

CITY OF MILWAUKIE, OREGON
REQUEST FOR PROPOSAL
FOR
PROFESSIONAL AUDITING SERVICES



10722 SE MAIN STREET
MILWAUKIE, OREGON 97222

JANUARY 2013

PHOTOGRAPH
Riverfront Park in Milwaukie
Photo by Mark Gamba

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I. Background Information

a. General Information about the City

Milwaukie was founded in the year 1848 by a gentleman named Lot Whitcomb. On February 4, 1903, a petition to incorporate as a City was approved by the residents of Milwaukie. The first council meeting was held on June 2, 1903, presided over by William Schindler, the first Mayor of Milwaukie. The initial funding for the City came from \$1 donation from each elected city official.

The City of Milwaukie is a community where citizens, civic organizations, businesses and city government work together to ensure that the community retains its hometown identity, high quality of life and its natural beauty. Today, Milwaukie serves a population of 20,400 and is close to the region's business core and urban amenities, with the City of Portland just to the north. At the same time, the City provides a small-town atmosphere and distinct neighborhoods. The City is approximately fifteen miles from Portland International Airport.

The City is a full-service municipality that operates under a council/manager form of government. The elected City Council consists of the Mayor and four Councilors who act as the board of directors. The Council sets policies for city government, enacts ordinances and hires, directs and evaluates the City Manager. In turn, the City Manager is the City's chief executive officer, responsible for overall management and administration.

Municipal services are provided by City employees and headed by the City Manager. The City operates its own police department, a municipal court, community development, water, sewer and surface water utilities, street operations, planning, engineering, fleet management, and library.

b. Staffing/Operations

The Finance Department is responsible for many aspects of City operations including utility billing, accounts payable, accounts receivable, payroll, business registration, municipal court, budgeting and financial reporting. Currently, the Finance Department consists of the Finance Directors, Assistant Finance Director, an accountant, payroll specialist, two accounting clerks, and an administrative assistant/cashier.

c. Accounting Records

The City currently utilizes Tyler Technology's Incode accounting software. Incode modules used by the City include general ledger, payroll, human resources, cash collections, accounts receivable, accounts payable, municipal court, utility billing and purchasing. The financial system uses both online real-time entry and batch processing. The City's in-house information technology personnel are responsible for system security, backups and installing vendor up-grades.

d. Government Finance Officers Association (GFOA) Awards

The City of Milwaukie recently received the following awards from the Government Finance Officers Association (GFOA):

Budget: GFOA has awarded the *Distinguished Budget Presentation Award* to the City of Milwaukie for the budget documents for 2012 and for the 2013-2014 biennium.

Audit: GFOA has awarded the *Certificate of Achievement for Excellence in Financial Reporting* to the City of Milwaukie for the year ended June 30, 2011.

Note: The City of Milwaukie anticipates that it will continue to submit its Comprehensive Annual Financial Report (CAFR) to the GFOA for the *Certificate of Achievement for Excellence in Financial Reporting*. The format of audit reports must allow the City to meet the requirements of that program. This also requires that the Auditor ensure that the audit report and financial statements are completed in time for this submission.

Annual Report: GFOA has awarded the *Award for Outstanding Achievement in Popular Annual Financial Reporting* to the City of Milwaukie for the fiscal year 2011 Popular Annual Financial Report (PAFR).

II. General Request for Proposal Information

a. General Description

The City of Milwaukie is seeking proposals for the audit of its Comprehensive Annual Financial Report (CAFR) from qualified certified public accounting firms. A complete description of services to be provided is described under Section III. The first reporting period to be audited is July 1, 2012 through June 30, 2013, extending through the next four subsequent fiscal years.

b. City Points of Contact

Questions, inquiries, or comments regarding this Request for Proposal (RFP), the City's accounting system, financial staff or financial processes shall be directed to:

Rina M. Byrne, CPA CFE
Assistant Finance Director
byrner@ci.milwaukie.or.us
503-786-7505

Casey A. Camors, CPA CMA CPFO
Finance Director
camorsc@ci.milwaukie.or.us
503-786-7522

