

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

**CONTRACT NO. 30001409**

**SHORT TITLE OF WORK PROJECT:  
On-Call Engineering Services**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and Murray, Smith & Associates, Inc., hereafter called Contractor. The City's Project Manager for this contract is Darren Kipper.

**Effective Date and Duration**

This contract shall become effective on August 30, 2010. This contract shall expire, unless otherwise terminated or extended, on August 30, 2013.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed \$500,000 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): Murray Smith & Associates, Inc.

Address: 121 SW Salmon, Suite 900, Portland, OR 97204

Employer Identification Number (EIN) 93-0768555

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

City of Portland Business License # 211425-01

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 Purchasing Agent 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: / ☒ / 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 / X / 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.

**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 Purchasing Agent.

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**STATEMENT OF THE WORK  
AND PAYMENT SCHEDULE**

**SCOPE OF WORK**

The Contractor shall provide services to the City of Portland Water Bureau (PWB) for on-call miscellaneous professional services on an as-needed basis. There is no guarantee that the total dollar limit of the contract will be reached and there is no guarantee that all categories of services listed below will be required by the PWB. The task order amount may vary dependent upon the amount of work estimated for a particular task/project, but the contract shall not exceed \$500,000 with individual task orders not exceeding \$250,000 for the 3-year term of the contract.

PWB personnel shall provide the general scope of each task/project. The Contractor shall develop and negotiate the specific scope of work, budget and schedule in writing. If accepted, a task order shall be completed by the PWB's Contracts Administration Branch (CAB) and shall be signed by each party. Work to be performed may proceed once all parties have signed the task order.

Work shall be assigned as project needs are identified under this contract. The scope of work, schedule, deliverables and compensation for each project shall be established in writing via a task order prior to commencement of the work. Any changes must be agreed to by the both parties in writing as an amendment to the task order.

Following the notice to proceed issued by CAB, the PWB Project Manager shall work directly with the Contractor for the duration of the task order unless otherwise noted in the task order.

**WORK REQUIREMENTS**

The Contractor shall provide engineering services as needed to complete the design of projects or project tasks as requested within potentially limited time frames. The Contractor shall be expected to work closely with designated PWB personnel. PWB shall determine the scope of work for each project.

Each assigned project shall have a maximum monetary limit established in the task order by PWB through negotiation with the successful Proposers prior to commencement of work. Such maximum amount may be exceeded only upon the written approval of the PWB via an amendment to the task order, and only for documented circumstances unforeseen at the time the project was accepted, or for a necessary change in the scope of work as originally requested by PWB.

The Contractor shall be required to:

1. Proceed with minimal direction and supervision;
2. Coordinate with other City departments and public and private utilities as directed by the PWB Project Manager;
3. Assist in securing land use and construction approvals (including work in environmental zones, conditional use approvals and building permit approvals);
4. Assist in securing other permits from other agencies, and;
5. Design each project in accordance with the following:
  - PWB Design Manual
  - PWB CAD Standards
  - Standard Construction Specifications for the City of Portland
  - Portland Water Bureaus Developers Manual
  - American Water Works Association
  - American Association of Testing Materials
  - City Erosion Control Manual
  - Occupational Safety and Health Administration
  - Oregon Administration Rules
  - Uniform Plumbing Code
  - All other applicable PWB manuals, policies and conditions included within the scope of each project.

The Contractor may be asked to provide specific services to complete engineering tasks that are a part of larger PWB projects. The engineering service areas required include planning, design, and construction management. Examples in each service area are described as follows:

#### **1. Planning**

This includes but is not limited to the following:

- (a) Prepare project concept reports and basis of design reports. Reports shall follow existing report outlines and guidelines provided by PWB. Existing reports typically include: project overflow/abstract, problem or opportunity statement, detailed alternative analysis, recommended alternative, key implementation challenges, and project work plan.
- (b) Hydraulic Modeling.
- (c) Business Case Development including benefit/cost analysis.
- (d) Alternative Analysis.
- (e) Cost Estimation.
- (f) Stakeholder Involvement.
- (g) Identification of permits, constructability issues, operability issues.
- (h) Geotechnical investigations and reports.
- (i) Environmental assessments.
- (j) Water availability and quality studies.
- (k) Analyze the function and operation of the project.

- (l) Evaluate cost efficiencies and refine cost estimates.
- (m) Biological assessments.
- (n) Evaluating alternatives and making recommendations.
- (o) Writing technical reports and memorandum.
- (p) Developing scopes of work for PTE services.
- (q) Project scheduling and resource loaded scheduling

## **2. Design**

This includes but is not limited to the following:

- (a) Project Management/Coordination.
- (b) Arranging survey work.
- (c) Erosion and Traffic Control Plans.
- (d) Soil Investigations.
- (e) Site Analysis.
- (f) Advancing the design to the 30% engineering design level.
- (g) Assistance in preparation of various applications, including permits to state and local government agencies.
- (h) Design milestone reports.
- (i) Developing scopes of work for PTE services.
- (j) Project scheduling and resource loaded scheduling.
- (k) Pre-design and alternative analysis.
- (l) Design services may include survey, architectural engineering, environmental engineering, public involvement, scheduling, report preparation, utility coordination, potholing, Operation & Maintenance (O&M) manuals, Quality Assurance/Quality Control (QA/QC), specification templates, preparation and submission of biddable plans and specifications and estimates.
- (m) Public education and involvement activities in the Design Project Management Plan and provide support services for PWB's Public Outreach Plans.
- (n) Writing technical reports and memorandum including Technical and Bidability, Constructability, Operability, and Environmental (BCOE) reviews of Designs, Drawings and Specifications.
- (o) Peer review of designs, drawings and specifications.
- (p) Design may also require a broad range of services such as civil, structural, mechanical, geotechnical, and electrical engineering, architectural, instrumentation and control, value engineering, public involvement, computer aided engineering for specialized engineering analysis, CAD, and permitting assistance.

## **3. Construction Management**

This includes but is not limited to the following:

- (a) Review of construction materials.

