

**CITY OF PORTLAND  
AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES**

**CONTRACT NO.**

**SHORT TITLE OF WORK PROJECT:  
Transportation System Development Charge Overlay Project**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and Henderson, Young & Company, hereafter called Contractor. The City's Project Manager for this contract is Shoshanah Oppenheim.

**Effective Date and Duration**

This contract shall become effective on June 11, 2010. This contract shall expire, unless otherwise terminated or extended, on May 15, 2011.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed \$179,818.00 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

**CONTRACTOR DATA AND CERTIFICATION**

Name (please print): Henderson, Young & Company

Address: 8060 165<sup>th</sup> Ave. NE, Suite 220, Redmond, WA 98052

Employer Identification Number (EIN) 84-0780133

**[INDEPENDENT CONTRACTORS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN) – LEAVE BLANK IF NO EIN]**

City of Portland Business License # 428829

Citizenship: Nonresident alien ☐ Yes ☒ No

Business Designation (check one): ☐ Individual ☐ Sole Proprietorship ☐ Partnership ☒ Corporation  
☐ Limited Liability Co (LLC) ☐ Estate/Trust ☐ Public Service Corp. ☐ Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject you to 20 percent backup withholding.

**STANDARD CONTRACT PROVISIONS FOR  
PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)**

**1. Access to Records**

The Contractor shall maintain, and the City of Portland ("City") and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

**2. Audits**

- (a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.
- (b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.
- (c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.

### 3. **Effective Date and Duration**

The passage of the contract expiration date (as recorded on reverse side) shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

### 4. **Order of Precedence**

This contract consists of the terms and conditions of this contract, the Request for Proposals (RFP) issued by the City, if any, and the Contractor's proposal in response to the RFP. In the event of any apparent or alleged conflict between these various documents, the following order of precedence shall apply to resolve the conflict: a) this contract's terms and conditions, b) the City's RFP, and c) the Contractor's proposal in response to the RFP.

### 5. **Early Termination of Agreement**

- (a) The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.
- (b) The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.
- (c) Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

### 6. **Payment on Early Termination**

- (a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Agreement** hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.
- (b) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.
- (c) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.
- (d) In the event of early termination all of the Contractor's work product will become and remain property of the City.

### 7. **Remedies**

- (a) In the event of termination under subsection 5(c), **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess.
- (b) The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.
- (c) In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 5(c), **Early Termination of Agreement** and section 6(b), **Payment on Early Termination** hereof.

### 8. **Subcontracts and Assignment**

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

### 9. **Compliance with Applicable Law**

In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the administrative rules. Contractor shall complete the INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT, which is attached hereto and by this reference made a part hereof.

#### (a) **Indemnity - Claims for Other than Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses arising out of death, or bodily injury to persons, or property damage caused by the negligence of the City.

**(b) Indemnity - Claims for Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses caused by the negligence of the City.

**(c) Indemnity - Standard of Care**

If Contractor's services involve engineering or consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

**10. Insurance**

During the term of this contract Contractor shall maintain in force at its own expense, each insurance noted below:

- (a) Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

- (b) ☒ Required and attached or Waived by City Attorney: \_\_\_\_\_

General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Portland, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract:

- (c) ☒ Required and attached or Waived by City Attorney: \_\_\_\_\_

Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or nonowned vehicles, as applicable:

- (d) ☒ Required and attached or Waived by City Attorney: \_\_\_\_\_

Professional Liability insurance with a combined single limit of not less than \$1,000,000 per claim, incident, or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract. If insurance coverage is provided on a "claims made" basis, the successful Proposer shall acquire a "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If such coverage is not available or economically feasible, contractor shall notify City immediately.

