

**Contract Term**: Fall 2019 - Spring 2021
**Project Name**: SW 50 Drive Stormwater Enhancement Project

**SWNI Contact**: Erik Horngren

**Contractor**: Sound Native Plants
**Project Area Total Acres**: .15 acres

***Scope of Work***

|  |  |  |
| --- | --- | --- |
| **Work Task** | **Completion Date\*** | **Total Cost** |
| **Site preparation and weed control**. | Late summer/early fall 2019 | $1,684.43 |
| **Culvert removal (includes upstream and downstream culverts)**. | Late summer/early fall 2019 | $684.62 (upstream)$1,022.11 (downstream)**Total**$1,706.73 |
| **Disposal of waste materials (soil and debris).** | Late summer/early fall 2019 | $3,319.22 |
| **Channel reconstruction and erosion control**. | Late summer/early fall 2019 | $1,749.43 |
| **Revegetation and enhancement planting:** includes 500 emergent plugs, 225 bare root shrubs, 5, 4-5’ B&B trees. Plant selection will be approved by project partners.  | Winter/spring 2020 | 3,143.46 |
| **Maintenance:** includes weed control and reseeding (cost of this work task does not account for irrigation). | Spring/summer/fall 2020 | $2,634.60 |
| ***SUB-TOTAL*** |  | $14,237.87 |
| **Contingency**: for unforeseen circumstances in excavation activities and/or invasive control and replanting of failed plants. | Fall 2019 – winter 2021 | $2,847.57 |
| ***TOTAL NOT-TO-EXCEED AMOUNT*** |  | $17,085.44 |

\* Completion of project tasks have some flexibility contingent on material availability, weather and other seasonal restoration factors.

***Invoicing***

Sound Native Plants (SNP) shall submit monthly invoices to Southwest Neighborhoods Inc. (SWNI) for work performed during the preceding month. The invoice shall contain the City’s contract number and list all items for payment with copies of corresponding receipts attached. **Invoices shall not exceed $4000 in a given month unless given prior authorization**.

SWNI shall pay all amounts to which no dispute exists within 15 days from invoice date. Payment of any bill, however, does not preclude SWNI from later determining that an error in payment was made and from withholding the disputed sum from the next monthly payment until the dispute is resolved.

Send invoices electronically to watershed@swni.org for payment, or mail to:
Southwest Neighborhoods Inc. / 7688 SW Capitol Hwy, Room #5 / Portland, OR 97219

***Contract Provisions***

As per the contract also signed by SNP, SWNI, and the City of Portland Bureau of Environmental Services (the City), SNP will observe the following for any work involving the SW 50th Drive Stormwater Enhancement Project.

1. Permits:

If required by the City’s permitting process, SNP will provide an Acknowledgement Form and Release upon completion of the construction certifying that all subcontractors, suppliers and employees have been paid and releasing SWNI and the City from any claims, unless there is a claim outstanding against SWNI or the City that has not been resolved.

1. Prevailing Wages:

Unless exempt under ORS Chapter 279C, the Prevailing Wage Rates for the Project shall be the rates in the Oregon Bureau of Labor and Industries (“BOLI”) publication titled “Prevailing Wage Rates for Public Works Contracts in Oregon”, that are in effect at the time the construction contract is awarded, including any applicable Amendments, which are hereby incorporated into this Contract by this reference. A copy may be downloaded from www.oregon.gov/boli. If additional copies are needed, contact the Oregon Bureau of Labor & Industries, 800 NE Oregon St. #32, Portland, OR 97232; phone (971) 673-0839. SNP must provide proof of compliance with Prevailing Wage Rate to SWNI and the City upon completion of construction. Effective January 1, 2008, the City of Portland is required to pay the Prevailing Wage Rate fee of 0.1% of the contract price directly to BOLI on projects first advertised or solicited on or after January 1, 2008. SNP acknowledges that this fee has not been included in the bid amount for the Project. **Prevailing wages do not apply to this project**.