- (b) Response to PWB's construction contractor's requests for information, assistance in preparation of responses to construction claims, change orders, and other miscellaneous documents.
- (c) Construction oversight.
- (d) Attend the pre-construction conference(s)
- (e) Prepare Requests for Proposals directed to CM/GC for work considered beyond the Guaranteed Maximum Price (GMP) that may result in change orders issued by PWB.
- (f) Make periodic visits to the site to observe, as an experienced and qualified design engineer of record, the progress and quality of the assigned aspects of the work.
- (g) Determine if work is proceeding in accordance with the contract documents.
- (h) Provide a written response or report to the PWB of observations and recommendations based on site visits.
- (i) Assist in providing interpretations and clarifications of the contract documents in preparation of field orders and change orders.
- (j) Review shop drawings and submittals for contract compliance.
- (k) Provide qualified inspection services to support construction.
- (l) Collect and review all operating and maintenance manuals/instructions, schedules, certificates of inspection, tests and approvals.
- (m) Provide electronic versions of construction close-out as-builts that are developed by the construction contractor.
- (n) Develop and ensure compliance with the project punch list.
- (o) Obtain operations and maintenance data when required or specified.
- (p) Obtain guarantees and/or special warranties.
- (q) Review Requests for Information (RFI's) and provide response

#### **CONTRACTOR PERSONNEL**

The Contractor shall assign the following personnel to do the work in the capacities designated:

| <b>NAME</b>            | <b>ROLE ON PROJECT</b> |
|------------------------|------------------------|
| David Leibbrandt, P.E. | Principal-in-Charge    |
| Matt Hickey, P.E.      | Project Manager        |
| Phil Smith, P.E.       | Technical Advisor      |
| Jim Helton, P.E.       | Technical Advisor      |
| Brian Ginter, P.E.     | Project Engineer       |
| Jeff Jones, P.E.       | Project Engineer       |
| Kate Conrad, P.E.      | Project Engineer       |
| Daphne Marcyan, P.E.   | Design Engineer        |
| Fulgence Bugingo, P.E. | Design Engineer        |

#### **SUBCONTRACTORS**

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

| <b>NAME</b>               | <b>ROLE ON PROJECT</b>   |
|---------------------------|--------------------------|
| NLV Services, Inc.        | Surveying                |
| Pacific Geotechnical, LLC | Geotechnical Engineering |



| NAME                                | ROLE ON PROJECT                           |
|-------------------------------------|---|
| Sigma Engineering, Inc.             | Structural Engineering-General            |
| Peterson Structural Engineers, Inc. | Structural Engineering – Reservoirs       |
| Susan Oman, Landscape Architect     | Landscape Architecture                    |
| Environmental Science & Assessment  | Environmental Consulting and Permitting   |
| Reyes Engineering, Inc.             | Electrical and Control System Engineering |
| Elcon Associates, Inc.              | Electrical and Control System engineering |
| BEA Consulting, Inc.                | Mechanical Engineering                    |
| JLA Public Involvement, Inc.        | Public Involvement                        |
| Cascade Corrosion Consulting        | Corrosion Control Consulting Services     |
| MENG analysis                       | Value Engineering                         |
| MWA Architects                      | Architecture                              |
| James M. Ellett Construction Co.    | Constructability Reviews                  |
| Acoustic Design Studio, inc.        | Acoustical Engineering                    |
| Vac-X                               | Vacuum Excavation                         |

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**

The Contractor shall 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 in the attached Exhibit A, Summary of Billing Classifications and Rate. 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.

### **Multiplier Information**

The multiplier applied to salaries shall not exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

### **Standard Reimbursable Costs**

The following costs shall be reimbursed without mark-up:

- Out-of-Town Travel. Travel (transportation, lodging and per diem) of Contractor and/or experts when specified in the contract or requested by PWB, directly attributed to specific tasks and when to a location outside a 100 mile radius of Contractor’s project office. Travel costs shall be reimbursed in accordance with the City’s Travel Expense Guidelines, which are based on the General Services Administration (GSA) per diem rates.
- Photocopying/Reproduction Costs. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Contractor’s or sub’s own use.

### **Sub-consultant Costs**

Compensation for sub-consultants shall be limited to the same restrictions imposed on the Contractor. The maximum markup on sub-consultant services shall not exceed 5%, during the terms of the contract.

### **Adjustment of Hourly Rates Due to Inflation**

Annual adjustment of hourly rates shall be considered upon written request from the Contractor. 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 shall 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 and certified by the City of Portland Auditor);
- Rate increases shall not be retroactive.

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

### **PAYMENT TERMS: Net 30 Days**

#### **Hourly Rates**

The Contractor shall be reimbursed in accordance with the rates listed on the attached Exhibit A, Summary of Billing Classifications and Rate.

#### **Progress Payments**

On or before the 15<sup>th</sup> of each month, the Contractor shall submit to the Water Bureau's Accounts Payable 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, tasks performed, and the percentage of work successfully completed for each task. The Contractor shall provide written explanation of deviations from the contract fees and provide measures of correction as necessary to ensure that the project remains on budget. The Contractor shall also attach photocopies of claimed reimbursable expenses. The City's Project Manager 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.

Invoices shall either be e-mailed to: [wb.accountspayablesection@ci.portland.or.us](mailto:wb.accountspayablesection@ci.portland.or.us) (this is the preferred method) or sent to:

City of Portland Water Bureau  
Attn: Accounts Payable  
1120 SW 5<sup>th</sup> Avenue, Room 609  
Portland, OR 97204

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, 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 Bureau 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

David J. Jirassakuldech 6/3/10

Entity Murray, Smith &  
Associates, Inc

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

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

Contract Title: On-Call Engineering Services**CITY OF PORTLAND SIGNATURES:**By: N/A Date: \_\_\_\_\_  
Bureau DirectorBy: \_\_\_\_\_ Date: \_\_\_\_\_  
Chief Procurement OfficerBy: \_\_\_\_\_ Date: \_\_\_\_\_  
Elected OfficialApproved: \_\_\_\_\_  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
Office of City Auditor

Approved as to Form:

By: APPROVED AS TO FORM Date: 6/14/10  
Office of City Attorney  
*Anda Mungo*  
CITY ATTORNEY

## GENERAL

Murray, Smith & Associates, Inc. (MSA) will provide services under this agreement on a time and expenses basis in accordance with the City of Portland Water Bureau's (PWB's) labor multiplier and reimbursable expense policy. Total fees for any assignment will be considered agreed "not-to-exceed" budgets based upon the PWB-approved work scope. Budgets for individual project assignments will be developed once project details are defined and an agreed scope of work is developed. MSA provides a detailed task-by-task budget status report with each monthly invoice, tracking planned costs against actual project status.