Richard W. Seals, CPA CMA CFM CFE
Finance Director (co)
rseals@westlinnoregon.gov
503-722-5505

Note: Additional information, the prior year Comprehensive Annual Financial Report, and Budget documents are accessible on the City website at <http://www.ci.milwaukie.or.us/finance>.

c. Responding to the Audit RFP

Your proposal must be received no later than Friday, February 15th at 4:00 p.m. Proposals may be emailed to byrner@ci.milwaukie.or.us (in Adobe or MS Word) or five copies may be mailed/messengered to the Milwaukie City Hall, Finance Department, addressed as follows:

City of Milwaukie
Attn: Rina M. Byrne
10722 SE Main Street
Milwaukie, OR 97222

No faxed materials will be accepted. Postmarks are not considered proof of delivery. Emailed proposals shall not be deemed received until a confirmation email sent by the City is received in reply to the submitted proposal, confirming the emailed proposal was received and the format was readable by the City. If the proposal is hand delivered, it must be delivered to and stamped by personnel at City Hall.

The proposal should address, at a minimum, the information requested in Proposal Requirements (section IV) subsection Minimum Content of Responses (a).

Any amendments to this RFP will be in writing and will be issued to all persons or businesses that have indicated an interest to receive RFP amendments. No proposal will be considered that is not responsive to any issued amendments.

d. Tentative Schedule for Selection Process

Proposal Due:	February 15, 2013 (4:00 p.m.)
Finalist Selection:	February 25 – March 8, 2013
Finalist Interviews:	March 18-22, 2013
Audit Committee Approval:	April 1-5, 2013
Contract Finalized:	April 12, 2013

Note: This is a tentative schedule and is provided as a courtesy to potential proposers. The actual schedule may vary for that provided without notice to potential proposers. Any changes made to the closing date of the RFP will be made in the form of an addendum and mailed to all potential proposers who have received RFP documents.

e. Proposal Evaluation

The City intends to select the most qualified certified public accounting firm that exhibits the strongest ability to provide the highest quality service, based upon the following criteria:

- Firm's understanding of the engagement and the City's needs.
- Firm's local municipal audit expertise/experience including references from similar engagements.
- Experience and qualifications of individuals to be assigned to the City's engagement including resources available for the timely completion of the audit and scheduling of work.
- Cost of services.

The selection team shall be the City of Milwaukie's Audit Committee, comprised of one City Councilor, one Budget Committee Member and one Citizen Member, with assistance provided by the City's Finance Directors and Assistant Finance Director.

f. Contract Duration

The selected certified public accounting firm shall be designated as the City's auditor for a five-year term commencing with the fiscal year ended June 30, 2013 audit. Either party may cancel the contract effective at fiscal year end, by written notice delivered prior to December 15th of that fiscal year. The City reserves the right to extend the contract beyond the original period, negotiating each year separately as to price and work performed.

g. Acceptance or Rejection and Negotiation of Proposals

The City reserves the right to reject any or all proposals, to waive any irregularities in the request for proposal, to accept or reject any item or combination of items in a proposal, to request additional information or clarifications from respondents, and to negotiate or hold interviews with any one or more of the respondents. By requesting proposals, the City is in no way obligated to award a contract or to pay expenses of the proposing firms in connections with the preparation or submission of a proposal. Furthermore, the City reserves the right to reject any and all proposals prior to execution of a contract, with no penalty to the City of Milwaukie.

III. Scope of Auditor Services

a. General

The City of Milwaukie is requesting proposals from qualified certified public accounting firms, duly authorized to practice as such by the State of Oregon, to audit the City's Comprehensive Annual Financial Report commencing with the fiscal year ending June 30, 2013, extending through the next four subsequent fiscal years. These audits are to be performed in accordance with the provisions contained in this request for proposal.

The City of Milwaukie desires the auditor to express an opinion on the fair presentation of the City's basic financial statements as a whole, in conformity with generally accepted accounting principles (GAAP). The auditor shall also be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board (GASB), as mandated by generally accepted auditing standards (GAAS).