1. Volunteer Labor:

Volunteer work, such as planting and weed removal, overseen by SWNI staff will also be incorporated as part of this project. SNP will have no responsibility for the supervision or direction of volunteers, unless otherwise agreed upon on an individual basis by SWNI and SNP. SWNI will coordinate with SNP on appropriate times to schedule volunteer work based on project progress and needs, and such as not to interfere with any scheduled work by SNP. SNP insurance, including general liability insurance coverage, automobile liability insurance coverage, and worker’s compensation coverage does not apply to volunteers.

1. Rights-Of-Way, Easements and Premises:

SNP shall confine its construction activities within property lines, rights-of-way, limits of easements and limits of construction permits as shown unless SNP has obtained permission to use other land from the owner(s) of adjacent private property.

1. Patents, Copyrights, and Trademarks:

SNP shall acquire and pay for all patents, royalties and license fees required to perform this project.

1. Safety, Health, and Sanitation Provisions:
	1. General. SNP shall ensure that it’s employees and any subcontractors follow safety and health requirements, receive training, and understand the applicable policies and procedures that affect the project. SNP shall not delegate this responsibility to other persons or agencies.
	2. Contractor Compliance. SNP shall comply with all federal, state and local safety and health regulations and laws including, but not limited to, the following:
		1. Oregon Revised Statutes – ORS 654 – The Oregon Safe Employment Act
		2. Oregon Administrative Rules – OAR 437 – The Oregon Occupational Safety and Health Code
		3. Oregon Occupational Safety & Health Administration (OR – OSHA)

(a) Division 1 – General Administration Rules

(b) Division 2 – General Occupational Safety & Health Rules

(c) Division 3 – Construction

* + 1. Department of Labor and Industries
		2. Oregon Department of Transportation
	1. Statute versus Contract Documents. In the event that the law requires greater safety obligation than those imposed by this Contract, SNP shall perform the obligations required by law without additional cost to SWNI.
	2. Coordination. SNP shall coordinate the project with police, fire, emergency service providers, TriMet, and other agencies, school districts and individuals as may be required.
1. Workers’ Compensation and related insurance:
	1. SNP shall provide, and require all subcontractors to provide, workers' compensation coverage on a statutory basis for all persons employed in performing services under this contract, in accordance with ORS Chapter 656, either as:
		1. A carrier insured employer; or
		2. A self-insured employer.
	2. Proof of such coverage shall be filed with SWNI and the City and maintained for the duration of the project. The coverage shall include employer’s liability Insurance with coverage limits of not less than $100,000 for each accident, a $500,000 disease "policy" limit, and $100,000 disease "each employee" limit.
	3. SNP shall require proof of such workers’ compensation insurance by receiving and keeping on file a certificate of insurance from each subcontractor or anyone else directly employed by either SNP or its subcontractors.
2. Commercial General Liability Insurance Coverage:

SNP shall obtain, at its expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury, personal injury, premises/operations, products and completed operations, and contractual liability. Combined single limit per occurrence shall not be less than $1,000,000 for each occurrence, $1,000,000 personal injury, $1,000,000 products/completed operations, and $2,000,000 general aggregate. The policy shall be endorsed to extend the completed operations for 24 months after issuance of the Notice of Completion of Construction.

The insurance coverage obtained by SNP:

* 1. Shall not be affected by any insurance coverage otherwise existing;
	2. Shall name SWNI, its officers, employees and agents as additional insureds. The "additional insured" requirement shall also apply to products/completion operations coverage. If for any reason SNP cannot obtain such coverage from its insurer, it shall obtain at SNP’s expense and keep in effect during the term of this contract, protective liability insurance, including products/completed operations coverage for up to 24 months after issuance of the Notice of Completion of Construction, naming SWNI, its officers, employees and agents as named insureds, with not less than a $1,000,000 limit per occurrence, $1,000,000 products/completed operations aggregate, and $2,000,000 general aggregate. This policy must be kept in effect for 24 months following issuance of the Notice of Completion of Construction. As evidence of the insurance coverages required by this Contract, SNP shall provide proof of insurance through acceptable certificate(s) of insurance and additional insured endorsement form(s) to SWNI prior to the Contractor’s commencement of work under this contract;
	3. Shall protect each insured in the same manner as though a separate policy had been issued to each, notwithstanding the naming of any number of additional insureds. However, this requirement is not intended to increase the insurer's liability as set forth in the policy beyond the amount, or amounts, for which the insurer would have been liable if only one person or entity had been named as the insured.
1. Automobile Liability:

SNP shall obtain, at its expense, and keep in effect during the term of this contract, Automobile Liability Insurance covering owned, non‑owned and hired vehicles. This coverage may be combined with the Commercial General Liability Insurance policy. The combined single limit per occurrence shall not be less than $1,000,000, with an umbrella or excess liability coverage of $2,000,000.

1. Negligence of Southwest Neighborhoods, Inc:

Nothing in this contract requires SNP or its insurer to provide insurance to SWNI for claims arising out of the death or bodily injury to persons or damage to property caused, in whole or in part, by the negligence of SWNI.

1. Indemnity/Hold Harmless:
	1. SNP shall indemnify, hold harmless, and defend SWNI, its officers, employees and agents from any and all claims, losses, damages, attorney fees, costs and liabilities arising out of accidents, or the intentional, reckless or negligent acts or omissions of SNP, its subcontractors, suppliers, employees, or agents in the performance of the project. For purposes of this subsection, “claims” includes any assertion of a right to money damages or equitable relief or any combination thereof.
	2. SWNI shall notify SNP of any claim of which it is aware that requires SNP to defend, indemnify and hold SWNI harmless. Thereafter, SNP shall notify SWNI in writing within 30 days that it will defend, indemnify and hold SWNI harmless. SNP’s failure to provide such notification is a breach of contract. In the event that SNP fails to give notice within 30 days, SWNI may defend the claim and charge SNP with any costs associated with that effort.
2. Responsibility for Damage to Work:
	1. SNP shall perform the work as required by this contract, including, but not limited to, providing all labor, materials, equipment, tools, machines and incidental work necessary for its performance. In addition, SNP is responsible for the means and methods of construction.
	2. Until the work is completed and accepted by SWNI, SNP is responsible for any damage it causes to either permanent or temporary work, utilities, materials, plants and equipment, all of which shall be repaired to the satisfaction of SWNI’s representative at SNP’s expense. Damage to any portion of the work that has been completed and accepted by SWNI, and which is open for public use, is not the responsibility of SWNI if caused by third persons, such as vandals.
	3. SNP shall repair any damage for which it is financially responsible promptly.
	4. Vandalism. Damage caused by vandals shall be covered by SNP’s insurance. SNP shall provide reasonable protection of the work from vandalism until substantial completion of the work.
3. Responsibility for Damage to Property and Facilities:
	1. Property Protection. SNP shall protect, and take every reasonable precaution to avoid damage to, all public and private property that might be damaged by its operations.
	2. Property Repair. If property is damaged by SNP’s operations, SNP shall restore the property to its pre-damaged condition at SNP’s expense. If repair and restoration are not feasible, SNP shall pay the owner of the damaged property for the damage. If the damage has been caused to City property, the City may choose whether the property shall be repaired and restored by SNP or not. If the City elects to have the property repaired and restored by other than SNP, SWNI shall require SNP to pay the City all costs associated with that repair and restoration.
	3. Vehicle and Other Removal Notice. SNP shall give reasonable notice to owners and occupants of property adjacent to the work to permit them to remove vehicles, trailers and other possessions as well as salvage or relocate plants, trees, fences sprinkler systems or other improvements in the easement or right-of-way that are designated for removal or which might be destroyed or damaged by SNP’s operations.
	4. Landscape Protection/Restoration. SNP shall protect all trees not designated for removal, lawns and planted areas within the right-of-way or easements and restore all disturbed areas, by seeding, mulching and providing erosion control. If conditions are such that seeding cannot be done, SNP shall provide temporary erosion control measures as directed by SWNI’s representative.
	5. Sign Protection. SNP shall protect all signs, including business signs and tourist-oriented direction signs, from damage whether the signs are to remain in place or are placed on temporary supports until they are reinstalled on permanent supports in the same or similar location. Signs that are damaged shall be repaired at SNP’s expense. SNP is responsible for any and all damages that result from the displacement of such signs.
4. Responsibility for Defective Work:

SNP shall make good any defective work, materials or equipment incorporated into the project.