The current direct hourly salary range by labor classification and the respective hourly billing rate range for MSA and subconsultant staff are shown below. The hourly billing rates are calculated on the basis of direct salary cost times a multiplier of 3.1 or less. Billings will be based upon the actual direct salary cost of each individual performing work on the assignment at the time of service times the multiplier. The multiplier includes fringe benefits; payroll bonuses; autos and other defined prerequisites; telecommunications; facsimile services; overhead expenses including, but not limited to, local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, leasing of office equipment, travel costs within a 100-mile radius of Portland, and information technology (including computer time and CAD equipment and other related highly specialized equipment); all other direct costs not identified as reimbursable; other indirect costs; and profits. For MSA, outside technical, professional and other services will be invoiced at actual cost plus 5% to cover administration and overhead, and other allowable project expenses will be invoiced at cost. For subconsultants, other services and project expenses will be invoiced as shown, all in accordance with PWB policies.

## BILLING CLASSIFICATIONS AND RATES

*Murray, Smith & Associates, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Sr. Principal               | \$207.45 - \$207.45 |
| Principal                   | \$169.32 - \$193.13 |
| Sr. Associate               | \$167.68 - \$167.68 |
| Princ. Eng. Assoc.          | \$142.63 - \$154.57 |
| Sr. Engineer                | \$128.62 - \$134.88 |
| Engineer VII                | \$112.84 - \$128.65 |
| Engineer VI                 | \$114.76 - \$119.23 |
| Engineer V                  | \$96.88 - \$113.28  |
| Engineer IV                 | \$90.92 - \$102.08  |

*NLV Services, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$115               |
| CAD Technician              | \$95                |
| Survey Technician           | \$45                |

*Pacific Geotechnical, LLC*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$140               |
| Project Engineer/Geologist  | \$120               |
| Staff Engineer/Geologist    | \$95                |
| Field Technician            | \$70                |
| CAD                         | \$75                |

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Engineer III                | \$82.71 - \$95.39   |
| Engineer II                 | \$78.25 - \$88.82   |
| Engineer I                  | \$68.57 - \$80.48   |
| Sr. Technician              | \$90.92 - \$137.27  |
| Technician                  | \$75.27 - \$90.92   |
| Jr. Technician              | \$62.59 - \$62.59   |
| Administrator               | \$59.02 - \$125.18  |
| Clerical                    | \$45.45 - \$67.05   |

*Sigma Engineering, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$135               |
| Sr. Engineer                | \$106               |
| Technician                  | \$74                |
| Clerical                    | \$42                |

*Peterson Structural Engineers, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$150               |
| Sr. Associate/Designer      | \$120               |
| Project Manager             | \$100               |
| Staff Engineer              | \$85                |

*Susan Oman, Landscape Architect*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$100               |

*Environmental Science & Assessment, LLC*

| <u>Labor Classification</u>              | <u>Billing Rate</u> |
|--|---------------------|
| Sr. Principal/Sr. Env. Scientist         | \$122.72            |
| Sr. Wetland Scientist/Wildlife Biologist | \$103.38            |
| Sr. Wetland Scientist/Botanist           | \$100.04            |
| Wetland Scientist                        | \$69.36             |

*Reyes Engineering, Inc.*

| <u>Labor Classification</u>     | <u>Billing Rate</u> |
|---------------------------------|---------------------|
| Sr. Principal                   | \$180               |
| Associate                       | \$161               |
| Sr. Lighting Designer           | \$143               |
| Sr. Telecom/Security Specialist | \$133               |
| Engineer/Sr. Designer           | \$124               |
| Lighting Designer               | \$115               |
| Designer                        | \$112               |
| CAD Operator                    | \$81                |
| Clerical                        | \$71                |

*Elcon Associates, Inc.*

| <u>Labor Classification</u>   | <u>Billing Rate</u> |
|-------------------------------|---------------------|
| Project Manager/Lead Engineer | \$161               |
| Engineer                      | \$123               |
| Jr. Engineer/Designer         | \$101               |
| Clerical/Account/Admin.       | \$70                |

*BEA Consulting, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Sr. Principal               | \$188 - \$180       |
| Principal                   | \$160 - \$180       |
| Sr. Project Manager         | \$120 - \$130       |
| Project Manager             | \$110 - \$120       |
| Sr. Project Engineer        | \$120 - \$130       |
| Project Engineer            | \$110 - \$120       |
| Project Designer            | \$100 - \$110       |

*JLA Public Involvement, Inc.*

| <u>Labor Classification</u>             | <u>Billing Rate</u> |
|---|---------------------|
| Sr. Associate II                        | \$175               |
| Sr. Associate I                         | \$164.42            |
| Public Involvement Specialist (PIS) VII | \$149.85            |
| PIS VI                                  | \$135.07            |
| PIS V                                   | \$120.56            |

*Cascade Corrosion Consulting Services, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Corrosion Specialist        | \$127 - \$135       |
| Project Administration      | \$59 - \$63         |

*MENG Analysis*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$185 - \$285       |

*MWA Architects*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal-in-Charge         | \$195               |
| Project Architect           | \$110               |
| Project Coordinator         | \$90                |
| Project Designer            | \$100               |
| Technical II                | \$95                |
| Interior Designer           | \$85                |

*James M. Ellett Construction Co.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$100               |

*Acoustic Design Studio, Inc.*

| <u>Labor Classification</u> | <u>Billing Rate</u> |
|-----------------------------|---------------------|
| Principal                   | \$100               |

*Vac-X*

| <u>Labor Classification</u> | <u>Billing Rate</u>           |
|-----------------------------|-------------------------------|
| Pothole                     | \$542 each                    |
| Daily Mob                   | \$550                         |
| Coring/Restoration          | \$14.50 per inch of thickness |

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

**CONTRACT NO. 30001485**

**SHORT TITLE OF WORK PROJECT:  
On-Call Engineering Services**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and **CH2M Hill, Inc.**, hereafter called Contractor. The City's Project Manager for this contract is **Darren Kipper**.

