



DEPARTMENT OF PUBLIC WORKS – ENGINEERING DIVISION

265 Strand Street, St. Helens, OR 97051

Phone: 503.397.6272 Web: www.sthelensoregon.gov

REQUEST FOR PROPOSALS #M-498

Professional Services for

2021 Aerial Imaging and GIS Data Update

November 2021

2021 Aerial Imaging and GIS Data Update
RFP No. M-498

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RFP Invitation

Request for Proposals
City of St. Helens, Oregon
2021 Aerial Imaging and GIS Data Update
RFP No. M-498

The City of St. Helens, Oregon is seeking proposals from qualified and experienced firms to acquire color, digital orthophotography for the area within the entire urban growth boundary of St. Helens, Oregon and update GIS and AutoCAD data used by the City.

The RFP can be downloaded from the City's website at www.sthelensoregon.gov/rfps. For questions or clarifications regarding this RFP please contact Jacob Graichen, City Planner, at jgraichen@sthelensoregon.gov or (503) 366-8204.

Proposals shall be submitted in a sealed envelope plainly identifying "City of St. Helens Engineering Division, 2021 Aerial Imaging and GIS Data Update, RFP No. M-498", and shall include the Contractor's Name and Address. Proposals shall be addressed to Mouhamad Zaher, Public Works Director, City of St. Helens, 265 Strand Street, St. Helens, OR 97051.

Proposals will be received at the City of St. Helens City Hall at 265 Strand St, St. Helens, Oregon 97051 until **4:00 pm, Thursday December 2, 2021**. Proposals received after the 4:00 pm deadline will not be opened or reviewed. Faxed or electronic proposals will not be accepted. Responses to this RFP will be reviewed, scored, and ranked according to the criteria and process defined in this RFP. The Contractor selected for contract negotiations will be the firm selected as the most qualified through the RFP's evaluation process.

The City of St. Helens reserves the right to reject any response not in compliance with all prescribed solicitation procedures and requirements and other applicable law and may reject any or all responses in whole or in part when the cancellation or rejection is in the best interest of the City, and at no cost to the City.

Section 1 General Information

1.1 Introduction

St. Helens, Oregon named for its view of Mount St. Helens in Washington, is located on the western bank of the Columbia River approximately 30 miles northwest of Portland and has a growing population of over 13,900. The City of St. Helens has a Council-Mayor form of government with five council members, including the mayor. The City Council has custodial responsibility for all City facilities, and directs the financing, maintenance, and operation of all City departments.

The last complete update to the City's aerial imaging and GIS data was in 1995. A partial update was completed in 2001. These included images converted to AutoCAD files for use by the City's Engineering Division. In approximately 2005, the City converted AutoCAD files and additional street and utility information from various project as-built drawings to GIS shape files. In 2009, aerial imagery from the National Agriculture Imagery Program replaced older imagery but no additional conversions were done. The GIS system has been periodically updated and is used extensively by the Public Works Engineering and Operations Divisions, and Planning Department.

1.2 Request for Proposals

The City of St. Helens is seeking high quality and responsible services from a qualified and experienced firm to provide color, digital orthophotography for the entire area within the urban growth boundary (UGB) of St. Helens, Oregon and update GIS and AutoCAD data used by City departments. The Contractor shall,

- Supply imagery of the area within the UGB of the City of St. Helens, Oregon. The selected Contractor shall provide color ortho-imagery at six-inch (0.5 ft) resolution for the area as specified in this RFP. The ortho-imagery must meet or exceed the ASPRS Class I Accuracy Standard for maps at 1" = 50' for the 6-inch imagery.
- The project includes an update of all planimetric data through the limits of the project. The City will provide the contractor with the planimetric AutoCAD and shapefiles to be updated. Existing features will be verified and new features digitized from new aerial imagery for AutoCAD layers and GIS shapefiles to include, but not limited to:
 - Buildings
 - Railroads
 - Sidewalks
 - Curbed roads
 - Paved roads
 - Gravel roads
 - Paved driveways
 - Gravel driveways
 - Trails and asphalt paths
 - Parking lots
 - Paint symbols, parking striping, fog lines, and centerlines
 - Utility poles and street lights
 - Traffic signals
 - Bridges
 - Rivers, creeks, and ditches
 - Elevation contours at 1-foot intervals
- The contractor will verify and update various utility features based on the new imagery and as-built documentation and other documentation provided by the City.

These features will include, but are not limited to:

- Manholes
- Catch basins
- Water valves
- Fire hydrants
- Pump stations
- Parks
- Water, sewer, and storm main lines (per existing CAD/GIS and as-builts)

The City uses ESRI and AutoCAD software and the contractor shall ensure that all project deliverables are compatible with the City's current software.

1.3 Proposed Timelines

The City anticipates the following general timeline for receiving and evaluating the proposals and selecting a Contractor for the 2021 Aerial Imaging and GIS Data Update. This schedule is subject to change if it is in the City's best interest to do so.

