

ORDINANCE NO. 1147

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH DLR GROUP OF PORTLAND, OREGON FOR AN IMMEDIATE AND FUTURE FACILITIES NEEDS ASSESSMENT.

WHEREAS, the City of Canby Transit & General Services Director heretofore requested proposals from consultants for an immediate and future facilities needs assessment with an emphasis on the Canby City Hall, the Canby Public Library and the Canby Police Station.

WHEREAS, the Transit & General Services Director received proposals from three (3) potential providers listed below:

<u>Provider</u>	<u>Address</u>
DLR Group	Portland, Oregon
Arbuckle Costic Architects, Inc.	Salem, Oregon
James Lynch & Associates	Portland, Oregon

WHEREAS, the Canby City Council, acting as the City's Contract Review Board, met on June 16, 2004, and considered the quotations and the reports and recommendations of the City Transit & General Services Director; and


WHEREAS, the Canby City Council determined that the proposal for the facilities assessment best met the needs of the City was that of DLR Group of Portland, Oregon; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized and directed to make, execute and declare in the name of the City of Canby on its behalf, an appropriate contract with DLR Group of Portland, Oregon to conduct an immediate and future facilities needs assessment with an emphasis on the Canby City Hall, the Canby Public Library and the Canby Police Station.

A copy of said contract is attached hereto as "Exhibit A" and by this reference incorporated herein.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, June 16, 2004, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, July 7, 2004, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

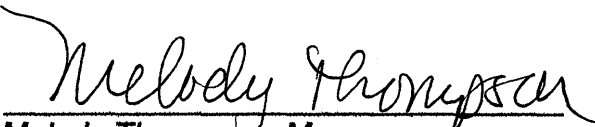


Kimberly Scheafer
City Recorder – Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th day of July, 2004, by the following vote:

YEAS 6

NAYS 0



Melody Thompson, Mayor

ATTEST:



Kimberly Scheafer City Recorder – Pro Tem

**Agreement Between
City of Canby and DLR Group
for Special Services**

THIS CONTRACT is effective as of August 9, 2004, by and between the CITY OF CANBY, hereinafter referred to as "City", and DLR GROUP ARCHITECTURE & PLANNING, INC. hereinafter known as "Architect," and collectively referred to herein as the "Parties".

WHEREAS, City issued its Request for Proposals (RFP) dated March 17, 2004, for "Immediate and future needs assessment with an emphasis on Canby City Hall, Canby Public Library, and the Canby Police Station", and Architect submitted its Proposal dated April 15, 2004 in response thereto. Following evaluation by the City and its selection committee, Architect was chosen to be the most proficient among the field of qualified competitors to be awarded the City's Immediate and Future Facilities assessment for Canby City Hall, Canby Public Library, and Canby Police Facilities Contract; and

WHEREAS, the Parties entered into a Contract Agreement dated August 9, 2004, with an initial contract term of 4 ½ months, running from August 9, 2004 to December 15, 2004.

NOW, THEREFORE, the Parties mutually agree as set forth below.

ARTICLE 1. ARCHITECT'S SERVICES:

See Exhibit A attached to this agreement.

ARTICLE 2. CITY'S RESPONSIBILITIES

- 2.1** The City shall provide full information regarding requirements of the Project. The City shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Architect shall be entitled to rely on the accuracy and completeness thereof.
- 2.2** The City shall designate a representative authorized to act on the City's behalf with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

ARTICLE 3. USE OF ARCHITECT'S DOCUMENTS

- 3.1** The documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The City shall be permitted to retain copies, including reproducible copies, of the Architect's documents for the City's information, reference and use in connection with the Project. The Architect's documents shall not be offered or supplied to others by the City, except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 4. ARBITRATION

- 4.1** Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.
- 4.2** A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.
- 4.3** No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the City, Architect and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.
- 4.4** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 5. TERMINATION OR SUSPENSION

- 5.1** This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- 5.2** If the City fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services.
- 5.3** In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due.

ARTICLE 6. MISCELLANEOUS PROVISIONS

- 6.1** Unless otherwise provided, this Agreement shall be governed by the law of the State of Oregon.
- 6.2** Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Paragraph 8.4.
- 6.3** The City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither City nor Architect shall assign this Agreement without the written consent of the other.
- 6.4** This Agreement represents the entire and integrated agreement between the City and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Architect.
- 6.5** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Architect.