**Effective Date and Duration**

This contract shall become effective on **August 30, 2010**. This contract shall expire, unless otherwise terminated or extended, on **August 30, 2013**.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed **\$500,000** 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): CH2M Hill

Address: 2020 SW Fourth Avenue, Suite 300, Portland, OR 97201

Employer Identification Number (EIN) 59-0918189

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

City of Portland Business License # 308278

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 Purchasing Agent 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 /X/ 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.

**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 Purchasing Agent.

## STATEMENT OF THE WORK AND PAYMENT SCHEDULE

### SCOPE OF WORK

The Contractor shall provide services to the City of Portland Water Bureau (PWB) for on-call miscellaneous professional services on an as-needed basis. There is no guarantee that the total dollar limit of the contract will be reached and there is no guarantee that all categories of services listed below will be required by the PWB. The task order amount may vary dependent upon the amount of work estimated for a particular task/project, but the contract shall not exceed \$500,000 with individual task orders not exceeding \$250,000 for the 3-year term of the contract.

PWB personnel shall provide the general scope of each task/project. The Contractor shall develop and negotiate the specific scope of work, budget and schedule in writing. If accepted, a task order shall be completed by the PWB's Contracts Administration Branch (CAB) and shall be signed by each party. Work to be performed may proceed once all parties have signed the task order.

Work shall be assigned as project needs are identified under this contract. The scope of work, schedule, deliverables and compensation for each project shall be established in writing via a task order prior to commencement of the work. Any changes must be agreed to by the both parties in writing as an amendment to the task order.

Following the notice to proceed issued by CAB, the PWB Project Manager shall work directly with the Contractor for the duration of the task order unless otherwise noted in the task order.

### WORK REQUIREMENTS

The Contractor shall provide engineering services as needed to complete the design of projects or project tasks as requested within potentially limited time frames. The Contractor shall be expected to work closely with designated PWB personnel. PWB shall determine the scope of work for each project.

Each assigned project shall have a maximum monetary limit established in the task order by PWB through negotiation with the successful Proposers prior to commencement of work. Such maximum amount may be exceeded only upon the written approval of the PWB via an amendment to the task order, and only for documented circumstances unforeseen at the time the project was accepted, or for a necessary change in the scope of work as originally requested by PWB.

The Contractor shall be required to:

1. Proceed with minimal direction and supervision;
2. Coordinate with other City departments and public and private utilities as directed by the PWB Project Manager;
3. Assist in securing land use and construction approvals (including work in environmental zones, conditional use approvals and building permit approvals);
4. Assist in securing other permits from other agencies, and;
5. Design each project in accordance with the following:
  - PWB Design Manual
  - PWB CAD Standards
  - Standard Construction Specifications for the City of Portland
  - Portland Water Bureaus Developers Manual
  - American Water Works Association
  - American Association of Testing Materials
  - City Erosion Control Manual
  - Occupational Safety and Health Administration
  - Oregon Administration Rules
  - Uniform Plumbing Code
  - All other applicable PWB manuals, policies and conditions included within the scope of each project.

The Contractor may be asked to provide specific services to complete engineering tasks that are a part of larger PWB projects. The engineering service areas required include planning, design, and construction management. Examples in each service area are described as follows:

#### **1. Planning**

This includes but is not limited to the following:

- (a) Prepare project concept reports and basis of design reports. Reports shall follow existing report outlines and guidelines provided by PWB. Existing reports typically include: project overflow/abstract, problem or opportunity statement, detailed alternative analysis, recommended alternative, key implementation challenges, and project work plan.
- (b) Hydraulic Modeling.
- (c) Business Case Development including benefit/cost analysis.
- (d) Alternative Analysis.
- (e) Cost Estimation.
- (f) Stakeholder Involvement.
- (g) Identification of permits, constructability issues, operability issues.
- (h) Geotechnical investigations and reports.
- (i) Environmental assessments.
- (j) Water availability and quality studies.
- (k) Analyze the function and operation of the project.

- (l) Evaluate cost efficiencies and refine cost estimates.
- (m) Biological assessments.
- (n) Evaluating alternatives and making recommendations.
- (o) Writing technical reports and memorandum.
- (p) Developing scopes of work for PTE services.
- (q) Project scheduling and resource loaded scheduling

## **2. Design**

This includes but is not limited to the following:

- (a) Project Management/Coordination.
- (b) Arranging survey work.
- (c) Erosion and Traffic Control Plans.
- (d) Soil Investigations.
- (e) Site Analysis.
- (f) Advancing the design to the 30% engineering design level.
- (g) Assistance in preparation of various applications, including permits to state and local government agencies.
- (h) Design milestone reports.
- (i) Developing scopes of work for PTE services.
- (j) Project scheduling and resource loaded scheduling.
- (k) Pre-design and alternative analysis.
- (l) Design services may include survey, architectural engineering, environmental engineering, public involvement, scheduling, report preparation, utility coordination, potholing, Operation & Maintenance (O&M) manuals, Quality Assurance/Quality Control (QA/QC), specification templates, preparation and submission of biddable plans and specifications and estimates.
- (m) Public education and involvement activities in the Design Project Management Plan and provide support services for PWB's Public Outreach Plans.
- (n) Writing technical reports and memorandum including Technical and Bidability, Constructability, Operability, and Environmental (BCOE) reviews of Designs, Drawings and Specifications.
- (o) Peer review of designs, drawings and specifications.
- (p) Design may also require a broad range of services such as civil, structural, mechanical, geotechnical, and electrical engineering, architectural, instrumentation and control, value engineering, public involvement, computer aided engineering for specialized engineering analysis, CAD, and permitting assistance.

## **3. Construction Management**

This includes but is not limited to the following:

- (a) Review of construction materials.

