



## **AGENDA**

CITY COMMISSION OF THE CITY OF WARRENTON  
REGULAR MEETING

October 10, 2019 – 3:30 P.M.

Warrenton City Commission Chambers – 225 South Main Avenue  
Warrenton, OR 97146

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1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **BUSINESS**

A. Consideration of Project Management Contract – Hammond Marina Dredge Project

B. Consideration of Resolution No. 2551; Assessing the Costs of Abatement of the Nuisance  
Located at 1180 S. Main and Entering the Same on the Docket of City Liens

5. **ADJOURNMENT**

Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.



AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Jane Sweet, Harbormaster  
DATE: October 10, 2019  
SUBJ: Maintenance Dredging Project - Construction Administration

SUMMARY

A public bid opening was held on August 30, 2019 for the above referenced Hammond Marina project. Bergerson Construction was the lowest responsive bidder. The City of Warrenton requested Mott MacDonald to develop a scope of services for engineering during the construction phase of the maintenance dredging at the Hammond Boat Basin

RECOMMENDATION/SUGGESTED MOTION

Staff recommends the following motions;

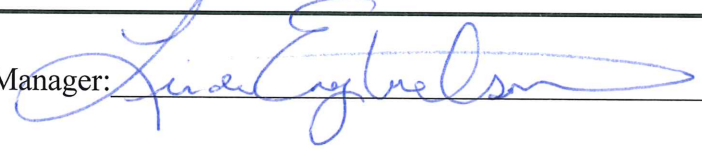
"I move to approve the Mott MacDonald Professional Consulting Services Contract in the amount of \$39,200 for the Hammond Boat Basin Maintenance Dredging Project - Construction Administration."

ALTERNATIVE

- 1) Other action as deemed appropriate by the City Commission
- 2) None recommended

FISCAL IMPACT

\$39,200 is budgeted for this project in the Hammond Marina Capital Improvement Fund.

Approved by City Manager:   
All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**CITY OF WARRENTON  
CONTRACT FOR PROFESSIONAL CONSULTING SERVICES**

**CONTRACT:**

This Contract made and entered into this 10th day of October, 2019, by and between the City of Warrenton, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Mott MacDonald, LLC hereinafter called "CONSULTANT", duly authorized to do business in Oregon.

**WITNESSETH**

WHEREAS, the CITY requires professional consulting services, which CONSULTANT is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, CONSULTANT is able and prepared to provide such services as CITY does hereinafter require, under those terms and conditions set forth; now, therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. CONSULTANT SERVICES:

A. CONSULTANT's obligations are defined solely by this contract and its attachment and not by any other contract or agreement that may be associated with this project. See Exhibit A-1 Scope of Work.

2. COMPENSATION

A. The CITY agrees to pay CONSULTANT a total not-to-exceed price of \$39,200 for performance of the Hammond Boat Basin Dredging Project – Construction Administration;

B. The CONSULTANT will submit a final invoice for all services rendered to: City of Warrenton, Attention: Accounts Payable, PO Box 250, Warrenton, Oregon 97146, OR, CONSULTANT may submit invoice via email to [ap@ci.warrenton.or.us](mailto:ap@ci.warrenton.or.us). City pays net 21 upon receipt of invoice.

C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

CONSULTANT shall furnish to the CITY the CONSULTANT's employer identification number, as designated by the Internal Revenue Service, or CONSULTANT's Social Security number, as CITY deems applicable.

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Jane Sweet, Harbor Master, City of Warrenton, PO Box 250, Warrenton, Oregon, 97146.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT's authorized representative will be Shane Phillips, P.E.

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6. CONSULTANT IS INDEPENDENT CONSULTANT

A. CONSULTANT shall be an independent CONSULTANT for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 2 of this Contract.