The selected auditor shall submit a draft of all reports for management's review. The final reports are subject to review by the City's Audit Committee. The selected auditor shall incorporate, as part of the basic proposal, meeting time with the finance staff and the Audit Committee for the purpose of discussing the audit, management letter, and conclusions.

b. Basic Reports to be Issued

Following the completion of the audit of the fiscal year's Comprehensive Annual Financial Report, the auditor shall issue the following:

- Independent Auditor's Report for the City
 - Report on the fair presentation of the financial statements in conformity with generally accepted accounting principles based upon the audit of the basic financial statements of the City. The other supplementary information listed in the Table of Contents of the City's CAFR, including combining schedules and additional budgetary comparison schedules, are not a required part of the basic financial statements. However, the auditor is to provide an "in-relation-to" report on the combining and individual fund financial statements and supporting schedules. The information presented shall be based on the auditing procedures applied during the audit of the basic financial statements.
- SAS 114 and Management Letters
 - SAS 114 Letter: Report summarizing certain matters required by professional standards to be communicated to the City's Audit Committee to assist in the Committee's oversight responsibility for the City's financial reporting process.
 - Management Letter: Findings, statements, observations, opinions, comments and recommendations related to:
 - The City's system of internal control based upon the auditors' understanding of the control structure and assessment of control risk.
 - The City's compliance with applicable laws and regulations.
 - The City's accounting systems, functions, procedures and processes, especially with regard to cost effectiveness.
- Audit Comments and Disclosures Required by State Regulation
 - As required by the Minimum Standards for Audits of Oregon Municipal Corporations (Oregon Administrative Rules 162-10-050 through 162-10-320).

c. Additional Reports to be Issued Dependent on Applicability

Due to the fluctuation in receipt and expenditure of federal grant funds, the need for some reports is based upon whether the City meets the audit threshold (over \$500,000

in expended grant funds) for performance of a Single Audit under OMB Circular A-133. Such reports are as follows:

- Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*
 - Report identifying any deficiencies in internal control over financial reporting that are considered to be significant deficiencies including control deficiencies, significant deficiencies and material weaknesses as defined by Statements on Auditing Standards No. 115.
- Independent Auditor's Report on Compliance with Requirements Applicable to Each Major Program and Internal Control over Compliance in Accordance with OMB Circular A-133
 - Report on compliance with requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133, *Compliance Supplement* applicable to each of the City's major federal programs.
- Schedule of Findings and Questioned Costs
 - Report of findings and questioned costs related to the City's financial statements as well as costs and compliance for federal award programs.

d. Supplemental Reports / Studies

Reports on other audits or agreed-upon procedures may be agreed to in writing as stated in a supplemental audit agreement. Prior to beginning work, the scope of the study and associated costs shall be approved by the City.

e. Standards to be followed

To meet the requirements of this request for proposal, these audits are to be performed in accordance with all applicable standards including, but not limited to, applicable standards set forth for financial audits by the Governmental Accounting Standards Board (GASB), generally accepted auditing standards (GAAS) as promulgated by the American Institute of Certified Public Accountants (AICPA), Government Auditing Standards (GAS), as promulgated by the Government Accountability Office (GAO) (if applicable), and requirements described in the U.S. Office of Management and Budget (OMB) Circular A-133, *Compliance Supplement* (if applicable).

In addition, all aspects of the engagement shall be performed in accordance with the highest professional standards and comply with all applicable federal, state and local laws.

f. Special Considerations

The firm receiving the contract for audit services shall procure and maintain, for the duration of the contract, insurance as required in the City's standard services contract (see attached). The firm must provide the City with a Certificate of Insurance.

g. Working Paper Retention and Access to Working Papers

All working papers and reports must be retained, at the auditor's expense, for a minimum of seven (7) years following completion of the audit, unless the firm is notified in writing by the City of Milwaukie of the need to extend the retention period. The auditor will be required to make working papers available, upon request, to the following parties or their designees:

- City of Milwaukie
- Parties designated by the federal or state governments or by the City of Milwaukie as part of an audit quality review process
- Oregon Secretary of State, Audits Division

In addition, the firm shall respond to the inquiries of successor auditors and allow successor auditors to review working papers related to matters of accounting significance and internal control.