- (b) Response to PWB's construction contractor's requests for information, assistance in preparation of responses to construction claims, change orders, and other miscellaneous documents.
- (c) Construction oversight.
- (d) Attend the pre-construction conference(s)
- (e) Prepare Requests for Proposals directed to CM/GC for work considered beyond the Guaranteed Maximum Price (GMP) that may result in change orders issued by PWB.
- (f) Make periodic visits to the site to observe, as an experienced and qualified design engineer of record, the progress and quality of the assigned aspects of the work.
- (g) Determine if work is proceeding in accordance with the contract documents.
- (h) Provide a written response or report to the PWB of observations and recommendations based on site visits.
- (i) Assist in providing interpretations and clarifications of the contract documents in preparation of field orders and change orders.
- (j) Review shop drawings and submittals for contract compliance.
- (k) Provide qualified inspection services to support construction.
- (l) Collect and review all operating and maintenance manuals/instructions, schedules, certificates of inspection, tests and approvals.
- (m) Provide electronic versions of construction close-out as-builts that are developed by the construction contractor.
- (n) Develop and ensure compliance with the project punch list.
- (o) Obtain operations and maintenance data when required or specified.
- (p) Obtain guarantees and/or special warranties.
- (q) Review Requests for Information (RFI's) and provide response

#### CONTRACTOR PERSONNEL

The Contractor shall assign the following personnel to do the work in the capacities designated:

| NAME                | ROLE ON PROJECT  |
|---------------------|--|
| Dale Jutilia        | Contract/Project Manager   |
| Joe Broberg         | Civil Engineering Task Lead                                      |
| Jennifer Henke      | Hydraulic Modeling Task Lead                                     |
| Rob Edgerton        | Cost Estimating and Efficiencies Task Lead                       |
| Bill Hawkins        | Constructability & Operability, Tech and BCOE Review Task Lead   |
| Bill Gierer         | Constructability & Operability, Technical, BCOE Reviews          |
| Deanne Takasumi     | Geotechnical and Soil Engineering Task Lead                      |
| Steve Mader         | Environmental Assessments Task Lead                              |
| Lee Odell, PE       | Water Availability and Quality, O&M Manuals Task Lead            |
| Ken Carlson         | Biological Assessments Task lead                                 |
| Brad Phelps, PE     | Project and Resource-Loaded Scheduling, Plans and Specifications |
| Tony Brooks, PLS    | Surveying Task Lead  |
| Celena Stone        | Erosion and Traffic Control Plans Task Lead                      |
| Geoff Kirsten, LEED | Architectural Engineering, Task Lead                             |
| Mark Leece          | Environmental Engineering Task Lead                              |
| Sue Frey            | Structural Engineering, QA/QC Peer Review Task Lead              |
| Dave Mustonen, PE   | Mechanical Engineering Task Lead                                 |

|                       |   |
|-----------------------|---|
| Jerry Hildenbrand, PE | Electrical Engineering Task Lead                  |
| Jeff Stallard, PE     | Utility Coordination Task Lead                    |
| Jeff Kanyuch, PE      | Instrumentation & Control Engineering Task Lead   |
| Mike Doleac, PE       | Value Engineering Task Lead                       |
| Gary Gray             | Computer-Aided Drafting and Engineering Task Lead |

## SUBCONTRACTORS

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

| NAME                                 | ROLE ON PROJECT   |
|--------------------------------------|---|
| Bradford Consulting Engineers        | Electrical Engineering  |
| Brightworks Northwest                | Architectural Engineering   |
| Cascade Design Professionals         | Civil Engineering, Site Analysis, and Structural Engineering                    |
| Crane & Merseeth Engineering         | Surveying, Construction Oversight and Inspection Services                       |
| Environmental Science and Assessment | Environmental Assessments and Biological Assessments                            |
| JLA Public Involvement               | Stakeholder and Public Involvements   |
| Norsk Construction Services          | Construction Oversight and Inspection Services                                  |
| R. Hawley Consulting                 | Civil Engineering   |
| Superelevation                       | Computer-aided Engineering and Drafting   |
| Ukiah Engineering                    | Review of Construction Materials, Contractor RFI's Shop Drawings, Change Orders |
| Western States Soil Conservation     | Potholing   |
| Winterbrook Planning                 | Permitting  |

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

The Contractor shall 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 in the attached Exhibit A, Summary of Billing Classifications and Rate. 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.

### Multiplier Information

The multiplier applied to salaries shall not exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

### Standard Reimbursable Costs

The following costs shall be reimbursed without mark-up:

- Out-of-Town Travel. Travel (transportation, lodging and per diem) of Contractor and/or experts when specified in the contract or requested by PWB, directly attributed to specific tasks and when to a location outside a 100 mile radius of Contractor's project office. Travel costs shall be reimbursed in accordance with the City's Travel Expense Guidelines, which are based on the General Services Administration (GSA) per diem rates.

- Photocopying/Reproduction Costs. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Contractor's or sub's own use.

#### **Sub-consultant Costs**

Compensation for sub-consultants shall be limited to the same restrictions imposed on the Contractor. The maximum markup on sub-consultant services shall not exceed 5%, during the term of the contract.

#### **Adjustment of Hourly Rates Due to Inflation**

Annual adjustment of hourly rates shall be considered upon written request from the Contractor. 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 shall 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 and certified by the City of Portland Auditor);
- Rate increases shall not be retroactive.

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

#### **PAYMENT TERMS: Net 30 Days**

##### **Hourly Rates**

The Contractor shall be reimbursed in accordance with the rates listed on the attached Exhibit A, Summary of Billing Classifications and Rate.

##### **Progress Payments**

On or before the 15<sup>th</sup> of each month, the Contractor shall submit to the Water Bureau's Accounts Payable 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, tasks performed, and the percentage of work successfully completed for each task. The Contractor shall provide written explanation of deviations from the contract fees and provide measures of correction as necessary to ensure that the project remains on budget. The Contractor shall also attach photocopies of claimed reimbursable expenses. The City's Project Manager 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.

Invoices shall either be e-mailed to: [wb.accountspayablesection@ci.portland.or.us](mailto:wb.accountspayablesection@ci.portland.or.us) (this is the preferred method) or sent to:

City of Portland Water Bureau  
Attn: Accounts Payable  
1120 SW 5<sup>th</sup> Avenue, Room 609  
Portland, OR 97204

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, 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 Bureau to Contractor.



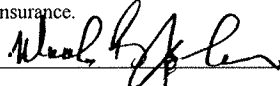
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## INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

## 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

11 June 2010

Entity

CH2M Hill, Inc.

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:**

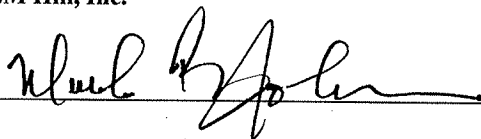
This contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

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.