- (e) On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
- (f) Certificates of insurance. As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time contractor returns signed contracts. The certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause and 10-day non-payment clause that provides that the insurance shall not terminate or be cancelled without 30 days or 10 days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**11. Ownership of Work Product**

All work products produced by the Contractor under this contract is the exclusive property of the City. "Work product" shall include but not be limited to research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form; the Contractor and the City intend that such work product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a work product is deemed not to be a "work made for hire," the Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such work product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the work product is the property of the Contractor-Architect, and by execution of this contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that work product.

**12. Nondiscrimination**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

**13. Successors in Interest**

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

**14. Severability**

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

**15. Waiver**

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

**16. Errors**

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

**17. Governing Law**

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

**18. Amendments**

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Chief Procurement Officer to be valid. Any amendment that increases the original contract amount by more than 25% must be approved by the City Council to be valid.

**19. Business License**

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement. Additionally, the Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full term of this contract. Failure to be in compliance may result in payments due under this contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.

**20. Prohibited Interest**

(a) No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement.

**21. Payment to Vendors and Subcontractors**

The Contractor shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. The Contractor shall not take or fail to take any action in a manner that causes the City or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

**Merger Clause**

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE, SHALL BE EFFECTIVE ONLY IN SPECIFIC INSTANCES AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**OPTIONAL PROVISIONS** (selected by City Project Manager)**22. Arbitration: /   X   / Not Applicable /       / Applicable (consult with City Attorney's Office before finalizing as applicable)**

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any

litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Agreement for undisputed portions of work.

**23. Progress Reports: / X / Applicable / \_\_\_ / Not Applicable**

The Contractor shall provide monthly progress reports to the Project Manager. If applicable, the STATEMENT OF THE WORK should list what information the Contractor must include in monthly progress reports.

**24. Contractor's Personnel: / X / Applicable / \_\_\_ / Not Applicable**

The Contractor shall assign the following personnel to do the work in the capacities designated: If applicable, list selected personnel in the STATEMENT OF THE WORK. The Contractor shall not change personnel assignments without the prior written consent of the City.

**Consultant Name and Firm**

Randy Young • Henderson, Young & Company  
 Don Samdahl • Fehr & Peers  
 Michael Lapham • Fehr & Peers  
 Neha Rathi • Fehr & Peers  
 Support Staff • Fehr & Peers  
 Sumner Sharpe • Parametrix  
 Anne Sylvester • Parametrix  
 Michael Harrison • Parametrix  
 Elana Peterson • Parametrix  
 Gregory Kurahashi • Kurahashi & Associates  
 Deb Galardi • Galardi Consulting  
 Liz Malliris • Words by Malliris

**25. Subcontractors: / X / Applicable / \_\_\_ / Not Applicable**

The City requires Contractors to use the Minority, Women and Emerging Small Business (M/W/ESB) subcontractors identified in their proposals, and as such the Contractor shall assign these subcontractors as listed in the STATEMENT OF THE WORK to perform work in the capacities designated. The Contractor shall not change subcontractor assignments without the prior written consent of the Chief Procurement Officer.

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**STATEMENT OF THE WORK  
AND PAYMENT SCHEDULE**

**SCOPE OF WORK**

In this Scope of Work, "we," "us" and "our" refers to the Contractor (Henderson, Young & Company and the Subcontractors listed in this Scope of Work)

**Phase 1**

**1. GENERAL GOALS / DIRECTION**

- 1.1 We will conduct a preliminary review of the TSDC overlay areas for PSU and Central Eastside that are likely to be the basis for creating boundaries. Assisted by PBOT staff, we will conduct a preliminary scan of transit and other capital improvement projects that may be eligible for TSDC overlays in the PSU and Central Eastside areas. We will identify TSDC revenue targets for City transit-supportive projects. We will estimate potential revenue from TSDC overlays in the PSU and Central Eastside areas.
- 1.2 We will organize and conduct a strategy meeting with PBOT staff to discuss the TSDC Overlay, including research and work tasks to be completed, responsibilities, deliverables, schedule, and project management process. We will build on our successful methodology used in the previous TSDC updates, then identify ways in which the city could take advantage of new ideas related to transit nexus and allocation of costs between modes.