h. Assistance to be provided by the City

- City Staff will prepare the final closing of the books. The City will provide the auditors with a Trial Balance by fund and all of the accounting detail necessary to perform the audit.
- City Staff will prepare all workpapers requested by the Auditor prior to the start of interim and/or final fieldwork.
- City Staff will generate the necessary confirmation letters based on templates provided by the auditors.
- City Staff will prepare the draft CAFR and all related schedules and statements deliverable to the auditor during the first week of audit fieldwork. City Staff will also incorporate any agreed upon edits to the draft CAFR to arrive at the final CAFR.
- City staff will be available during the audit to assist in providing information, documentation and explanations as needed as well as access to the computer system to view records and print reports. All requests will first be directed to the Assistant Finance Director and/or Finance Director of the City.
- The City will provide the auditor with reasonable workspace including access to the internet, a telephone line, photocopier and fax machine.
- The Finance Director and City Manager will provide the auditor with a signed Representation Letter at the conclusion of the audit.

IV. Proposal Requirements

a. Minimum Content of Responses

- I. A title page showing the firm's name, the date of proposal, point of contacts, business address, telephone numbers, and email addresses.
- II. A signed letter of transmittal briefly stating that the firm submitting the proposal is properly licensed to perform such audits in the State of Oregon (including all of the assigned professional staff to the engagement), agrees to

perform all of the work outlined in the City's RFP within the time periods established by the City, is independent of the City of Milwaukie and understands that the firm's proposal is a firm and irrevocable offer through the June 30, 2013 audit period. The letter must also contain a certification that the person signing the proposal is entitled to represent the audit firm, empowered to submit the bid, and authorized to sign a contract with the City on behalf of the audit firm.

- III. The report on the audit firm's most recent external quality review, any findings discovered as part of that review and actions taken to correct those findings. The audit firm must also disclose information on the circumstances and status of any disciplinary action taken or pending against the audit firm during the past three (3) years with state regulatory bodies or professional organizations, as well as any pending or settled litigation within the past three (3) years.
- IV. List five (5) of the firm's current municipal auditing engagement clients in Oregon and three (3) non-current engagements served within the last three (3) years and respective contact information for reference purposes. Contact information should include the name of the public agency, name and title of contact person, telephone number, and email address.
- V. Describe the audit firm's experience and knowledge in performing audits in accordance with the provisions of the Single Audit Act, as amended by OMB Circular A-133. Attach two recent examples of your work in this area to your proposal.
- VI. Attach to the proposal one sample of your last municipal audit report issued in the State of Oregon that was similar and comparable in services to that of the City of Milwaukie.
- VII. Attach to the proposal two (2) samples of management letters that you have recently issued covering an audit of an Oregon municipality.
- VIII. Identify all key personnel who will be assigned to work on this project including names, CPA license numbers, and Oregon Municipal Audit Roster numbers. Include a brief summary of their background and experience in auditing similar cities as well as their roles and assigned responsibilities under the proposal.
- IX. Describe the audit firm's audit approach and methodology to be used to perform the audit services. Discussion items may include approach to determining laws and regulations subject to audit test work, approach to evaluating the City's internal control structure, approach to selecting audit procedures including sample size selection, use of specialized software and use of analytical procedures, and identification of any anticipated problems.
- X. Explain how you propose to use City personnel, if at all, to assist you during the audit and indicate the approximate time required of City personnel in this capacity.

- XI. Provide a schedule (calendar) indicating proposed timing of interim fieldwork, final fieldwork and firm deliverables to the City to ensure submission of the final CAFR to the GFOA by December 15th of each fiscal year. Any assumptions regarding turnaround time for City Staff, the Audit Committee and the City Council should be clearly noted.

Note: For the City's fiscal year ended June 30, 2012 audit, interim audit fieldwork (mainly internal control procedures) lasted approximately three (3) business days and final audit fieldwork lasted four (4) business days.