CH2M Hill, Inc.

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



Date: 11 June 2010

Name: \_\_\_\_\_

Mark R. Johnson

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

Vice President

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

Contract Title: On-Call Engineering Services

## CITY OF PORTLAND SIGNATURES:

By: N/A  
Bureau Director

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

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

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

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

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

Approved:

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

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

Approved as to Form:

By: \_\_\_\_\_  
Office of City AttorneyDate: 6/18/10**APPROVED AS TO FORM****CITY ATTORNEY****SUBJECT TO INSURANCE APPROVAL**

## Portland Water Bureau On-Call Engineering Services

## Proposed Cost

*Our capabilities and existing tools will provide the best overall value to the Water Bureau.*

Exhibit 6 provides a rate schedule by classification for CH2M HILL staff who could be assigned for on-call services. The billable rates shown include a 3.1 multiplier. Exhibit 7 shows subconsultant team member billing rates. Subconsultants will be billed at cost plus 5 percent. Our team's local presence will reduce expenses and lower overall costs.

The total cost will also be lowered by using systems already in place that allow our team to make efficient use of time. For example, CH2M HILL's

cost-estimating systems provide construction cost estimates appropriate to the project status. Use of highly skilled, knowledgeable staff will help keep overall costs lower. During the course of delivering on-call services, team members will be on the lookout for opportunities to secure enhanced value for the Water Bureau. Together, our use of highly skilled staff, local presence, PDS approach, and the opportunity for knowledge transfer will create the best value for the Water Bureau.

### EXHIBIT 6

CH2M HILL Labor Rates (at 3.1 multiplier)

| Labor Category   | Average Hourly Billing Rates (at 3.1 multiplier)<br>(\$) |
|--|--|
| Office   | 80-95  |
| Staff Associate  | 90-105   |
| Associate Professional                                   | 100-115  |
| Engineer/Scientist/Professional                          | 110-125  |
| Project Manager/Project Engineer Scientist Professional  | 130-150  |
| Senior Engineer/Scientist                                | 150-175  |
| Program Manager/Senior Project Manager/Senior Consultant | 175-200  |
| Senior Technologist                                      | 200-225  |

**EXHIBIT 7**

Subconsultant Labor Rates (at 3.1 multiplier)

| <b>Firm</b>                            | <b>Hourly Billing Rate (\$)</b> |
|--|---------------------------------|
| Bradford Consulting Engineers          |                                 |
| Technical & Drafting                   | 64-115                          |
| Engineering                            | 70-165                          |
| Administration                         | 51-59                           |
| Brightworks Northwest                  |                                 |
| Senior Staff                           | 175-250                         |
| Project Manager                        | 125-150                         |
| Administrator/Project Assistant        | 50-100                          |
| Cascade Design                         |                                 |
| Senior/Principal Engineer              | 132-157                         |
| Planner/Engineer                       | 98-101                          |
| Technician                             | 61-87                           |
| Word Processing                        | 45-49                           |
| Crane & Merseeth Engineering/Surveying |                                 |
| Senior Surveyor/Engineer               | 102-105                         |
| Technician                             | 54-81                           |
| Administrative                         | 45                              |
| Environmental Science & Assessment     |                                 |
| Senior Scientist                       | 100-123                         |
| Administration/Scientist               | 68-70                           |
| JLA Public Involvement                 |                                 |
| Senior Associate                       | 165                             |
| Public Involvement Specialist          | 115-150                         |
| Norsk Construction Services            | 105                             |
| R. Hawley Consulting                   | 135                             |
| Superelevation                         |                                 |
| Drafter                                | 50-80                           |
| Project Engineer                       | 80                              |
| Ukiah Engineering                      |                                 |
| Senior Engineer/Project Manager        | 140-155                         |
| Engineer                               | 93-120                          |
| Technician/Assistant                   | 77-93                           |
| Western States Soil Conservation       | 85, plus \$400 mobilization     |
| Winterbrook Planning                   |                                 |
| Permit Manager                         | 157                             |
| Scientist/Planner                      | 85-91                           |
| Coordinator                            | 78                              |

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

**CONTRACT NO. 30001484**

**SHORT TITLE OF WORK PROJECT:  
On-Call Engineering Services**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and **Black & Veatch Corporation**, hereafter called Contractor. The City's Project Manager for this contract is **Darren Kipper**.

**Effective Date and Duration**

This contract shall become effective on **August 30, 2010**. This contract shall expire, unless otherwise terminated or extended, on **August 30, 2013**.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed **\$500,000** 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): **Black & Veatch Corporation**

Address: **4800 Meadows Road, Suite 200, Lake Oswego, OR 97035**

Employer Identification Number (EIN) **43-1833073**

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

City of Portland Business License # **652440**

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 Purchasing Agent 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: / ☒ / 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 / X / 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.

**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 Purchasing Agent.

## STATEMENT OF THE WORK AND PAYMENT SCHEDULE

### SCOPE OF WORK

The Contractor shall provide services to the City of Portland Water Bureau (PWB) for on-call miscellaneous professional services on an as-needed basis. There is no guarantee that the total dollar limit of the contract will be reached and there is no guarantee that all categories of services listed below will be required by the PWB. The task order amount may vary dependent upon the amount of work estimated for a particular task/project, but the contract shall not exceed \$500,000 with individual task orders not exceeding \$250,000 for the 3-year term of the contract.

PWB personnel shall provide the general scope of each task/project. The Contractor shall develop and negotiate the specific scope of work, budget and schedule in writing. If accepted, a task order shall be completed by the PWB's Contracts Administration Branch (CAB) and shall be signed by each party. Work to be performed may proceed once all parties have signed the task order.

Work shall be assigned as project needs are identified under this contract. The scope of work, schedule, deliverables and compensation for each project shall be established in writing via a task order prior to commencement of the work. Any changes must be agreed to by the both parties in writing as an amendment to the task order.

Following the notice to proceed issued by CAB, the PWB Project Manager shall work directly with the Contractor for the duration of the task order unless otherwise noted in the task order.

### WORK REQUIREMENTS

The Contractor shall provide engineering services as needed to complete the design of projects or project tasks as requested within potentially limited time frames. The Contractor shall be expected to work closely with designated PWB personnel. PWB shall determine the scope of work for each project.