- | | |
|--|------------------------------|
| ▪ RFP Solicitation Advertisement | November 5, 2021 |
| ▪ Last Date for Pre-Proposal Questions | November 19, 2021 |
| ▪ Last Date to Issue Addenda | November 23, 2021 |
| ▪ Proposals Due | December 2, 4:00 p.m. |
| ▪ Review Evaluations | December 3-8, 2021 |
| ▪ Award Recommendation, Intent to Award | December 15, 2021 |
| ▪ Refinement of Scope of Work, if needed | December 16-28, 2021 |
| ▪ Award of Contract | January 5, 2022 |
| ▪ Commencement of Contract | January 17, 2022 |
| ▪ Completion of Contract | June 30, 2022 |

1.4 Proposal Submittal

Proposals must be received at City Hall by 4:00 p.m., Thursday December 2, 2021. Each Contractor shall provide four (4) printed copies and one (1) electronic copy (on a flash drive) of their proposal, sealed in an envelope plainly identifying Project Name, and the Contractor's Name and Address. Electronic copy must be in searchable PDF format as a single document. Proposals shall be addressed as follows:

2021 AERIAL IMAGING AND GIS DATA UPDATE RFP NO. M-498

City of St. Helens
265 Strand Street
St. Helens, OR 97051
ATTN: Mouhamad Zaher, Public Works Director

Proposals must arrive at the City of St. Helens Engineering Division Office on or before the time and date due. Contractors mailing proposals should allow for normal delivery time to ensure timely receipt. Electronic or faxed proposals will not be accepted. Proposals received after the RFP deadline will not be opened or reviewed.

The proposal must state that the Contractor is an Equal Opportunity Employer and will comply with all Federal, State, and local laws, rules, and regulations.

1.5 Estimated Project Cost

The estimated project budget is \$100,000. Contractor shall submit cost and billing rate information with their proposal as outlined in Section 3 of this RFP.

1.6 Acceptance, Rejection, or Award of Proposals

The City reserves the right to cancel the contract award for the 2021 Aerial Imaging and GIS Data Update at any time before the execution of the contract by both parties if cancellation is deemed to be in the City's best interest. In no event shall the City have any liability for the cancellation of contract award. The City reserves the right to:

- Accept or reject any or all proposals received as a result of this RFP.
- To negotiate contract terms with qualified Contractor.
- Take into consideration any or all information supplied by the Contractor in their proposal and the City's investigation into the experience and responsibility of the Contractor. In addition, the City may accept or reject proposals based on minor variations from the stated specifications, when such action is deemed to be in the City's best interest. Further, the City reserves the right to waive informalities in the submitted proposal.
- Award a contract to that respondent the City determines to be the most responsible and responsive to this RFP. The successful Contractor shall commence work only after an agreement with the City is negotiated, a contract fully executed, and a notice to proceed has been issued.

The City reserves the right to reject any or all proposals received as a result of this Request for Proposals. Proposals may be rejected for one or more of the following reasons, including but not limited to:

- Failure of the Contractor to adhere to one or more of the provisions established in the Request for Proposals.
- Failure of the Contractor to submit a proposal in the format specified herein.
- Failure of the Contractor to submit a proposal within the time requirements established herein.
- Failure of the Contractor to adhere to ethical and professional standards before, during, or following the proposal process.

The City may reject any proposal not in compliance with all prescribed public procurement procedures and requirements and may reject for good cause any or all proposals upon a finding of the City that it is in the public interest to do so.

1.7 Cost of Preparing Proposals

The City is not liable for any costs incurred by a Contractor in the preparation and/or presentation of their proposal nor for any cost incurred by a Contractor in protesting the City's selection decision.

1.8 Changes to Solicitation by Addenda

The City reserves the right to make changes to the RFP by written addendum. The City is not responsible for any explanation, clarification, interpretation, or approval made or given in any manner, except by addenda. Contractors are advised to check the City's website regularly for addenda. Contractor may request a change in the RFP by submitting a written request via mail or email to the City's Project Manager. The request must specify the provision of the RFP in question and contain an explanation of the requested change.

The City will evaluate any request submitted but reserves the right to determine whether to accept the requested change. Changes that are accepted by the City shall be issued in the form of an addendum to the RFP.

Addenda will be issued on the City's website, <https://www.sthelensoregon.gov/rfps> not later than seven (7) days prior to the RFP closing date. The City will not mail notice of addenda but shall publish notice of any addenda on the City's website. It is the responsibility of the Contractor to check the webpage for any posted addenda and ensure that their submitted proposal acknowledges all addenda.

Addenda shall have the same binding effect as though contained in the main body of the RFP. No verbal instructions or information concerning the scope of work shall bind the City. Each Contractor is responsible for obtaining all addenda prior to submitting a proposal. Receipt of each addendum shall be acknowledged on the Proposal Signature Page as part of the proposal, see **Attachment A**.

1.9 Disputes

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the City shall be final and binding upon all parties.

1.10 Modification of Withdrawal of Proposal by Contractor

Prior to the time and date designated for receipt of proposals, proposals submitted early may be modified or withdrawn only by notice to the Public Works Director, at the proposal submittal location, prior to the time designated for receipt of proposals. Such notice shall be in writing. All such communications shall be so worded as not to reveal any material contents of the original proposal. Withdrawn proposals may be resubmitted up to the time designated for the receipt of proposals provided they are then fully in conformance with these instructions to contractors.

1.11 Proposal Ownership

All proposals submitted become and remain the property of the City and, as such, are considered public information and subject to public disclosure within the context of the federal Freedom of Information Act and Oregon Revised Statutes (ORS) 192.501 and ORS 192.502, public records exempt from disclosure.

Information submitted by contractors shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the proposals for which a contractor requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the proposal the Contractor requests exception from disclosure. Contractor shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the City as a result of this RFP. Contractor should not mark the entire proposal document "Confidential."

Unless certain pages or specific information are specifically marked "proprietary" and qualify as such within the context of the regulations for competitive sealed proposals in the State of Oregon, the City shall make available to any person requesting information through the City's processes for disclosure of public records, any and all information submitted as a result of this solicitation without obtaining permission from Contractor to do so after the Notice of Intent to award has been released.