- XII. Provide expected hours required for the year ended June 30, 2013 audit on the Not to Exceed Price for Proposed Services Schedule (section V (a)). The City does not anticipate that a single audit will be required for the year ended June 30, 2013. For proposal purposes, assume that one is required and that there is a single major program.
- XIII. Attach an additional schedule identifying expected hours required by your firm for the subsequent fiscal years ending June 30, 2014 through 2017.
- XIV. Provide fee information on the Not to Exceed Price for Proposed Services Schedule (section V (a)) for the completion of the projects described in Scope of Auditor Services (section III) for the fiscal years ending June 30, 2013 through June 30, 2017. The City does not anticipate that a single audit will be required for the year ended June 30, 2013. For proposal purposes, assume that one is required and that there is a single major program.
- XV. Describe the firm's policy on other charges including special requests and special reports or broadening the scope of the engagement.
- XVI. List the audit firm's billing rates for all other applicable professional services for City reference as the City may request additional services which are outside of personal services audit contract.

V. Attachments

a. Not to Exceed Price for Proposed Service Schedule

In accordance with the Request for Proposal for Professional Auditing Services issued by the City of Milwaukie, Oregon, the firm referenced below hereby submits the following hourly fee quotation and hours proposed for all positions to be assigned to the audit:

Key Personnel	Fiscal Year Ended June 30, 2013				
	F/S Audit Hours	Single Audit Hours	Total Hours	Hourly Rate	Total
Engagement Partners					
Engagement Manager					
Engagement Senior					
Engagement Staff					
Clerical/Support Staff					
Other					

In accordance with the Request for Proposal for Professional Auditing Services issued by the City of Milwaukie, Oregon, the firm referenced below hereby submits the following cost proposal:

	Fiscal Years Ending June 30th,				
	2013	2014	2015	2016	2017
Financial Statement Audit:					
Single Audit:					
Cost of Supplies & Materials:					
Additional Fees (if applicable)*:					
Total					

*The City of Milwaukie expects to receive technical assistance, as needed, from the audit firm throughout the fiscal year that may include inquiries regarding accounting, reporting and internal control issues. If fees related to this technical assistance are not included in the firm's financial statement audit fee, please include them here.

I hereby certify that the undersigned is authorized to represent the firm stated below, and empowered to submit this bid, and if selected, authorized to sign a contract with the City of Milwaukie, for the services identified in the Request for Proposal.

Firm Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Email Address: _____

b. Personal Service Audit Contract

The attached contract represents the City’s personal service audit contract. Any proposed changes in the language or construction of the document must be raised and resolved in the RFP process. All participants are therefore required to cite and define any/all proposed changes, additions, deletion or modifications as a condition of acceptance of their proposal. Failure to respond will be interpreted as acceptance of the terms and conditions for the contract and subsequent changes.



**PERSONAL SERVICES AGREEMENT
WITH THE CITY OF MILWAUKIE, OR
FOR AUDIT SERVICES**

THIS AGREEMENT made and entered into this (Day) day of (Month), (Year) by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and (Firm's Name), hereinafter called Firm.

RECITALS

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

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

THEREFORE the Parties agree as follows:

1. SERVICES TO BE PROVIDED

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

2. EFFECTIVE DATE AND DURATION

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, by (Month - Day - Year). All work under this Agreement shall be completed prior to the expiration of this Agreement.

This Agreement shall be for a term of five years, to complete the audit of five (5) individual fiscal years, commencing with auditing services for the fiscal year ending June 30, 2013. The contract may be renewed annually at the option of the City, for two successive years. Any renewal shall be upon the same original terms and provisions, provided however that the fees and "not-to-exceed" amounts may be increased as set forth in the Payment section below. Renewal shall be given in writing by the City between the period of February 1 and March 1 prior to the expiration of the original term or each renewal period.

3. COMPENSATION

The City hereby affirms that for the first year of this Contract proper provision for the payment of the fee has been or will be duly made and that funds for the payment thereof are or will be made legally available; however, as to future years, this Contract is subject to appropriation of funds (See Termination, Section C (i)).