6.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

6.7 CONTRACTOR IDENTIFICATION

6.7.1 Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Numbers, as City deems applicable.

6.8 CONTRACTOR IS INDEPENDENT CONTRACTOR

6.8.1 Contractor's services shall be provided under the general supervision of the Director of General Services. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Article 8 of this agreement.

6.8.2 Contractor certifies that it is either a carrier-insured employer or a self-insured employer as provided in Chapter 656 of the Oregon Revised Statutes. Contractor will provide proof of such coverage to the City upon demand of the City.

6.8.3 Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

6.9 PROFESSIONAL STANDARDS

6.9.1 Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and material furnished under this authorization.

6.10 INSURANCE

6.10.1 Insurance shall be maintained by the Architect with the following minimum limits:

A. Liability - \$1,000,000.00

6.10.2 The City may require current copies of insurance certificates.

6.11 INDEMNIFICATION

- 6.11.1** Architect shall indemnify and hold Owner and its officers, employees, and successors, harmless from and against all damages, losses, and judgments, including reasonable attorney's fees and expenses to the extent they arise from the Architect's negligent acts or omissions in the performance of its services and for patent, copyright, or trademark infringement attributable to the Architect's services. Owner further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, partner, principal or employee of Architect shall have personal liability under this indemnification provision, under any provision of the Agreement or for any matter in connection with the professional services provided in connection with the Project.
- 6.11.2** Owner assumes liability for and agrees to indemnify, and hold Architect, its consultants, and their respective officers, directors, shareholders, partners, principals, employees and successors harmless from and against all damages, losses and judgments, including reasonable attorney's fees and expenses, to the extent they arise from an act or omission from the Owner, its agents, employees, consultants, contractors or construction manager (collectively for this indemnity "Owner Entity"). Owner shall provide written notice of any known inconsistencies in the Architect's services expeditiously after discovery. Owner has no obligation to investigate the Architect's services for inconsistencies. The provisions of this section shall extend for all time notwithstanding the termination or expiration of the Agreement.

6.12 LEGAL EXPENSE

- 6.12.1** In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs and expenses as may be set by the court both at trial and all appeals therefrom.

6.13 NOTICES

- 6.13.1** Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.

ARTICLE 7. PAYMENTS TO THE ARCHITECT

7.1 DIRECT PERSONNEL EXPENSE

7.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

7.2 REIMBURSABLE EXPENSES

7.2.1 Reimbursable Expenses are in addition to the Architect's compensation and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project for:

- A.** fees paid for securing approval of authorities having jurisdiction over the Project;
- B.** reproductions;
- C.** renderings and models requested by the City; and
- D.** expense of additional coverage or limits, including professional liability insurance, requested by the City in excess of that normally carried by the Architect and the Architect's consultants.

7.3 PAYMENTS ON ACCOUNT OF THE ARCHITECT'S SERVICES

7.3.1 Payments on account of the Architect's services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or as otherwise provided in this agreement.

7.4 ARCHITECT'S ACCOUNTING RECORDS

7.4.1 Records of Reimbursable Expenses and expenses pertaining to services performed on the basis of a multiple of Direct Personnel Expense shall be available to the City or the City's authorized representative at mutually convenient times.

ARTICLE 8. BASIS OF COMPENSATION

The City shall compensate the Architect as follows:

- 8.1** AN INITIAL PAYMENT OF zero dollars (\$0) shall be made upon execution of this Agreement and credited to the City's account at final payment.
- 8.2** COMPENSATION FOR THE ARCHITECT'S SERVICES, as describe in Article 1, Architect's Services, shall be computed as follows:

See Exhibit B attached to this agreement.

8.3 Payments are due and payable sixty (45) days from the date of the Architect's invoice. Amounts unpaid sixty (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof, at the legal rate prevailing on the date of this contract within the State of Oregon.

8.4 IF THE SCOPE of the Project or of the Architect's services is changed materially, the amounts of compensation shall be equitably adjusted.

ARTICLE 9. OTHER CONDITIONS

See Exhibit C attached to this agreement.