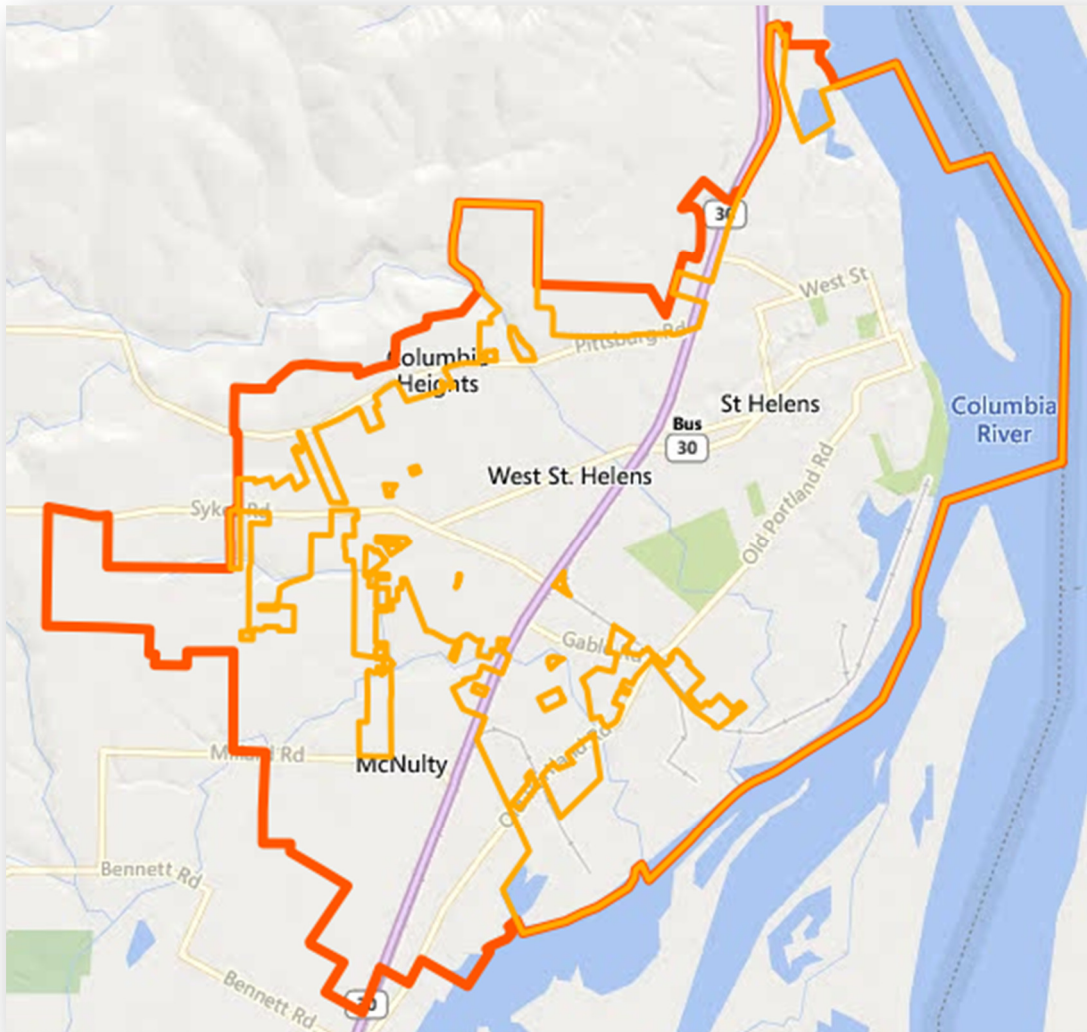
1.12 Duration of Proposal

Proposal prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of proposals. The successful proposal shall not be subject to future price escalation or change of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

Section 2 Scope of Work

2.1 General Statement

The 2021 Aerial Imaging and GIS Data Update will provide high quality and responsible services from a qualified and experienced firm to provide color, digital orthophotography for the entire area within the urban growth boundary (UGB) of St. Helens, Oregon and update GIS and AutoCAD data used by City departments. The UGB covers approximately 8.27 square miles.



City of St. Helens City Limits (orange) and Urban Growth Boundary (red)

2.2 Terms of Service

The contract resulting from this Request for Proposals (RFP) shall be for a period ending June 30, 2022.

2.3 Scope of Work

Respondents to this RFP shall provide a detailed scope of work including specific methodologies and/or approaches that will be used to respond to the required and proposed tasks. Innovative approaches for completion of the scope of work are encouraged.

The following Scope of Work (SOW) is intended to be a general outline of the work and not an all-inclusive description of the professional and technical services that may be required to undertake and complete the Project. The Contractor should expand upon these tasks as needed to prepare a complete proposal based on their experience.

TASK 1 – PROJECT MANAGEMENT

1.1 Project Administration

- a) Contractor shall act as a manager of the Contractor's team, including any Subcontractors. The Contractor shall manage and coordinate all components of the Project and take a proactive role in keeping all tasks on schedule and within budget and ensure timely completion of the Project.
- b) Contractor shall designate a Project Manager to organize, direct, coordinate, monitor and manage the activities of the project with respect to budget, schedule, and contractual obligations. The Contractor's Project Manager shall coordinate the Work with the City's Project Manager and will work closely with City staff, and other agencies and stakeholders, as appropriate.