A. Amount of Payment

[FIRM] shall be compensated for all goods, materials, expenses, and services as follows: payment based on the lump-sum contract price and [FIRM]'s schedule, as set forth in Section 11 of Exhibit B, provided however that the contract amount shall not exceed:

1. \$XX,XXX for FY 2012-13
2. \$XX,XXX for FY 2013-14
3. \$XX,XXX for FY 2014-15
4. \$XX,XXX for FY 2015-16, and
5. \$XX,XXX for FY 2016-17

If the Options to Renew the Contract are exercised by the City as set forth in Duration above, the fees charged for each annual period of renewal shall be [FIRM]'s published municipal rates, or the prior year's rates plus CPI, whichever is less. The "not to exceed" amount shall be:

1. \$XX,XXX for FY 2017-18; and
2. \$XX,XXX for FY 2018

Payment shall be based upon the following applicable terms:

- A. Payment by City to Firm for performance of services under this Agreement includes all expenses incurred by Firm, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Firm's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Firm, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Firm must make payment promptly as due to persons supplying Firm labor or materials for the execution of the work provided by this order. Firm must pay all contributions or amounts due from Firm to the Industrial Accident Fund incurred in the performance of this order. Firm shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Firm further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- E. If Firm fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Firm or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Firm. The payment of the claim in this manner shall not relieve Firm or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.

G. Firm 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 Firm or all sums which Firm agrees to pay for such services and all moneys and sums which Firm 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.

H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. OWNERSHIP OF WORK PRODUCT

City shall be the owner of and shall be entitled to possession of any and all work products of Firm which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Firm prior to termination of this Agreement by Firm or upon completion of the work pursuant to this Agreement.

5. ASSIGNMENT/DELEGATION

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

6. STATUS OF FIRM AS INDEPENDENT FIRM

Firm certifies that:

A. Firm acknowledges that for all purposes related to this Agreement, Firm is and shall be deemed to be an independent Firm as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Firm is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Firm under the terms of this Agreement, to the full extent of any benefits or other remuneration Firm receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Firm or to a third party) as a result of said finding.

B. The undersigned Firm hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Firm, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

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

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

- C. Firm certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Firm is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. INDEMNIFICATION

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

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

8. INSURANCE

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

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

A. Commercial General Liability Insurance

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

Coverage	Limit
General Aggregate	3,000,000
Products-Completed Operations Aggregate	3,000,000
Personal & Advertising Injury	3,000,000
Each Occurrence	2,000,000
Fire Damage (Any one fire)	500,000
Medical Expense (Any one person)	5,000

- B. Commercial Automobile Insurance
Firm shall also obtain, at Firm's expense, and keep in effect during the term of this contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.
- C. Professional Liability Insurance
Firm shall obtain, at Firm's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.
- D. Workers' Compensation Insurance
The Firm, its subcontractors, if any, and all employers providing work, labor or materials under this Contract who are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that comply with ORS 656.126. Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident shall be included.
- E. Additional Insured Provision
The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.
- F. Notice of Cancellation
There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days notice of cancellation to the City.
- G. Insurance Carrier Rating
Coverage provided by the Firm must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
- H. Certificates of Insurance
As evidence of the insurance coverage required by the contract, the Firm shall furnish a Certificate of Insurance to the City. No contract 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 contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read “Insurance certificate pertaining to contract for audit services. The City of Milwaukie, its officers, directors and employees shall be added as additional insureds with respects to this contract. A notation stating that “Insured coverage is primary” shall appear in the description portion of certificate.

I. Independent Firm Status

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

J. Primary Coverage Clarification

The parties agree that Firm’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. Cross-Liability Clause

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

Firm’s insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. 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:

Office of City Recorder	
City of Milwaukie	Business Phone: 503-786-7504
10722 SE Main St.	Business Fax: 503-653-2444
Milwaukie, Oregon 97222	Email Address:

Such policies or certificates must be delivered prior to commencement of the work.