* 1. Defects. SNP shall remain liable for all defects, latent, patent, or otherwise, regardless of when such defects are discovered, and regardless or whether such discovery occurs outside any applicable performance bond, warranty security, or warranty period.
	2. Warranties. SNP shall warrant that all work meets the technical and performance specifications. SNP is responsible for making good the work and for all repairs of damage to other improvements, natural and artificial structures, systems, equipment, and vegetation caused by, or resulting in whole or in part from, defects in warranted materials, equipment, and workmanship. SNP is responsible for all costs associated with site cleanup and remediation caused by, or resulting in whole or in part from, defects in warranted materials, equipment, or workmanship. This warranty provision shall survive expiration or termination of the contract.
1. Trespass:

SNP is responsible for trespass or encroachment upon or damage to adjacent property and from claims resulting from SNP’s operations.

1. Records:
	1. SWNI shall maintain all fiscal records relating to public contracts in accordance with generally accepted accounting principles. In addition, SNP and its subcontractors shall maintain any other records necessary to clearly document their performance under this contract and any claims for additional compensation. SNP shall make such records accessible to SWNI and the City at reasonable times and places, whether or not litigation has been filed as to such claims.
2. Diversity, Equity and Inclusion:

To the maximum extent feasible under the circumstances, SNP is encouraged to use contractors from the City of Portland Prime Contractor Development Program (“PCDP”) or Oregon State Certified Disadvantaged, Minority and Women Owned, Emerging Small Business, and Service Disabled Veteran Owned Business Enterprises (D/M/W/ESB/SDVB) listing available from the Certification Office for Business Inclusion and Diversity (COBID). The current PCDP Participant list, hereby incorporated by reference, may be found at: https://www.portlandoregon.gov/brfs/59370.

***Special Notes***

**Weed Prevention**: Please ensure all footwear and equipment is clean and free from weed propagules prior to entering and exiting work site.

**Wildfire Caution**: During the hot, dry summer months, and early fall, take steps to minimize fire danger and follow relevant Oregon Dept. of Forestry restrictions: <https://gisapps.odf.oregon.gov/firerestrictions/ifpl.html>

**Herbicide Usage**: As always, use caution when applying herbicide near streams and waterways and report required details of herbicide use specifically within 3ft of water on an agreed upon reporting form\*. Always follow the herbicide label and wear proper PPE. Use only aquatic approved glyphosate (at recommended rate) or triclopyr amine (at recommended rate) or triclopyr choline (e.g. Vaslan at conservation plan recommended rate), plus competitor or agridex surfactant (as recommended) and temporary blue marking dye in both the riparian and upland project areas.

**\*Herbicide Records must include the following: name and location of site(s), date and times of application, applicator names and license numbers, herbicide brand and chemical name, formulation and quantities used, rate of application of all components (e.g. % herbicide, surfactant, dye), acres treated, target species, and environmental conditions. For applications made within 3’ of water (including ditches/canals with water present): Please indicate subtotal of herbicide quantity used, treated surface area & linear length of adjacent stream where treatment occurred (in addition to the above requested information). Invoices will not be processed without accompanying, complete herbicide records.**

All operations must comply with applicable federal, state, and local laws and regulations. This includes, but is not limited to, compliance with the ADA (Americans with Disabilities Act), Title 10 of the City Code regarding Erosion Control, City business license requirements, EEO certification requirements, Equal Benefits compliance, and Oregon Construction Contractors Board licensing and bonding requirements. SNP also shall comply with the orders, rulings, decrees and decisions of any administrative or judicial officials that in any manner whatsoever affects the project, the work, the safety of persons around the construction site, or the manner in which the work is performed.

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Southwest Neighborhoods Inc. Date

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Sound Native Plants Date