1.2 Kick-Off Meeting

- a) Contractor shall initiate the project kickoff meeting and prepare an agenda for the kickoff meeting and invite the necessary attendees.
- b) The kickoff meeting will develop project goals, vision, objectives, and criteria. The meeting will outline project management approach, identify roles and responsibilities, and confirm project scope and schedule.
- c) The kickoff meeting can be held virtually through a platform such as Zoom or Teams, or in person at City Hall if compliance with COVID protocols in place at the time can be met.
- d) If the Contractor feels that regular project coordination meetings are necessary, Contractor shall set up a schedule for meetings between

the Contractor and City personnel to review project progress, discuss project challenges and findings, and review early drafts. Contractor shall ensure that City personnel and Contractor team members maintain a shared understanding regarding objectives, and deliverables.

- e) Contractor shall prepare all project related agendas and meeting minutes. Agendas and the supporting information shall be emailed to the City's Project Manager at least three (3) business days prior to a meeting.

1.3 Quality Assurance and Quality Control Review

- a) Contractor shall conduct internal Quality Assurance and Quality Control and follow-up with technical experts, as necessary, during the course of the project to maintain a high level of service.

- 1.4 Deliverables: Meeting agendas, project schedule, meeting minutes, and updated project schedule, if schedule deviates by more than 10%. Contractor shall submit an updated Monthly Progress Report with status report of work completed by sub-tasks for the invoice period with each invoice. Indicate each team member's time spent on each sub-task for the invoice period.

TASK 2 – PROJECT DELIVERABLES

2.1 Digital Imagery

Contractor shall provide color digital imagery sufficient to meet Nation Map Accuracy standards for the capture or conversion of features at 1" = 50' scale. The pixel resolution of the imagery should be set to a maximum of 6 inches.

A seamless mosaic of the entire UGB of the City should be provided with a pixel resolution of 2 feet. Join lines between overlapping images shall be chosen so as to minimize tonal variations.

2.2 Updated Digital Terrain Model (DTM)

The Contractor shall provide a digital terrain model sufficient to generate and produce digital contour line features at one (1) foot intervals. The Contractor is responsible for establishing any and all ground control necessary to accomplish this task.

Horizontal datum shall be NAD 83, vertical datum shall be NAVD 88.

2.3 Updated Planimetric and Utility Features

Contractor will capture and convert standard planimetric features from the photo imagery into AutoCAD .dwg and ESRI shapefiles compatible data for engineering quality mapping and design. The Contractor shall ensure that all project deliverables are compatible with the City's software.

City shall provide a list of current AutoCAD and shape file feature names.

2.4 Deliverables

Color digital imagery; seamless image of the entire UGB; AutoCAD and ESRI files with updated DTM at 1-ft intervals, updated planimetric features to include layers, shape files, etc. matching the City's existing layering name protocols.

Section 3 Proposal Requirements

3.1 Submittal of Proposals

The Contractor must submit a definitive proposal for the end results that are set forth in this RFP. The proposal must describe the intended performance of the Contractor on the activities prescribed and the resources to perform the activities. The selected Contractor must have demonstrated experience in this type of work.

In order to be considered for this project, proposal must arrive at the City of St. Helens Engineering Department office on or before the listed time and date due. An authorized officer of the firm must sign the proposal.

Proposals shall be sealed in an envelope, plainly identifying Project Name, and Contractor's Name and Address. The document shall be addressed and delivered to the issuing office as directed in **Section 1.4 Proposal Submittal**.

The proposal shall include, as a minimum, the following items:

1. Cover Letter

On firm letterhead, please identify the principal contact, providing the name, title, street address, email address, and phone number. The letter should be addressed to the City's Public Works Director, Mouhamad Zaher. Provide telephone number, email address, and mailing address for Contractor's project contact/manager. A statement in the letter shall specifically stipulate that the Contractor accepts all terms and conditions contained in the RFP and the Personal Services Agreement (copy attached). (1 page maximum)

2. Qualifications

Qualifications shall include the following information:

- **Project Team:** Provide a list and/or an organizational chart of the proposed project team for the project, including the project manager and key personnel with their roles and responsibilities. Include summaries of related experience for the team. These should be brief, emphasizing relevance to the proposed project with emphasis on more recent projects. Include references with a contact person, giving name, phone number and address, and describing the involvement in the project. (4 pages maximum)
- **Project Experience and References:** Describe the firm's size, office locations, and relevant capabilities and resources in relation to this project. Provide information on at least three (3) similar projects completed in the last seven (7) years. For each project, describe the project by name, type, location, costs, year completed, and owner's contact information. Project references should list contact name, phone number, and email address. (3 pages maximum)
- **Project Approach:** Proposals should indicate general and specific qualifications of the proposer in the fields of photogrammetry, surveying, DTM modeling, and other relevant expertise. Contractor shall clearly define the tasks and activities necessary to meet the objectives outlined in the scope of work. (2 pages maximum)
- **Schedule:** Provide a schedule showing the time required to complete the scope of work, including identifying key tasks and milestone dates and their associated duration. (1 page maximum)
- **Additional Information:** Provide additional relevant information that demonstrates the team's qualifications. (1 page maximum)

3. Costs

In a separate, sealed envelope, provide a cost for each task included in the Scope of Work. Provide a current rate schedule for all Contractor and sub-contractor team members who will be assigned to the project. This rate schedule shall be submitted in a separate sealed envelope with the following information clearly printed on the envelope:

City of St. Helens, Oregon
Request for Proposals
2021 Aerial Imaging and GIS Data Update
RATE SCHEDULE

3.2 Sample Personal Services Agreement (Exhibit B)

Contractor shall review the sample personal services agreement, Exhibit B. Changes or alterations to the personal services agreement will not be considered. Submission of a proposal constitutes acceptance of the personal services agreement as to form and content. Please review the agreement in consideration of the proposal.