Each assigned project shall have a maximum monetary limit established in the task order by PWB through negotiation with the successful Proposers prior to commencement of work. Such maximum amount may be exceeded only upon the written approval of the PWB via an amendment to the task order, and only for documented circumstances unforeseen at the time the project was accepted, or for a necessary change in the scope of work as originally requested by PWB.

The Contractor shall be required to:

1. Proceed with minimal direction and supervision;
2. Coordinate with other City departments and public and private utilities as directed by the PWB Project Manager;
3. Assist in securing land use and construction approvals (including work in environmental zones, conditional use approvals and building permit approvals);
4. Assist in securing other permits from other agencies, and;
5. Design each project in accordance with the following:
  - PWB Design Manual
  - PWB CAD Standards
  - Standard Construction Specifications for the City of Portland
  - Portland Water Bureaus Developers Manual
  - American Water Works Association
  - American Association of Testing Materials
  - City Erosion Control Manual
  - Occupational Safety and Health Administration
  - Oregon Administration Rules
  - Uniform Plumbing Code
  - All other applicable PWB manuals, policies and conditions included within the scope of each project.

The Contractor may be asked to provide specific services to complete engineering tasks that are a part of larger PWB projects. The engineering service areas required include planning, design, and construction management. Examples in each service area are described as follows:

#### **1. Planning**

This includes but is not limited to the following:

- (a) Prepare project concept reports and basis of design reports. Reports shall follow existing report outlines and guidelines provided by PWB. Existing reports typically include: project overflow/abstract, problem or opportunity statement, detailed alternative analysis, recommended alternative, key implementation challenges, and project work plan.
- (b) Hydraulic Modeling.
- (c) Business Case Development including benefit/cost analysis.
- (d) Alternative Analysis.
- (e) Cost Estimation.
- (f) Stakeholder Involvement.
- (g) Identification of permits, constructability issues, operability issues.
- (h) Geotechnical investigations and reports.
- (i) Environmental assessments.
- (j) Water availability and quality studies.
- (k) Analyze the function and operation of the project.

- (l) Evaluate cost efficiencies and refine cost estimates.
- (m) Biological assessments.
- (n) Evaluating alternatives and making recommendations.
- (o) Writing technical reports and memorandum.
- (p) Developing scopes of work for PTE services.
- (q) Project scheduling and resource loaded scheduling

## **2. Design**

This includes but is not limited to the following:

- (a) Project Management/Coordination.
- (b) Arranging survey work.
- (c) Erosion and Traffic Control Plans.
- (d) Soil Investigations.
- (e) Site Analysis.
- (f) Advancing the design to the 30% engineering design level.
- (g) Assistance in preparation of various applications, including permits to state and local government agencies.
- (h) Design milestone reports.
- (i) Developing scopes of work for PTE services.
- (j) Project scheduling and resource loaded scheduling.
- (k) Pre-design and alternative analysis.
- (l) Design services may include survey, architectural engineering, environmental engineering, public involvement, scheduling, report preparation, utility coordination, potholing, Operation & Maintenance (O&M) manuals, Quality Assurance/Quality Control (QA/QC), specification templates, preparation and submission of biddable plans and specifications and estimates.
- (m) Public education and involvement activities in the Design Project Management Plan and provide support services for PWB's Public Outreach Plans.
- (n) Writing technical reports and memorandum including Technical and Bidability, Constructability, Operability, and Environmental (BCOE) reviews of Designs, Drawings and Specifications.
- (o) Peer review of designs, drawings and specifications.
- (p) Design may also require a broad range of services such as civil, structural, mechanical, geotechnical, and electrical engineering, architectural, instrumentation and control, value engineering, public involvement, computer aided engineering for specialized engineering analysis, CAD, and permitting assistance.

## **3. Construction Management**

This includes but is not limited to the following:

- (a) Review of construction materials.

- (b) Response to PWB's construction contractor's requests for information, assistance in preparation of responses to construction claims, change orders, and other miscellaneous documents.
- (c) Construction oversight.
- (d) Attend the pre-construction conference(s)
- (e) Prepare Requests for Proposals directed to CM/GC for work considered beyond the Guaranteed Maximum Price (GMP) that may result in change orders issued by PWB.
- (f) Make periodic visits to the site to observe, as an experienced and qualified design engineer of record, the progress and quality of the assigned aspects of the work.
- (g) Determine if work is proceeding in accordance with the contract documents.
- (h) Provide a written response or report to the PWB of observations and recommendations based on site visits.
- (i) Assist in providing interpretations and clarifications of the contract documents in preparation of field orders and change orders.
- (j) Review shop drawings and submittals for contract compliance.
- (k) Provide qualified inspection services to support construction.
- (l) Collect and review all operating and maintenance manuals/instructions, schedules, certificates of inspection, tests and approvals.
- (m) Provide electronic versions of construction close-out as-builts that are developed by the construction contractor.
- (n) Develop and ensure compliance with the project punch list.
- (o) Obtain operations and maintenance data when required or specified.
- (p) Obtain guarantees and/or special warranties.
- (q) Review Requests for Information (RFI's) and provide response

#### **CONTRACTOR PERSONNEL**

The Contractor shall assign the following personnel to do the work in the capacities designated:

| <b>NAME</b>             | <b>ROLE ON PROJECT</b>                |
|-------------------------|---------------------------------------|
| Dan Meyer, P.E.         | Principal in Charge                   |
| Wayne Gresh, P.E.       | Project Manager                       |
| Alan Peck, P.E.         | Project Manager                       |
| Dan Bunce, P.E.         | PMP Water/Wastewater Asset Management |
| Rich Blackmun           | Engineering Manager                   |
| Pat Van Duser, P.E.     | Engineering Manager                   |
| Jeff Lindgren, P.E.     | P.L.S. Engineering Manager            |
| Michelle Cheek          | Engineering Manager                   |
| Carmen Nale, P.E.       | Project Engineer                      |
| Mike Idehara, E.I.T.    | Staff Engineer                        |
| Jim Schnurr             | Construction Manager                  |
| Dr. Ben Klayman         | Water Treatment & Quality Tech Expert |
| Catherine Spencer, P.E. | Corrosion Control/Water Quality Tech  |