- 1.3 We will meet with the Bureau's Director, the Commissioner in Charge's Office, PBOT managers and key staff to review the TSDC overlay project schedule, tasks, and outstanding issues.
- 1.4 Our project manager and City project manager will finalize the Phase 2 scope of work to incorporate inputs from the Commissioner in Charge, CAC and PBOT staff.
- 1.5 Throughout the duration of both phases of the project, our project manager will manage the consultant team, and provide the City's project manager with monthly progress reports and weekly teleconferences to review the status of the project, and resolve any issues that arise. We will also provide the City's project manager with meeting summaries, and project management meetings, e-mails and telecommunications.

Staff Points of Input and/or Review

- Staff will attend the initial meeting to provide input about the project.
- The City's project manager will work with our project manager to finalize the Phase 2 scope of work, and manage the project.

Consultant Team Members

Henderson, Young: Young  
Fehr & Peers: Samdahl  
Parametrix: Sharpe

Results/Work Products

- Summary narrative and detailed schedule and task list for developing the TSDC overlay project list. (RFP Deliverable 1st bullet)
- Project management reports, summaries, meetings, and invoices.

Time Frame

Final Phase 2 Scope of Work: Project Weeks 1 – 6  
Project Management: continuous

## 2. PUBLIC ENGAGEMENT – Phase 1

- 2.1 We will conduct confidential one-on-one interviews or focus groups with a sampling of up to 10 key individuals and stakeholders. These early interviews will focus on the role of TSDC overlay(s) in funding needed transportation improvements, particularly transit and transit-related improvements.

Staff Points of Input and/or Review

- Staff advise on participants and key questions,

Consultant Team Members

Parametrix: Sharpe, Harrison  
Henderson, Young: Young  
Fehr & Peers: Samdahl

Results/Work Products

- One on one stakeholder or focus group interviews. (RFP Deliverable 5th bullet)
- Narrative meeting summaries (Within 2 weeks of meeting) (RFP Deliverable 6th bullet)

Time Frame

Project Weeks 1 – 2

## 3. DEVELOP OVERLAY BOUNDARIES, PROJECT LIST – Phase 1

- 3.1 The City will compile a list of potential transportation projects for the PSU and Central Eastside areas and a map showing the location of each project. The City will provide the estimated cost of each project.
- 3.2 We will conduct a preliminary evaluation of the list of proposed projects for the TSDC overlay using methods and assumptions consistent with those developed for the update of the Citywide TSDC and North Macadam Overlay TSDC. This evaluation will support the analysis in Task 1.1 by estimating the portion of specific projects in PSU and Central Eastside areas that may be eligible for TSDC overlays.

Staff Points of Input and/or Review

- Staff will provide all current CIP and plan materials.

Consultant Team Members

Fehr & Peers: Samdahl, Lapham, Rathi  
Parametrix: Sylvester  
Henderson, Young: Young

Results/Work Products

- Memo discussing feasibility of TSDC overlay district: (RFP Deliverable 14th bullet)

Time Frame

Project Weeks 1 – 3

## Phase 2

## 4. PUBLIC ENGAGEMENT – Phase 2

- 4.1 We will work with City staff to identify specific audiences affected by the TSDC overlay(s).