Section 4 Proposal Selection and Evaluation

The City intends to select a Contractor who is fully qualified and has assembled a project team that can provide satisfactory service. The City will be the sole judge of whether a Contractor is considered to be fully qualified for the purpose of this RFP and will determine if the proposals are complete and meet the requirements as described in this RFP.

4.1 Proposal Review

Proposals will be evaluated on the basis of the information submitted, along with an analysis of other available information. A selection committee will review the proposals to determine the most qualified submittals, based on the following criteria:

- Contractor's experience and performance on similar projects (20%)
- Contractor's proposed project approach and schedule for completion (20%)
- Recent references (20%)
- Qualifications of team personnel (20%)
- Quality and completeness of the submittal (20%)

4.2 Evaluation Criteria

The criteria listed above will be used to evaluate and rank the proposals. In the event of a tie among candidates with respect to the evaluation criteria, the candidate with the lower overall project cost will be selected.

This process should result in a Notice of Intent to Award presented to the City Council by December 15, 2021. Once a final selection has been made, the City and the chosen Contractor shall work jointly to refine a detailed scope of work and contract for services. The final scope of work will be presented for approval to the City Council on January 5, 2022.

Section 5 Contract Requirements

5.1 General Contract Requirements

The successful Contractor will complete a City standard contract in the form of a Personal Services Contract which shall incorporate a contract, the Scope of Work, a list of tasks, a work schedule, a rate of pay scale, and certificates of insurance.

The City will issue the Notice to Proceed after the execution of the Contract.

The Contract shall not be assigned in part or in total and the Contractor shall be solely responsible for the work of sub-contractors.

The successful Contractor will be required to obtain a City of St. Helens business license.

5.2 Contract Payment Schedule

Payment for work will be made monthly upon receipt of Contractor's billing statement, consistent with City procedures. Each statement must include summary of progress made through the date of the billing and shall be submitted to the Project Manager. Monthly payments will be based on the costs incurred as summarized in the progress report. All contract payments must be authorized by the City Council prior to payment approval.

5.3 Insurance Coverage

The selected Contractor will be required to provide Errors and Omissions, Professional Liability Insurance, Worker's Compensation, General Liability, and Automobile insurance as required for compliance with the City's minimum standards for personal services contracts. The Contractor shall include the City, its' officers, agents, and employees as additionally insured on insurance policies issued for this project or shall furnish an additional insured endorsement naming the same as an additional insured to the Contractor's existing public liability and property damage insurance.

Before the Contract is executed, the Contractor shall furnish to the City a certificate of insurance which is to be in force and applicable to the project.

Exhibit A Proposal Signature Page

The undersigned hereby submits this proposal to furnish all work, services systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Proposal, Personal Services Contract, and associated inclusions and references, specifications, Proposal Form, Contractor response, mutually agreed clarifications, exceptions which are acceptable to the City, and all other Contractor submittals.

The undersigned hereby certifies and represents that the Contractor:

- has examined and is thoroughly familiar with the Request for Proposal
- has examined and is thoroughly familiar with the Personal Services Contract, and agrees to accept the contract terms, and execute such contract upon award
- understands that the City reserves the right to accept a proposal or reject all proposals if deemed in the best interest of the City
- understands that all information included in, attached to, or required by this RFP shall be public record subject to disclosure within the context of the federal Freedom of Information Act and Oregon Revised Statutes (ORS) 192.501 and ORS 192.502.

Receipt of Addenda

Contractor acknowledges that ADDENDA NUMBERED _____ THROUGH _____ have been reviewed as part of the Request for Proposal.

Signature

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

CONTRACTOR FIRM NAME

CONTACT PERSON

MAILING ADDRESS, CITY, STATE, AND ZIP CODE

FIRM TELEPHONE NUMBER

CONTACT PERSON TELEPHONE

CONTACT PERSON EMAIL ADDRESS

PRINT NAME AND TITLE OF FIRM'S AUTHORIZED REPRESENTATIVE

SIGNATURE OF FIRM'S AUTHORIZED REPRESENTATIVE

DATE

Exhibit B Personal Services Agreement (Sample)

This PERSONAL SERVICES AGREEMENT (this "Agreement") is made and entered into by and between the **City of St. Helens** (the "City"), an Oregon municipal corporation, and _____ ("Contractor").

RECITALS

- A. The City is in need of services to update the aerial imaging, AutoCAD, and GIS data within the Urban Growth Boundary, and Contractor is qualified and prepared to provide such services.
- B. The purpose of this Agreement is to establish the services to be provided by Contractor and the compensation and terms for such services.