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

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

7. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this Contract if CONSULTANT materially breaches and fails to cure within a reasonable amount of time any of the terms herein or in the event of any of the following: Insolvency of CONSULTANT; voluntary or involuntary petition in bankruptcy by or against CONSULTANT; appointment of a receiver or trustee for CONSULTANT, or any assignment for benefit of creditors of CONSULTANT. Damages for breach shall be those allowed by Oregon law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if CITY materially breaches and fails to cure within a reasonable amount of time any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

8. ACCESS TO RECORDS

CITY shall have access to such books, documents, papers and records of CONSULTANT as are directly pertinent to this contract for the purposes of making audit, examination, excerpts and transcripts.

9. FORCE MAJEURE

Neither CITY nor CONSULTANT shall be considered in default because of any delays in completion of responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the party so disabled provided the party so disabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

10. NONWAIVER

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The failure of the CITY to insist upon or enforce strict performance by CONSULTANT of any of the terms of this Contract or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

11. ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sums as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

12. APPLICABLE LAW

The law of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. Both parties waive their rights to a jury trial in any litigation arising out of this Agreement.

13. 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 and the proposal of the CONSULTANT, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

14. INDEMNIFICATION

CONSULTANT agrees to indemnify and hold harmless the City of Warrenton, its Officers, and Employees against and from any and all loss, claims, actions, suits, reasonable defense costs, attorney fees and expenses for or on account of injury, bodily or otherwise to, or death of persons, damage to or destruction of property belonging to city, CONSULTANT, or others to the extent caused by CONSULTANT's negligent acts, errors or omissions in the supply of goods or performance of services pursuant to this Agreement. This agreement to indemnify applies whether such claims are meritorious or not; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and The City of Warrenton this indemnification and agreement to assume defense costs applies only to the extent of the negligence or alleged negligence of the CONSULTANT.

With regard to Professional Liability CONSULTANT agrees to indemnify and hold harmless CITY, its officers and employees from any and all liability, settlements, loss, reasonable defense costs, attorney's fees and expenses to the extent caused by CONSULTANT's negligent acts, errors, or omissions in service provided pursuant to this Agreement; provided, however, that if any such liability, settlements, loss, defense costs or expenses result from the concurrent negligence of CONSULTANT and the City, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONSULTANT.

With respect to Professional Liability, CONSULTANT reserves the right to approve the choice of counsel.

15. INSURANCE

Prior to starting work hereunder, CONSULTANT, at CONSULTANT's cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance:

A. Commercial General Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less than \$1,000,000 per occurrence and the annual aggregate of not less than \$2,000,000. Coverage shall include CONSULTANTS, sub consultants and anyone directly or indirectly employed by either. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

B. Professional Liability Insurance. The CONSULTANT shall have in force a policy of Professional Liability Insurance in an amount not less than \$1,000,000 per claim and \$2,000,000 aggregate. The CONSULTANT shall keep such policy in force and current during the term of this Agreement.

C. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT's expense and keep in effect during the term of the resulting Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000 and annual aggregate not less than \$2,000,000.

D. Additional Insured. The liability insurance coverage, except for Professional Liability Insurance, shall include City and its officers and employees as Additional Insured but only with respect to CONSULTANT's activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to City from each insurance company providing insurance showing that the City is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

E. Notice of Cancellation or Change. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from CONSULTANT or its insurer(s) to City. Any failure to comply with the reporting provisions of this clause will constitute a material breach of this Contract and will be grounds for immediate termination of this Agreement.

16. LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES ORS 279B.220

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CONSULTANT shall make payment promptly, as due, to all persons supplying CONSULTANT labor or material for the prosecution of the work provided for this contract.

CONSULTANT shall pay all contributions or amounts due the Industrial Accident Fund from CONSULTANT or any sub consultant incurred in the performance of the contract.

CONSULTANT shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.

CONSULTANT shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

17. WORKERS COMPENSATION INSURANCE

CONSULTANT, its sub-CONSULTANTS, if any and all employees working under this agreement are either subject to employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires them to provide workers compensation coverage for all their subject workers, or are employers that are exempt under ORS 656.126.