- 4.2 We will draft a communications strategy for obtaining key market segment support and public understanding of the TSDC overlay(s). The strategy will be designed to reach the appropriate audiences with the most effective messages and methods for obtaining and using feedback. We will work with the City staff to implement that strategy.
- 4.3 We will conduct confidential one-on-one interviews or focus groups with a sampling of up to 10 key individuals and stakeholders representing interests in the designated overlay areas. These interviews will focus on the role of TSDC overlay(s) in funding needed transportation improvements, particularly transit and transit-related improvements.
- 4.4 We will facilitate up to 10 meetings of the Citizen Advisory Committee (CAC) to assist the members in addressing project identification, selection, prioritization, costs, revenues, and other related issues, and prepare meeting summaries.
- 4.5 We will attend up to 15 meetings of Neighborhood Coalition and Business Associations to present the TSDC project, solicit and summarize suggestions.
- 4.6 We will prepare information about the existing TSDC and overlay, materials for website or newsletters, graphics and summary presentations for stakeholders, community, and Council.
- 4.7 We will summarize the community inputs to assist the development of the TSDC overlay(s).
- 4.8 We will provide the City's project manager with bi-weekly briefings or summaries of input from the public engagement process and issues that have arisen.

Staff Points of Input and/or Review

- Staff advise on participants and key questions, and participate in development of messages and strategies for communication.
- Staff will attend the meetings of the advisory committees.

Results/Work Products

- Professional facilitation of CAC. (RFP Deliverable 3rd bullet)
- Meeting attendance with Neighborhood Coalitions and Business Districts. (RFP Deliverable 4th bullet)
- One on one stakeholder or focus group interviews. (RFP Deliverable 5th bullet)
- Narrative meeting minutes and summaries for CAC and Neighborhood Coalition and Business Association meetings (Within 2 weeks of meeting) (RFP Deliverable 6th bullet)

Consultant Team Members

Parametrix: Sharpe, Harrison  
Malliris  
Henderson, Young: Young  
Fehr & Peers: Samdahl

Time Frame

Project Weeks 4 – 39

## 5. DEVELOP OVERLAY BOUNDARIES, PROJECT LIST, AND RATE STUDY – Phase 2

- 5.1 The City will provide the estimated cost of each project, allocation of costs to each mode of travel, and other funding sources. We will prepare updated project cost estimates, as needed.
- 5.2 We will advise the City regarding updated traffic model data (2030) needed. The City will provide the 2007 and 2030 traffic model data that we will use to evaluate eligible projects and apportion costs between overlay areas. We will prepare a narrative and summary tables of land use, trip generation, and trip assignments.
- 5.3 We will evaluate the list of proposed projects for the TSDC overlay using methods and assumptions consistent with those developed for the update of the Citywide TSDC. We will use the list of eligible projects to initiate a database of project descriptions, total cost, cost by mode, committed funding amounts and sources, and timeframe for implementation. We will also identify the portion of the cost of each project that is attributable to each of the following: existing deficiencies, growth within overlay area, growth elsewhere in the City, and growth outside the City (i.e., through traffic). We will consider new approaches to calculating transit and nonmotorized deficiencies and cost allocations. We will apportion committed revenues between deficiencies and growth and calculate the SDC-eligible cost which will serve as the cost basis for the TSDC overlay.
- 5.4 We will calculate the cost per trip for each travel mode for each TSDC overlay and prepare a TSDC schedule of rates per unit of development for each land use type. In order to maintain consistency within the City's TSDC program, the schedule of rates will use the same trip generation land use categories, trip rates, pass-by trips, and trip lengths developed for the the Citywide TSDC and North Macadam TSDC Overlay.

- 5.5 We will prepare a draft and final rate study report documenting the methodology, formulas, variables, data, capital improvement project list and calculations of the TSDC overlay. The rate study can be adopted by reference in the ordinance, and can be updated by the City as circumstances warrant. The TSDC overlay will be based on the same ordinance, waivers, discounts, etc. as existing Citywide TSDC and North Macadam TSDC Overlay.

Staff Points of Input and/or Review

- Staff will provide travel model runs.
- Staff will review the cost per trip estimates, the allocations to land use types.
- Staff will provide all current CIP and plan materials. Staff will review the capital improvement database prepared by us, and review the recommended cost and revenue allocation methodology and resulting allocations.
- Staff will review the draft and final reports.