AGREEMENT

1. **Engagement.** The City hereby engages Contractor to provide services ("Services") related to updating the City's aerial imaging, AutoCAD, and GIS data within the Urban Growth Boundary, and Contractor accepts such engagement. The principal contact for Contractor shall be _____, phone _____.
2. **Scope of Work.** The duties and responsibilities of Contractor, including a schedule of performance, shall be as described in Attachment A attached hereto and incorporated herein by reference.
3. **Term.** Subject to the termination provisions of Section 10 of this Agreement, this Agreement shall commence once executed by both parties and shall terminate on June 30, 2022. The City reserves the exclusive right to extend the contract for a period of two (2) years in one (1) year increments. Such extensions shall be in writing with terms acceptable to both parties. Any increase in compensation for the extended term shall be as agreed to by the parties but shall not exceed five percent (5%) of the then-current fees.
4. **Compensation.** The terms of compensation for the initial term shall be as provided in Attachment C.
5. **Payment.**
 - 5.1 The City agrees to pay Contractor for and in consideration of the faithful performance of the Services, and Contractor agrees to accept from the City as and for compensation for the faithful performance of the Services, the fees outlined in Attachment C, except that the hourly fee shall include all local travel, local telephone expense, computer expense, and routine document copying. Reimbursable expenses shall be billed at cost without markup and shall include travel and related expenses in compliance with the City's travel and expense policy, reproduction of documents or reports with prior written approval, and

long-distance telephone expenses. Contractor's cost for approved sub-consultants may be marked up a maximum of five percent (5%) by Contractor for management and handling expenses.

- 5.2 Contractor shall make and keep reasonable records of work performed pursuant to this Agreement and shall provide detailed monthly billings to the City. Following approval by the City Administrator, billings shall be paid in full within thirty (30) days of receipt thereof. The City shall notify Contractor of any disputed amount within fifteen (15) days from receipt of the invoice, give reasons for the objection, and promptly pay the undisputed amount. Disputed amounts may be withheld without penalty or interest pending resolution of the dispute.
- 5.3 The City may suspend or withhold payments if Contractor fails to comply with any requirement of this Agreement.
- 5.4 Contractor is engaged by the City as an independent contractor in accordance with the standards prescribed in ORS 670.600. Contractor shall not be entitled to any benefits that are provided by the City to City employees.
- 5.5 Any provision of this Agreement that is held by a court to create an obligation that violates the debt limitation provision of Article XI, Section 9 of the Oregon Constitution shall be void. The City's obligation to make payments under this Agreement is conditioned upon appropriation of funds pursuant to ORS 294.305 through 294.565.

6. Document Ownership. Contractor shall retain all common law, statutory and other reserved rights, including copyrights, in all work products, including, but not limited to, documents, drawings, papers, computer programs and photographs, performed or produced by Contractor for the benefit of the City under this Agreement, except that all copies of such plans, designs, calculations and other documents and renditions provided to City shall become the property of City who may use them without Contractor's further permission for any lawful purpose related to the project. Upon execution of this agreement, Contractor grants to City an irrevocable, nonexclusive license to use Contractor's work products created through its services for the project. The license granted under this section permits City to authorize its contractors, subcontractors of any tier, consultants, subconsultants of any tier, and material or equipment suppliers, to reproduce applicable portions of the work products in performing services for the project. Any unauthorized use of Contractor's work product for purposes unrelated to the project shall be at City's sole risk and without liability to Contractor.

7. Notices. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail should be addressed as follows:

CITY: City of St. Helens
Attn: City Administrator

265 Strand Street
St. Helens OR 97051

CONTRACTOR:

Attn: _____

When so addressed, such notices, bills and payments shall be deemed given upon deposit in the United States mail, postage-prepaid.

8. Standard of Care. Contractor shall comply with the applicable professional standard of care in the performance of the Services. Contractor shall prepare materials and deliverables in accordance with generally accepted standards of professional practice for the intended use of the project.

9. Insurance.

9.1 At all times during the term of this Agreement, Contractor shall carry, maintain and keep in full force and effect a policy or policies of insurance as specified in Attachment B attached hereto and incorporated herein by reference.

9.2 All insurance policies shall provide that the insurance coverage shall not be canceled or reduced by the insurance carrier without thirty (30) days' prior written notice to the City. Contractor agrees that it will not cancel or reduce said insurance coverage without the written permission of City.

9.3 Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, the City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon. If the City procures such insurance, the City may charge the cost against any moneys due Contractor hereunder or for any other contract.

9.4 At all times during the term of this Agreement, Contractor shall maintain on file with the City a Certificate of Insurance or a copy of actual policies acceptable to the City showing that the aforesaid policies are in effect in the required coverages. The policies shall contain an endorsement naming the City, its council members, officers, employees and agents, as additional insureds (except for the professional liability and workers' compensation insurance).

9.5 The insurance provided by Contractor shall be primary to any coverage available to the City. The insurance policies (other than workers' compensation) shall include provisions for waiver of subrogation. Contractor shall be responsible for any deductible amounts outlined in such policies.

10. Termination..

10.1 Termination for Cause. City may terminate this Agreement effective upon delivery of written notice to Contractor under any of the following conditions:

10.1.1 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 service. This Agreement may be modified to accommodate a reduction in funding.

10.1.2 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.

10.1.3 If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, suspended, revoked, or not renewed.

10.1.4 If Contractor becomes insolvent, if a voluntary or an involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

10.1.5 If Contractor is in breach of this Agreement, and such breach is not remedied as contemplated by Section 10.2 of the Agreement.

10.2 Breach of Agreement

10.2.1 Contractor shall remedy any breach of this Agreement within the shortest reasonable time after Contractor first has actual notice of the breach or City notifies Contractor of the breach, whichever is earlier. If Contractor fails to remedy a breach within three (3) working days of its actual notice or receipt of written notice from the City, City may terminate that part of the Agreement affected by the breach upon written notice to Contractor, may obtain substitute services in a reasonable manner, and may recover from Contractor the amount by which the price for those substitute services exceeds the price for the same services under this Agreement.

10.2.2 If the breach is material and Contractor fails to remedy the breach within three (3) working days of receipt of written notice from the City, City may declare Contractor in default, terminate this Agreement and pursue any remedy available for a default.