18. PAYMENT OF MEDICAL CARE ORS 279B.230

CONSULTANT shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury to the employees of such CONSULTANT, of all sums which the CONSULTANT agrees to pay for such services and all moneys and sums which the CONSULTANT collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

19. OVERTIME ORS 279B.235.

Employees shall be paid for overtime work performed under this contract in accordance with ORS 279B.235(3) unless excluded under ORS 653.010 to 653.261 (29 U.S.C. sections 201 to 209).

20. BUSINESS LICENSE

Prior to commencing work in the City of Warrenton, CONSULTANT shall obtain a city business license.

21. STANDARD OF CARE

The standard of care applicable to CONSULTANT's services will be the degree of skill and diligence normally employed by CONSULTANTS performing the same or similar services at the time CONSULTANT's services are performed. CONSULTANT will re-perform any services not meeting this standard without additional compensation.

22. NO THIRD PARTY BENEFICIARIES

This contract gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries.

23. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

24. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONSULTANT and supersedes all prior written or oral discussions or agreements. CONSULTANT services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

City of Warrenton, a Municipal Corporation

BY: \_\_\_\_\_  
Henry Balensifer, Mayor                      Date

ATTEST: \_\_\_\_\_

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CONSULTANT:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_                      Date  
Title: \_\_\_\_\_





## Exhibit A-1 – Scope of Work

### CITY OF WARRENTON – HAMMOND BOAT BASIN MAINTENANCE DREDGING PROJECT – CONSTRUCTION ADMINISTRATION

#### Introduction:

The City of Warrenton (City) requested the Mott MacDonald (MM) team to develop a scope of services for providing engineering services during the construction phase of the proposed maintenance dredging work at the Hammond Boat Basin. The additional new work will commence upon completion of the bidding phase of the project.

#### Assumptions:

Assumptions that are part of the scope of work are as follows:

- All pre/post construction survey work are provided by the contractor. MM to review submitted data and results for conformance with contract documents.
- Contractor will submit water-quality monitoring results directly to the State (per contract documents).
- MM is providing part-time technical support during dredging and dredged material disposal elements of the project. City of Warrenton will manage day-to-day communications and check-ins with contractor.
- MM onsite assistance is limited to the pre-construction meeting, and 4 on-site progress meetings
- Duration of dredging work is anticipated to occur from November 1 through the end of December.
- This scope of work includes dredging conducted for In-water Work Window 1 (IWWW1) only (2019).

#### Scope of Work:

##### Task 1 Construction Administration

Purpose: Provide engineering technical assistance during the pre-construction and during construction phases of the project.

Scope: MM will perform periodic on-site construction administration during dredging and disposal operations. Attend a pre-construction meeting with the Contractor and City to discuss contractor submittals, contract requirements, Contractor and Owner responsibilities, and pre-construction requirements. MM will review contractor pre-construction submittals for conformance with the contract documents. Provide interpretation of plans and specifications and respond to Contractor's requests for information email and technical memorandums. During dredging operations, MM will be onsite periodically throughout the duration of the onsite construction work. MM's on-site engineer will document construction progress and provide email status (report) updates to the project team for each day a site visit is conducted. Daily dredging records will be obtained from the Contractor and reviewed on a regular basis to monitor the work progress and monitor quantities for review of progress payments. Final post construction survey

data (provided by others) will be analyzed for dredging work compliance with the contract and computation of final dredge quantities for payment. MM will review progress payments and provide comments and recommendations relative to the work performed. Upon completion of construction work, MM will develop a punch list for itemizing remaining project work items and upon completion develop a notice of substantial completion. Computation of final dredged quantities will be developed based on the Contractor provided survey data.

**Task Deliverables:** *Submittal Review Comments, Daily Reports, Photographs, Project Closeout Memorandum, Addenda, Punch List, Change Orders and Meeting Minutes all in electronic format distributed via email.*

**Budget:**

The following budget was developed for the above described scope of work. All work will be conducted on a negotiated hourly rate of pay with a total not to exceed amount.