Consultant Team Members

Fehr & Peers: Samdahl, Lapham, Rathi  
Kurahashi: Kurahashi  
Parametrix: Sylvester  
Henderson, Young: Young

Results/Work Products

- Recommendations of distinct TSDC overlay districts within SE and SW areas of City. (RFP Deliverable 14 bullet)
- List of all reviewed projects and their ranking on TSD criteria. (RFP Deliverable 9th bullet)
- Sample transportation project lists funded by overlay district. (RFP Deliverable 10th bullet)
- Recommended project list and rate study. (RFP Deliverable 11th bullet)
- Final project list and rate study at conclusion of project (RFP Deliverable 12th bullet)

Time Frame

Project Weeks 6 – 34

## 6. UPDATE ADMINISTRATIVE AND OPERATIONAL TOOLS

- 6.1 We will update Portland's administrative procedures, rules and forms for TSDC. We will also update the public brochure and application package.

Staff Points of Input and/or Review

- Staff will review the updated procedures manual, brochure and applicant package.

Consultant Team Members

Galardi  
Henderson, Young: Young

Results/Work Products

- Updated procedures manual, administrative rules, forms and explanatory public brochure insert. (RFP Deliverable 13th bullet)

Time Frame

Project Weeks 35 – 39

## 7. COMPARISON ANALYSIS

- 7.1 We will assemble data about TSDC rates at various governments throughout the region.

Staff Points of Input and/or Review

- Staff will review the analyses.

Consultant Team Members

Galardi  
Henderson, Young: Young

Results/Work Products

- Memo comparing comparing TSDC charges within the metro area and beyond. (RFP Deliverable 7th bullet)
- Memo summarizing development projections. (RFP Deliverable 8th bullet)

Time Frame

Project Weeks 6 – 12

## Work Performed by the City

Specific duties the City will perform include:

- Provide Transportation System Plan (TSP) and modeling data:
- 2000-2035 growth projections with a calculated 10-year growth horizon
- Select link analysis for motorized trips
- City will provide current non-motorized trip table
- Future demand overlaid on the current system (mapped)



- Provide examples of project cost estimate calculations
- Provide estimated percentage of arterials without sidewalks by TSP district
- Provide analysis generated for the North Macadam TSDC Overlay and City Wide SDC analysis and calculations
- Project manager to work with Citizens Advisory Committee (CAC), manage Technical Advisory Committee (TAC), and coordinate public meeting facilities
- Direct public engagement strategic planning sessions
- Provide its own legal counsel
- Provide list of projects for estimating
- Provide potential projects for inclusion in proposed overlay district.

## SUBCONTRACTORS

The Contractor shall assign the following subcontractors to perform work in the capacities designated:

NAME	ROLE ON PROJECT
Fehr & Peers	transportation analysis; TSDC calculations
Parametrix	public engagement; transit analysis
Galardi Consulting	TSDC rate comparisons; administrative tools
Words by Malliris	public outreach; editing
Kurahashi & Associates	cost estimating

The City will enforce all diversity in workforce and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Contractor in its Proposal. For contracts valued \$100,000 or more, the Contractor shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subcontractors employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandonline.com/shared/cfm/image.cfm?id=119851>.

## COMPENSATION

Contractor shall be paid for Phase 1 the not to exceed amount of \$40,136.00, and for Phase 2 the not to exceed amount of \$139,682.00 plus any unexpended amounts from Phase 1. The Contractor will be paid based on its hourly rates, costs incurred in paying its subcontractors, if any, plus any authorized expenses, as set forth in more detail below. The "not to exceed amount" is the maximum amount of compensation due the Contractor for all the work required by the contract. Errors in estimating the number of hours necessary to perform the work is the sole responsibility of the Contractor.

## PAYMENT TERMS: Net 30 Days

### Hourly Rates

The billing rates shall not exceed those set forth below.

