencies, especially as it may relate to water, dams, and wastewater systems.
5. Provide a list of the most significant engagements performed in the last five years that are similar to the services described in "Scope of Services". The engagements can include both public and private sector clients.
6. Reference information for the firms listed in number 5: scope of the work, dates the work performed, and name of supervising financial advisors assigned to each engagement.
7. Federal Taxpayer ID Numbers
8. A fee schedule (list of hourly rates). List each member or classification and their normal billing rates. Indicate the dates for which the indicated rate schedule will be effective and describe how rate adjustments are to occur. Rate adjustments shall not be made more frequently than annually.
9. A statement confirming the proposer agrees to abide by the conditions of the City's Construction Services Agreement attached to this RFP as Attachment A.
10. Provide a list of Oregon counties, cities, towns, villages, public benefit corporations, public authorities, etc., who you have served or are currently serving in a similar capacity.
11. Indicate if there are any pending legal actions against the firm.
12. A statement describing the overall approach of lobbying/governmental relations services for public clients.
13. Briefly describe any additional features, attributes, or conditions, which the City should consider in selecting your firm for governmental relations and lobbying services.
14. Describe how you involve the client in your ongoing lobbying/governmental relations.
15. Provide your firm's fee schedule for the services you propose to provide, including a list in detail of all disbursements for which the City will be responsible.
16. A statement verifying that the proposer has the ability to provide insurance coverage as follows:
 - A. Professional Liability - 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 \$1,300,000, or the equivalent. Annual aggregate limit shall not be less than \$2,000,000 and filed on a "claims-made" form.

4.3 Specific Proposal Sections and Requirements

4.3.1 Introductory Letter (10 points)

Each proposal shall include an introductory or cover letter. The Consultant may use this section to introduce the proposal and the key provisions of the submittal.

The introductory letter shall include, but not be limited to the following information:

- The name of the firm
- Signature, printed name, and title of a company officer who is authorized to represent the firm.
- Address, phone, email, and other contact information for the firm.
- Federal and state tax ID numbers.
- The following statement: *"The Consultant accepts all the terms and conditions contained in the Request for Proposals and that this proposal shall be considered valid for 120 days after the submission deadline."*
- The following statement: *"All materials and documents acquired or produced by the Consultant in conjunction with a resulting contract shall be delivered to and become property of the City of Newport without restriction or limitation of their future use."*
Please note the requirements pertaining to confidential information in section 3.7 of this RFP.

4.3.2 Understanding and Approach (30 Points)

The *Understanding and Approach* section is designed to communicate Proposer's preparation and expertise in each discipline category they declare. Include descriptions of Proposer's knowledge as it relates to each discipline category in a general sense. Any knowledge or information specific to Newport should be summarized. Proposer should also describe his team's experience performing similar tasks and the chief issues considered in the work.

Proposer should illustrate an understanding of common approaches and techniques for each discipline category. It is important that the proposer demonstrate an ability to synthesize technical information and communicate this information in verbal, written or graphic form.

Proposer should outline the approach to an example or specific project and how key issues were or would be identified and addressed. Summary should include a brief description of major tasks to be completed as well as resources proposed to complete each task.

Potential elements to this section include:

- Proposer's overall approach to one example project from the declared category(s).
- A general work plan that describes how the proposer will organize and conduct a task. Identify critical milestones and major phases for a particular activity.
- A description of the proposer's approach to and methodology of managing workload, coordination, sequencing and control of resources, and how projects will be tracked and kept on schedule.
- A description of how the project team will interact with City staff and what level of support will be anticipated or expected from the City.
- A description of Proposer's process for managing scope, schedule, and budget issues.

This list should not be considered complete and the Consultant should include other aspects Proposer considers important.

4.3.3 Key Personnel Qualifications (30 Points)

Proposal should include information on key personnel who will be assigned to City projects. Relevant information for individuals should include education, training, experience, certification, and demonstrated excellence in their particular field.

Potential areas that should be addressed in the proposal with regard to personnel include:

- An organizational chart listing all key people and illustrating the lines of communication.
- A list of the project principal, project managers, discipline leads, key staff, and sub-Consultant to be utilized to provide services, and a list of their typical duties.
- Qualifications, registrations, certifications, and relevant individual experience of key personnel, including sub-Consultant.
- A list of each project manager's experience with managing interdisciplinary teams and working with public agencies on public infrastructure projects. Include pertinent project examples and role of the individual in each project.
- A description of the proposer's ability to deliver projects on time and within budget.

4.3.4 Consultant Team References and Past Performance (30 Points)

Provide a project history for all relevant project categories where the project team has completed similar or related work.

The response information for this section may include the following:

- Description of similar projects, by name, scope, location, and date, performed within the last 5 years which best characterize work quality and the capabilities of the Proposer. Detail the type of work that was done that supports the proposition that the team is capable of performing similar work.
- A public agency client list including contact names and phone numbers for services undertaken in the last five years or the last 10 clients, whichever is least.
- A description of specific experience understanding impact of government relations and lobbying services for relevant projects.
- The Proposer's past performance on City projects will also be considered in this section, if applicable.

4.3.5 Fee Schedule (Pass/Fail)

Provide a fee schedule outlining a list of the key personnel, staff categories, individuals, or sub-Consultant making up the project team. Also include your rate schedule for equipment commonly used in underground utility construction. Include a forecasted 2024 listing of billing rates that would be used for the 2024 calendar year. For subsequent years, individual billing rates will be updated and this agreement may be modified accordingly.

4.3.6 Support Information (No points)

The proposer may provide supporting material that it believes will assist the Selection Committee in the decision process. Only relevant information should be submitted. Items that may be included in the Appendix as support material include:

- Graphs and figures.
- Additional resumes beyond key staff.
- Additional references.
- Project photos.
- Insurance certificate.

If the Consultant does not wish to include support information in the Appendix, please include a page indicating that *“No additional support material has been provided.”*

4.4 Summary of Selection Criteria

This section summarizes the selection criteria that will be used for selecting those entities that the City will contract with. The table below summarizes the criteria that will be utilized:

Content and Evaluation Criteria	Maximum Points Possible
Introduction Letter (4.3.1)	10
Project Category(s) – Understanding and Approach (4.3.2)	30
Key Personnel Qualifications (4.3.3)	30
Consultant Team References and Past Performance (4.3.4)	30
Fee Schedule (4.3.5)	Pass/Fail
Support Information (4.3.6)	No points
Total	100