CITY:

Mark Adcock, City Administrator
City of Canby
182 N Holly Street
Canby OR 97013

ARCHITECT:

Richard Higgins, Vice-President
DLR Group Architecture & Planning, Inc.
421 SW Sixth Avenue
Portland OR 97204

IN WITNESS WHEREOF, City and Architect have executed this Agreement dated August _____, 2004.

CITY:

ARCHITECT:



Mark Adcock, City Administrator
City of Canby, Oregon



Richard Higgins, Vice President
DLR Group Architecture & Planning, Inc.

Standard Form of Agreement Between City and Architect for Special Services

City: City of Canby

Architect: DLR Group Architecture and Planning, Inc, an Oregon Corporation

Exhibit A:

Services to be provided include meeting preparation, facilitation of meetings and anticipated deliverables as described in the following work plan:

Preparations for Meeting #1

Task #1 - Organizational meeting with City – core team

- Convene core planning team, Finalize schedule, Identify potential planning committee members

Task #2 – Data gathering and assessments

- Sub-committees + consultant, On-site facilities and interviews, Interview department leaders, Facility evaluation and needs assessment, Building systems assessment – Mechanical/electrical/plumbing, Initial cost modeling and budgeting – FAC PLAN

Meeting #1 – Verify Needs and Planning Criteria

Objective: Develop committee consensus on Needs and Criteria

- Anticipated meeting agenda: Process Overview, Sub-committee Reports – City, Library, & Police, Presentation of facilities photo tour, Presentation of needs/issues, Present planning criteria, Review city population and staffing projections, Introduce preliminary budget models for Initial Plan Elements – FAC PLAN

Anticipated Meeting #1 Workshop Materials:

- Written Facilities needs assessment
- Photos
- Data
- FAC-Plan Presentation

Preparations for Meeting #2

Task #1 – Prepare preliminary program statement – City, Library, & Police

- Review current allocations, Review demographic data for growth, Overlay growth index on each department, Project 5 yr & 30 yr Program Needs, Create budget models – City, Library, & Police

Task #2 – Review Program statement with core planning team

Meeting #2 – Programming Workshop

Objective: Committee understanding of Program Options

- Anticipated Agenda: Process Overview, Preliminary program statements to sub-committees, Present findings and projections, Review results with sub-committee, Present budget mode – FAC PLAN, Combined Program Statement to planning committee, Present potential co-location efficiencies, Present potential co-location challenges, Present budget model, Programming workshop – “Charting-a-Course”, Combined (City, Library, & Police) sub-committee work sessions, Sub-committee report-out.

Anticipated Meeting #2 Workshop Materials

- Program Statements
- Budget Models

Preparations for Meeting #3

Task #1 – Compile, organize, and categorize alternatives from Meeting #2

- Organize results into matrix format, Review common ground, identify conflicting issues, illustrate potential conclusions

Task #2 – Create options that address results programming workshop

- Create options, Create budget models – FAC PLAN

Task #3 – Review findings with core planning team and department liaison

Meeting #3 – Draft A Facilities Plan

Objective: Verify the Course and establish site location priorities

- Anticipated Agenda: Process Overview, Presentation of Options and Budget, Planning Committee review and discussion, Confirm common ground, Discuss conflicting issues, solicit resolution, Discuss phasing options, Multi-level voting to prioritize conflicting issues, Create the Site Evaluation Matrix, Present typical matrix issues, Solicit additional issues for inclusion, Multi-level voting to prioritize site evaluation issues

Anticipated Meeting #3 Workshop Materials:

- Facility options
- Site Evaluation Matrix

Preparations for Meeting #4

Task #1 – Revise Master Plan based upon discussion or voting

- Create revised option – DRAFT, Create budget models – FAC PLAN

Task #2 – Identify potential sites with City, Library, and Police

Task #3 – Site Evaluation Matrix

- Organize results of voting, Determine recommended thresholds for score weighting, Create scoring matrix, List potential sites – size, location, and basic topography