10.2.3 Pending a decision to terminate all or part of this Agreement, City unilaterally may order Contractor to suspend all or part of the services under this Agreement. If City terminates all or part of the Agreement pursuant to this Section 10.2, Contractor shall be entitled to compensation only for services rendered prior to the date of termination, but not for any services rendered after City ordered suspension of those services. If City suspends certain services under this Agreement and later orders Contractor to resume those services after determining Contractor was not at fault, Contractor shall be entitled to reasonable damages actually incurred, if any, as a result of the suspension.

10.2.4 In the event of termination of this Agreement due to the fault of the Contractor, City may immediately cease payment to Contractor, and when the breach is remedied, City may recover from Contractor the amount by which the price for those substitute services exceeds the price for the same services under this Agreement, along with any additional amounts for loss and damage caused to the City by the breach, and withhold such amounts from amounts owed by City to Contractor. If the amount due Contractor is insufficient to cover City's damages due to the breach, Contractor shall tender the balance to City upon demand.

10.3 Termination for Convenience. City may terminate all or part of this Agreement at any time for its own convenience by providing three (3) days written notice to Contractor. Upon termination under this paragraph, Contractor shall be entitled to compensation for all services properly rendered prior to the termination, including Contractor's and sub-consultants reasonable costs actually incurred in closing out the Agreement. In no instance shall Contractor be entitled to overhead or profit on work not performed.

11. No Third-Party Rights. This Agreement shall not create any rights in or inure to the benefit of any parties other than the City and Contractor.

12. Modification. Any modification of the provisions of this Agreement shall be set forth in writing and signed by the parties.

13. Waiver. A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach. All waivers shall be done in writing.

14. Indemnification.

14.1 Liability of Contractor for Claims Other Than Professional Liability. For claims for other than professional liability, Contractor shall defend, save and hold harmless City, its officers, agents and employees from all damages, demands, claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities or omissions of Contractor, its subcontractors, sub-consultants, agents or employees under this Agreement. 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 Contractor unrelated to the quality of professional services provided by Contractor.

14.2 Liability of Contractor for Claims for Professional Liability. For claims for professional liability, Contractor shall save, and hold harmless City, its officers, agents and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor, its subcontractors, sub-consultants, agents or employees in the performance of professional services under this Agreement. A claim for professional responsibility is a claim made against the City in which the City's alleged liability results directly from the quality of the professional services provided by Contractor, regardless of the type of claim made against the City.

14.3 Contractor and the officers, employees, agents and subcontractors of Contractor are not agents of the City, as those terms are used in ORS 30.265.

15. Governing Laws. This Agreement shall be governed by the laws of the State of Oregon.

16. Compliance with Law.

16.1 Contractor shall comply with all applicable federal, state and local statutes, ordinances, administrative rules, regulations and other legal requirements in performance of this Agreement.

16.2 Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the services provided for in the Agreement and shall be responsible for such payment of all persons supplying such labor or material to any subcontractor.

16.3 Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Agreement.

16.4 Contractor shall not permit any lien or claim to be filed or prosecuted against the City or its property on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien or claim so filed or prosecuted.

16.5 Contractor and any subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.617.

16.6 If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or materials furnished to the Contractor or a subcontractor by any person in connection with the Agreement 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 Contractor by reason of the Agreement. The payment of a claim in the manner authorized hereby shall not relieve the Contractor from his/her 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 Contractor an amount equal to said claim until its validity is determined and the claim, if valid, is paid.

16.7 If the Contractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the Agreement within 30 days after receiving payment from the City, the Contractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment

is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.

- 16.8 Contractor 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 Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor 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.
- 16.9 No person may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases the employee shall be paid at least time and a half pay:
- 16.9.1 Either:
- 16.9.1.1 For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
- 16.9.1.2 For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- 16.9.2 For all work performed on Saturday and on any legal holiday specified in ORS 279C.540;
- 16.9.3 Contractor shall pay employees for overtime work performed under the Agreement in accordance with ORS 653.010 to 653.261 and the Fair Labor Standards Act of 1938 (29 USC 201, et seq.).
- 16.10 The Contractor must give notice to employees who work on this Agreement in writing, either at the time of hire or before commencement of work on the Agreement, 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.
- 16.11 All subject employers working under the Contractor are either employers that will comply with ORS 656.017, or employers that are exempt under ORS 656.126.
- 16.12 All sums due the State Unemployment Compensation Fund from the Contractor or any subcontractor in connection with the performance of the Agreement shall be promptly so paid.

- 16.13 Contractor certifies compliance with all applicable Oregon tax laws, in accordance with ORS 305.385.
- 16.14 Contractor certifies that it has not and will not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055. Without limiting the foregoing, Contractor expressly agrees to comply with: (i) 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 1990, (iv) ORS 659.425, (v) all regulations and administrative rules established pursuant to those laws; and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- 16.15 The Contractor represents and warrants that Contractor (i) is not currently an employee of the federal government or the State of Oregon, and (ii) meets the specific independent contractor standards of ORS 670.600.
- 16.16 If Contractor is a foreign contractor as defined in ORS 279A.120, Contractor shall comply with that section and the City must satisfy itself that the requirements of ORS 279A.120 have been complied with by Contractor before City issues final payment under this agreement.
- 16.17 If this Contract exceeds \$50,000, is not otherwise exempt, and includes work subject to prevailing wage, Contractor shall comply with ORS 279C.838, ORS 279C.840, and federal law.
- 16.18 Contractor shall not provide or offer to provide any appreciable pecuniary or material benefit to any officer or employee of City in connection with this Agreement in violation of ORS chapter 244.
- 16.19 Contractor shall ensure that any lawn and landscape maintenance, if applicable, shall contain a condition requiring the contractor to salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- 16.20 Contractor is a "subject employer," as defined in ORS 656.005, and shall comply with ORS 656.017.
- 16.21 Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender, age, national origin, physical or mental disability, or disabled veteran or veteran status in violation of state or federal laws.