Consultant Name and Firm	Hourly Rate
Randy Young • Henderson, Young & Company	\$ 210
Don Samdahl • Fehr & Peers	210
Michael Lapham • Fehr & Peers	135
Neha Rathi • Fehr & Peers	125
Support Staff • Fehr & Peers	95
Sumner Sharpe • Parametrix	215
Anne Sylvester • Parametrix	200
Michael Harrison • Parametrix	122
Elana Peterson • Parametrix	76
Gregory Kurahashi • Kurahashi & Associates	125
Deb Galardi • Galardi Consulting	140
Liz Malliris • Words by Malliris	90

**Standard Reimbursable Costs**

Reimbursable costs will be reimbursed without mark-up.

**Subconsultant Costs**

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. The maximum markup on subconsultant services shall not exceed 0%.

**Adjustment of Labor Rates Due to Inflation**

Annual adjustment of hourly rates will be considered upon written request from the Consultant. Approval of a request for rate increases is solely within the City's discretion and under no circumstances is the City obligated to approve such a request.

Rate increases are subject to the following limitations:

- No increases will be granted before the one-year anniversary of the contract;
- No more than one increase shall be granted per contract year;
- Rate increases may not exceed the then-current average inflation rate for the Portland Metropolitan Area (as determined from the US Department of Labor statistics);
- Rate increases shall not be retroactive.

Other than the impact of inflation as described above, hourly rates may not be increased.

**Progress Payments**

On or before the 15<sup>th</sup> of each month, the Contractor shall submit to the City's Project Manager an invoice for work performed by the Contractor during the preceding month. The invoice shall contain the City's Contract Number and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, and tasks performed. The Contractor shall also attach photocopies of claimed reimbursable expenses, if applicable. The Project Coordinator shall stamp and approve all subconsultant invoices and note on the subconsultant invoice what they are approving as "billable" under the contract. The billing from the prime should clearly roll up labor and reimbursable costs for the prime and subconsultants – matching the subconsultant invoices. Prior to initial billing, the Contractor shall develop a billing format for approval by the City.

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any invoice, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved.

The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the City to Contractor.

## INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

## SECTION A

CONTRACTOR CERTIFICATION I, undersigned, am authorized to act on behalf of entity designated below, hereby certify that entity has current Workers' Compensation Insurance.

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_ Entity Henderson, Young & Company

**If entity does not have Workers' Compensation Insurance, City Project Manager and Contractor complete the remainder of this form.**

## SECTION B

**ORS 670.600 Independent contractor standards.** As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

City Project Manager Signature \_\_\_\_\_

\_\_\_\_\_ Date

## SECTION C

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:

- \_\_\_\_\_ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
- \_\_\_\_\_ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- \_\_\_\_\_ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- \_\_\_\_\_ D. Labor or services are performed only pursuant to written contracts;
- \_\_\_\_\_ E. Labor or services are performed for two or more different persons within a period of one year; or
- \_\_\_\_\_ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature \_\_\_\_\_

\_\_\_\_\_ Date

**CONTRACTOR SIGNATURE:**

This contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

The parties agree the City and Contractor may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

I, the undersigned, agree to perform work outlined in this contract in accordance to the STANDARD CONTRACT PROVISIONS, the terms and conditions, made part of this contract by reference, and the STATEMENT OF THE WORK made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer and is in compliance with the Equal Benefits Program as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

**Henderson, Young & Company**

BY: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Randall L. Young

Title: President

183972

Contract No. \_\_\_\_\_

Contract Title: \_\_\_\_\_

**CITY OF PORTLAND SIGNATURES:**

By: \_\_\_\_\_  
Bureau Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chief Procurement Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Elected Official

Date: \_\_\_\_\_

Approved:

By: \_\_\_\_\_  
Office of City Auditor

Date: \_\_\_\_\_

Approved as to Form:

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Office of City Attorney

Date: 6/22/10

*Paula Henry*  
**CITY ATTORNEY**

**SUBJECT TO INSURANCE APPROVAL**