Meeting #4 – Refining the DRAFT Facilities Plan

Objective: Identify the Strongest Site/Facility Solution

- Anticipated Agenda: Process Overview, Presentation of DRAFT Option and Budget Phasing, Budgeting – FAC PLAN, Planning Committee review and discussion, Confirm common ground, Discuss conflicting issues, solicit resolution, Site Evaluation Matrix, Present potential sites, Solicit commentary regarding proposed sites, Distribute scoring matrix, Planning Committee complete scoring matrix, Review funding options, Solicit DRAFT Facilities Plan approval by Planning Committee, Identify planning committee members for City Council Presentation

Anticipated Meeting #4 Workshop Materials:

- Draft Facility Options & Budgets, Site Evaluation Data

Preparation for Meeting #5

Task #1 – Revise DRAFT Facilities Plan per Planning Committee comments

Task #2 – Site Evaluation Matrix

- Compile, collate, and organize scoring results, Create graphic illustration of top 5 sites, Evaluate advantages & disadvantages of each site

Task #3 – City Council progress report, review, and feedback

- Facilities planning progress report, Solicit feedback from City Council – NO ACTION REQUIRED

Task #4 – Revise DRAFT Facilities Plan per City Council comments

Meeting #5 – Facilities Master Plan

Objective: Refine DRAFT into FINAL Facilities Plan

- Anticipated Agenda: Review revised Master Plan per City Council comments, Solicit Final comments and revisions, Solicit Planning Committee FINAL approval

Anticipated Meeting #5 Workshop Materials:

- Draft Facilities Plan

Preparation for Meeting #6

- FINAL revisions per meeting #5, Submit FINAL Facilities Plan to City, Present FINAL Facilities Plan and Site Matrix to City Council

Meeting #6 – City Council Presentation

- Facilities Planning Committee presentation to City Council

City Council Presentation

- Final Document

Standard Form of Agreement Between Owner and Architect for Special Services
City: City of Canby
Architect: DLR Group Architecture and Planning, Inc, an Oregon Corporation

Compensation shall be a stipulated sum of \$33,535. The Architect will invoice at the beginning of each month for monthly services completed within the previous month of the following schedule:

Upon Completion of:	\$ Amount
Preparation for and Meeting 1:	\$ 8,000
Preparation for and Meeting 2:	\$ 6,000
Preparation for and Meeting 3:	\$ 6,000
Preparation for and Meeting 4:	\$ 6,000
Preparation for and Meeting 5:	\$ 5,000
<u>Preparation for and Meeting 6:</u>	<u>\$ 2,535</u>
Total	\$33,535

For services in addition to those identified in Article 1, the City agrees to compensate the Architect on an hourly basis at the rate of \$95/hour for all staff. Authorization by the City for additional services (scope and fee) must be provided in writing. The City and Architect may also negotiate and agree to adjustments in the stipulated sum for additional services.

Standard Form of Agreement Between Owner and Architect for Special Services

City: City of Canby

Architect: DLR Group Architecture and Planning, Inc, an Oregon Corporation

Exhibit C:

Article 9: Other Conditions

- 9.1 Information to be provided by the City referenced in paragraph 2.1 includes: Demographic Data, Population Projections, City Master Plan Documents and Data, Maps or Plans of Potential sites, Present and Future staffing plans for City Services and Programs, information on future city programs or services. The City shall provide analysis and cost modeling for any anticipated off site costs or services, including utility upgrades, development impact costs, street improvements, traffic plan impact, or other costs or impacts relating to city or utility infrastructure not located on the proposed building sites. If requested, the Architect will include, within the body of the Facility plan report, the cost model information provided by the City.
- 9.2 The Architect will provide an original hard copy of written information used at each workshop to the City before each meeting or presentation. The City will procure copies as required for workshop or presentation attendees.
- 9.3 If the City requests the Architect to provide copies of materials referenced in paragraph 9.2, the Architect will be reimbursed for reproductions per paragraph 7.2
- 9.4 The schedule for services shall be mutually agreed and established at the initial organizational meeting.
- 9.5 **NON-DISCRIMINATION IN EMPLOYMENT:** The Architect agrees to comply, and assures the compliance of each third party contractor at any tier and each sub recipient at any tier, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332, prohibiting discrimination in employment.
- 9.6 **AMERICAN WITH DISABILITIES ACT:** The Architect agrees to comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes.
- 9.7 **RECYCLABLE PRODUCTS:** The Architect shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.