16.22 Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.

16.23 Any other condition or clause required by law to be in this Agreement shall be considered included by this reference.

17. Confidentiality. Contractor shall maintain the confidentiality, both external and internal, of that confidential information to which it is exposed by reason of this Agreement. Contractor warrants that its employees assigned to this Agreement shall maintain necessary confidentiality.

18. Publicity. Contractor shall not use any data, pictures, or other representations of the City in its external advertising, marketing programs, or other promotional efforts except with prior specific written authorization from the City.

19. Succession. This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and such parties' partners, successors, executors, administrators and assigns.

20. Assignment. This Agreement shall not be assigned by Contractor without the express written consent of the City. Contractor shall not assign Contractor's interest in this Agreement or enter into subcontracts for any part of the Services without the prior written consent of the City.

21. Mediation/Dispute Resolution.

21.1 Should any dispute arise between the parties to this Agreement it is agreed that such dispute will be submitted to a mediator prior to any arbitration or litigation, and the parties hereby expressly agree that no claim or dispute arising under the terms of this Agreement shall be resolved other than first through mediation and, only in the event said mediation efforts fail, through litigation or binding arbitration. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in the City of St. Helens, unless both parties agree in writing otherwise. If arbitration is selected by the parties, the parties shall exercise good faith efforts to select an arbitrator who shall be compensated equally by both parties. Venue for any arbitration shall be the City of St. Helens. Venue for any litigation shall be the Circuit Court for Columbia County.

22. Attorney Fees. If legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees, expert fees and costs incurred therein at arbitration, trial and on appeal.

23. Records, Inspection and Audit by the City.

23.1 Contractor shall retain all books, documents, papers, and records that are directly pertinent to this Agreement for at least three years after City makes final payment on this Agreement and all other pending matters are closed.

23.2 Services provided by Contractor and Contractor's performance data, financial records, and other similar documents and records of Contractor that pertain, or may pertain, to the Services under this Agreement shall be open for inspection by the City or its agents at any reasonable time during business hours. Upon request, copies of records or documents shall be provided to the City free of charge.

23.3 The City shall have the right to inspect and audit Contractor's financial records pertaining to the Services under this Agreement at any time during the term of this Agreement or within three (3) years after City makes final payment on this Agreement and all other pending matters are closed.

23.4 This Section 23 is not intended to limit the right of the City to make inspections or audits as provided by law or administrative rule.

24. Force Majeure. Neither City nor Contractor 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 subcontractor 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.

25. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the Services described herein.

26. Severance. If any provision of this Agreement is held to be invalid, it will not affect the validity of any other provision. This Agreement will be construed as if the invalid provision had never been included.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed by its duly authorized undersigned agents, and Contractor has executed this Agreement on the date written below.

CITY:

CONTRACTOR:

CITY OF ST. HELENS

Council Meeting Date: _____

Signature: _____

Signature: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____

City Recorder

Attachment A Scope of Work

[TBD]

Attachment B Insurance Requirements

Contractor and its subcontractors shall maintain insurance acceptable to the City in full force and effect throughout the term of this Contract.

It is agreed that any insurance maintained by the City shall apply in excess of, and not contribute toward, insurance provided by Contractor. The policy or policies of insurance maintained by Contractor and its subcontractors shall provide at least the following limits and coverage:

TYPE OF INSURANCE	LIMITS OF LIABILITY		REQUIRED FOR THIS CONTRACT
General Liability	Each occurrence General Aggregate Products/Comp Ops Aggregate Personal and Advertising Injury	\$1,000,000 \$2,000,000 \$2,000,000 \$1,000,000 w/umbrella or \$1,500,000 w/o umbrella	YES
Please indicate if Claims Made or Occurrence			
Automobile Liability	Combined Single – covering any vehicle used on City business	\$2,000,000	YES
Workers' Compensation	Per Oregon State Statutes If workers compensation is not applicable please initial here _____. State the reason it is not applicable: _____		YES
Professional Liability	Per occurrence Annual Aggregate	\$500,000 or per contract \$500,000 or per contract	YES

Contractor's general liability and automobile liability insurance must be evidenced by certificates from the insurers. The policies shall name the City, its officers, agents and employees, as additional insureds and shall provide the City with a thirty (30)-day notice of cancellation.

Workers' compensation insurance must be evidenced by a certificate from the insurer. The certificate need not name the City as an additional insured, but must list the City as a certificate holder and provide a thirty (30)-day notice of cancellation to the City.

Certificates of Insurance shall be forwarded to:
City Administrator
City of St. Helens
265 Strand Street
St. Helens, OR 97051

Contractor agrees to deposit with the City, at the time the executed Contract is returned, Certificates of Insurance and Binders of Insurance if the policy is new or has expired, sufficient to satisfy the City that the insurance provisions of this Contract have been complied with and to keep such insurance in effect and the certificates and/or binders thereof on deposit with the City during the entire term of this Contract. Such certificates and/or binders must be delivered prior to commencement of the Work.

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

Attachment C Terms of Compensation

[TBD]