<b>Hammond Boat Basin Maintenance Dredging Project</b>	
<b>Task</b>	<b>Budget</b>
1 – Construction Engineering	\$39,200
Subtotal	\$39,200

4-B



**Finance Department  
Agenda Memorandum**

To: The Honorable Mayor and Members of the Warrenton City Commission  
From: April Clark  
Finance Director  
Date: October 10, 2019

**Re: Resolution No. 2551, Nuisance Abatement Assessment and Lien Docket**

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**SUMMARY:**

Nuisance abatement costs have been incurred by the City of Warrenton at the property located at 1180 S Main Avenue. City Municipal Code section 8.16.200 allows for the costs to be assessed to the property owner upon written notice of such costs. A letter, to the property owner, regarding the notice of assessment was mailed on August 28, 2019. The property owner has 30 days to pay the costs associated with the abatement plus administrative costs of 5%. This totals \$3067.05.

No response has been received from the owner as of the current date.

The owner, or person in charge has the right to object within 10 days of receiving notice of the assessment. No objection has been received by the City as of October 9, 2019.

The costs of the abatement were not paid within 30 days. The due date was September 28, 2019.

Therefore, the City Commission may assess the costs and record a lien on the property, as stated or as decided by the Commission, by resolution and enter said cost in the docket of City liens.

**RECOMMENDATION:**

Move to approve Resolution No. 2551, "A Resolution of the City Commission of the City of Warrenton, Oregon, Assessing the Costs of Abatement of the Nuisance located at 1180 S Main Avenue and entering the same on the docket of city liens pursuant to Warrenton Municipal Code Section 8.16.200".

**ALTERNATIVE:**

Other action as determined by the Warrenton City Commission.

**FISCAL IMPACT:**

Costs of \$2,921.00 were charged to the General Fund in June. Recording a lien has the potential of cost recovery to that fund when the property sells.

Approved by City Manager: \_\_\_\_\_

*Linda Engstrom*

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

**RESOLUTION NO. 2551**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WARRENTON, OREGON, ASSESSING THE COSTS OF ABATEMENT OF THE NUISANCE LOCATED AT 1180 S MAIN AVENUE AND ENTERING THE SAME ON THE DOCKET OF CITY LIENS PURSUANT TO WARRENTON MUNICIPAL CODE SECTION 8.16.200.**

**WHEREAS**, on October 10<sup>th</sup>, 2018, notice of a nuisance was issued and posted on the property located at 1180 S Main Avenue, Warrenton, Oregon; and

**WHEREAS**, the property owner or person in charge of the property did not abate the property or file a protest to the notice of a nuisance within ten (10) days of the posting; and

**WHEREAS**, the City has maintained accurate accounting of the costs of abatement;

**WHEREAS**, on August 28<sup>th</sup>, 2019, the City forwarded to the owner, or person in charge, by registered or certified mail, postage prepaid, a notice of the abatement costs in compliance with Warrenton Municipal Code Section 8.16.200 et seq; and

**WHEREAS**, there has been no objection filed to the abatement costs within ten (10) days after the notice nor have the costs of the abatement been paid within thirty (30) days from the date of the notice; and

**WHEREAS**, Warrenton Municipal Code Section 8.16.200 provides that if the cost of the abatement are not paid within thirty days from the date of notice, an assessment of the costs as determined by the City Commission shall be made by resolution and shall thereupon be entered in the dockets of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was abated.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COMMISSION, CITY OF WARRENTON, STATE OF OREGON, THAT, PURSUANT TO WARRENTON MUNICIPAL SECTION 8.16.200:**

**Section 1.** The assessment of the costs for the abatement of the said nuisance, including administrative costs, equal to 5% of the expense, is in the amount of \$3,067.05, plus accrued interest.

**Section 2.** The above assessment of the costs shall be entered in the docket of city liens.

**Section 3.** This resolution is effective immediately upon adoption.

Introduced and adopted by the City Commission on October 10<sup>th</sup>, 2019.

This resolution is effective on October 10<sup>th</sup>, 2019.

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Henry Balensifer III, Mayor

ATTEST:

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Dawn Shawe, City Recorder