The procuring of such required insurance shall not be construed to limit Firm’s liability hereunder. Notwithstanding said insurance, Firm shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

9. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS

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:

City	Firm
City of Milwaukie	Company: (insert name of firm)
Attn: Accounts Payable	Attn: (insert contract manager’s name)
10722 SE Main St., Milwaukie, Oregon 97222	Address: (insert contract manager’s address)
Phone: 503-786-7524	Phone: (insert #)
Fax: 503-786-7528	Fax: (insert #)
Email Address: finance@ci.milwaukie.or.us	Email Address: (insert address)

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

10. MERGER

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

11. TERMINATION WITHOUT CAUSE

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

12. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Firm, 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 Firm, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Firm becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Firm, if a receiver or trustee is appointed for Firm, or if there is an assignment for the benefit of creditors of Firm.

Any such 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 contract) to Firm, may terminate the whole or any part of this Agreement:

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

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

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

13. ACCESS TO RECORDS

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

14. FORCE MAJEURE

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

15. NON-WAIVER

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

16. NON-DISCRIMINATION

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

17. ERRORS

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

18. EXTRA (CHANGES) WORK

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

19. WARRANTIES

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

20. ATTORNEY'S FEES

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

21. GOVERNING LAW

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

22. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Firm shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement

23. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

24. AUDIT

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

25. SEVERABILITY

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

26. PUBLICATION RIGHTS/RIGHTS IN DATA

All material contained in the CAFR and related reports (graphics, photos, etc.), prepared by the City are the property of the City. The auditors' reports are the property of [FIRM]; the City may reproduce and distribute the reports, or any part thereof, in such form as the City desires, but will inform [FIRM] if such reports are to be used in offering documents or similar materials and obtain the written permission of [FIRM] to do so.

[FIRM] shall not publish any of the results of the work without the prior written permission of the City. All original written material and other documentation, including background data, documentation, and staff work that is preliminary to final reports, originated and prepared for **the City pursuant to this contract, is exclusively the property of [FIRM].**

Material already in [FIRM]'s possession, independently developed by [FIRM] outside the scope of this contract or rightfully obtained by [FIRM] from third parties, shall belong to [FIRM].

27. COMPLETE AGREEMENT

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

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

[FIRM]

CITY OF MILWAUKIE

By¹: _____
[Authorized Signer]
[Title]
Date: _____

Casey Camors
Date: _____
Finance Director

[Firm Address]

William Monahan
Date: _____
City Manager

Employer ID #²: XX-XXXXXXX

Check one:

Sole Proprietor _____
Partnership _____
Corporation _____
Limited Liability Company _____
Limited Liability Partnership _____
Other: _____

City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222

Date Authorized by Council, if applicable:

Employer ID #³: XX-XXXXXXX

¹ The individual signing on behalf of [AUDIT FIRM NAME] hereby certifies and swears under penalty of perjury: (a) the number shown on this form is PS [AUDIT FIRM NAME]'s correct taxpayer identification; (b) [AUDIT FIRM NAME] is not subject to backup withholding because (i) [AUDIT FIRM NAME] is exempt from backup withholding, (ii) [AUDIT FIRM NAME] has not been notified by the IRS that [AUDIT FIRM NAME] is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified [AUDIT FIRM NAME] that [AUDIT FIRM NAME] is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of PS [AUDIT FIRM NAME], s/he has authority and knowledge regarding PS [AUDIT FIRM NAME]'s payment of taxes, and to the best of her/his knowledge, [AUDIT FIRM NAME] is not in violation of any Oregon tax laws, (d) [AUDIT FIRM NAME] is an independent [AUDIT FIRM NAME] as defined in ORS 670.600; and (e) the above [AUDIT FIRM NAME] data is true and accurate.

² [AUDIT FIRM NAME]'s disclosure of Social Security number or Taxpayer Identification number is requested so that the City may comply with federal and state income tax reporting requirements. 5 USC 552a. This contract is subject to public disclosure. You may submit the social security / taxpayer identification number by separate letter to the Finance Director, along with a request that it not be subject to public disclosure. In such event, the City shall only disclose the social security / taxpayer identification number as required by the Oregon Public Records law, ORS 192.502.

³ [AUDIT FIRM NAME]'s disclosure of Social Security number or Taxpayer Identification number is requested so that the City may comply with federal and state income tax reporting requirements. 5 USC 552a. This contract is subject to public disclosure. You may submit the social security / taxpayer identification number by separate letter to the Finance Director, along with a request that it not be subject to public disclosure. In such event, the City shall only disclose the social security / taxpayer identification number as required by the Oregon Public Records law, ORS 192.502.

C. SCOPE OF WORK (SERVICES TO BE PROVIDED)

CONTRACT DOCUMENTS

The contract documents shall consist of this Contract, the City's Request for Proposals (RFP) (Exhibit A), [FIRM] proposal (Exhibit B), and the Engagement Letter (Exhibit C), and any conflict between the contract documents shall be resolved in the following priority:

1. This contract
2. Exhibit A – The City's RFP; and
3. Exhibit B – [FIRM]' proposal.
4. Exhibit C – Engagement letter

City shall, upon execution of this Contract, file a duplicate copy of the contract with the Oregon Secretary of State, Audits Division, Salem, Oregon.

SCOPE OF WORK

1. [FIRM] shall conduct an audit of the accounts and fiscal affairs of the City, for the year beginning July 1, 2012, and ending June 30, 2013, and annually thereafter. The Work shall be performed in accordance with:

- a. The *Minimum Standards of Audits of Oregon Municipal Corporations*;
- b. The requirements of Oregon Revised Statutes 297.405 through 297.740, and the regulations promulgated pursuant thereto;
- c. Generally accepted auditing standards, and,
- d. When required, *Government Auditing Standards* prescribed by the Comptroller General of the United States and Office of Management and Budget Circular A-133.

2. The audit shall be undertaken in order to express an opinion upon the financial statements of the City, and to determine if the City has complied substantially with appropriate legal provisions. The services to be provided are detailed in the Proposal issued by [FIRM] (Exhibit B).

3. [FIRM] agrees that the services they have contracted to perform under this contract shall be rendered by them or under the personal supervision of an auditor admitted to the Municipal Roster employed by them, and that the work will be faithfully performed with care and diligence.

4. Should unusual conditions arise or be encountered during the course of the audit whereby the services of [FIRM] are necessary beyond the extent of the work contemplated, written notification of such unusual conditions shall be delivered to the City, who shall instruct in writing [FIRM] concerning such additional services, and that a signed copy of each such notification and instruction shall be delivered immediately to the Secretary of State by the party issuing the same.

5. The audit shall be started as soon after this contract is executed as is agreeable to the parties hereto and shall be completed and all written reports thereon delivered within a reasonable time, but no later than six months, after the close of the audit year covered by this contract, unless extended by mutual agreement and as approved by the Oregon Secretary of State.

6. Adequate copies of the auditors' reports on financial statements and related reports and opinions required by professional standards shall be delivered to the City, and their form and content shall be in accordance with and not less than that required by the *Minimum Standards for Audits of Oregon Municipal Corporations*.

7. City acknowledges that it is responsible for such financial statements as may be necessary to fully disclose and fairly present the results of operations for the year under audit and the financial condition at the end of that year. Should such financial statements not be prepared and presented within a reasonable period of time, it is understood [FIRM] shall prepare them for the City. The cost of preparing such financial statements shall be in addition to the fee for conducting the audit as set forth below.

8. All final reports shall be provided in both written and electronic format. Electronic format shall be in a format coordinated with the City and shall be fully compatible with such software programs specified by the City, .e.g. Microsoft Word, Microsoft Excel, or such other software program as specified by the City.

9. The Scope of Work is subject to the following restrictions and assumptions:

- a. City's staff shall reasonably cooperate with [FIRM].
- b. The books are closed, balanced and reconciled, and that no unexpected circumstances will be encountered during the audit.
- c. City will prepare all financial schedules that it has traditionally prepared, will prepare the Comprehensive Annual Financial Report (CAFR).
- d. City will print the financial statements, except reports and opinions of [FIRM], and will prepare all statistical tables for the CAFR.
- g. If audit or reporting requirements change substantially, the parties will agree to renegotiate audit and assistance fees to allow [FIRM] to meet professional standards without economic harm or benefit, regardless of whether those new requirements reduce or increase [FIRM]'s responsibilities.