## SUBCONTRACTORS

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

| NAME                               | ROLE ON PROJECT                                 |
|------------------------------------|---|
| AECOM                              | Hydraulic Modeling, Civil Engineering           |
| Alcantar & Associates              | CADD  |
| Convergent Pacific                 | Structural Engineering                          |
| Cornforth Consultants              | Geotechnical Engineering                        |
| Environmental Science & Assessment | Environmental Permitting                        |
| Epsilon Engineering                | Electrical and I&C Engineering                  |
| JLA Public Involvement             | Public Involvement                              |
| Pinnell/Busch                      | Construction Management and Resident Inspection |
| Pacific Land Services, Inc.        | Easement Acquisitions                           |
| R. Hawley Consulting               | Operations and SCADA Support                    |
| Ukiah engineering                  | Construction Management and Resident Inspection |
| Winterbrook Planning               | Building and Land Use Planning.                 |

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

The Contractor shall 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 in the attached Exhibit A, Summary of Billing Classifications and Rate. 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.

### Multiplier Information

The multiplier applied to salaries shall not exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

### Standard Reimbursable Costs

The following costs shall be reimbursed without mark-up:

- Out-of-Town Travel. Travel (transportation, lodging and per diem) of Contractor and/or experts when specified in the contract or requested by PWB, directly attributed to specific tasks and when to a location outside a 100 mile radius of Contractor's project office. Travel costs shall be reimbursed in accordance with the City's Travel Expense Guidelines, which are based on the General Services Administration (GSA) per diem rates.
- Photocopying/Reproduction Costs. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Contractor's or sub's own use.

### Sub-consultant Costs

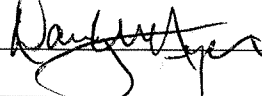
Compensation for sub-consultants shall be limited to the same restrictions imposed on the Contractor. The maximum markup on sub-consultant services shall not exceed 5%, during the terms of the contract.

## 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

6-8-10

Entity

Black &amp; Veatch Corporation

**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



184250

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

Contract Title: On-Call Engineering Services

**CITY OF PORTLAND SIGNATURES:**

By: N/A Date: \_\_\_\_\_  
Bureau Director

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

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

Approved:

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

Approved as to Form:

By: APPROVED AS TO FORM Date: 6/18/10  
Office of City Attorney

*Andrea Nguyen*  
CITY ATTORNEY  
SUBJECT TO INSURANCE APPROVAL



# PROPOSED COST

PORTLAND WATER BUREAU

**Hourly billing rates** for Black & Veatch by staff classification and for key subconsultant team members are included in this section. These billings rates reflect a maximum multiplier applied to our labor costs of 3.1 and include fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, leasing of office equipment, mileage and other local travel costs, information technology (including computer time and CAD equipment and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profits. Actual hourly billing rates will be actual labor costs times a multiplier of 3.1.

The rates shown are applicable through March 2011, at which time a rate increase may occur reflecting Black & Veatch annual salary compensation adjustments. The hourly rate adjustments will be in an amount not to exceed the average inflation rate for the Portland Metropolitan Area as determined from the US Department of Labor statistics and certified by the City of Portland Auditor.

**Subconsultant Markup:** Subconsultant invoices to Black & Veatch will be billed at cost plus 5%.

| Staff Classification                            | Family Level | Hourly Billing Rates  |                    |
|---|--------------|-----------------------|--------------------|
|   |              | Regular Time(\$/hour) | Overtime (\$/hour) |
| Black & Veatch                                  |              |                       |                    |
| Project Director (Meyer)                        |              | 230                   | 230                |
| Sr. Project Manager (Gresh, Peck)               |              | 202                   | 202                |
| Engineering Manager (Blackmun)                  |              | 185                   | 185                |
| Sr. Civil Engineer (Cheek, Lindgren, Van Duser) | 0806-0808    | 170                   | 170                |
| Lead Civil Engineer (Nale)                      | 0804-0805    | 150                   | 150                |
| Design Engineer (Idehara)                       | 0803         | 120                   | 120                |
| Associate Civil Engineer                        | 0801-0802    | 95                    | 95                 |
| Sr. Structural Engineer                         | 0806-0808    | 170                   | 170                |
| Lead Structural Engineer                        | 0804-0805    | 150                   | 150                |
| Design Structural Engineer                      | 0803         | 115                   | 115                |
| Associate Structural Engineer                   | 0801-0802    | 95                    | 95                 |

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**PROPOSED COST**

PORTLAND WATER BUREAU

| Staff Classification                   | Family Level | Hourly Billing Rates  |                    |
|--|--------------|-----------------------|--------------------|
|  |              | Regular Time(\$/hour) | Overtime (\$/hour) |
| Sr. Mechanical Engineer                | 0806-0808    | 170                   | 170                |
| Lead Mechanical Engineer               | 0804-0805    | 145                   | 145                |
| Design Mechanical Engineer             | 0803         | 115                   | 115                |
| Associate Mechanical Engineer          | 0801-0802    | 95                    | 95                 |
| Sr. Electrical Engineer                | 0806-0808    | 165                   | 165                |
| Lead Electrical Engineer               | 0804-0805    | 140                   | 140                |
| Design Electrical Engineer             | 0803         | 115                   | 115                |
| Associate Electrical Engineer          | 0801-0802    | 95                    | 95                 |
| Sr. Construction Manager (Schnurr)     | 0806         | 170                   | 170                |
| Construction Manager                   | 0804-0805    | 135                   | 135                |
| Construction Inspector                 | 0802-0803    | 100                   | 100                |
| Sr. Engineering Technician (Eggleston) | 0408-0409    | 115                   | 172                |
| Advanced Engineering Technician        | 0405-0407    | 85                    | 127                |
| Eng/Staff Engineering Technician       | 0401-0404    | 70                    | 105                |
| <b>SUBCONSULTANTS</b>                  |              |                       |                    |
| <b>AECOM</b>                           |              |                       |                    |
| Sr. Technical Advisor                  |              | 190                   | 190                |
| Sr. Civil Engineer                     |              | 170                   | 170                |
| Civil Engineer                         |              | 125                   | 125                |
| <b>Alcantar and Associates</b>         |              |                       |                    |
| Civil Engineer                         |              | 120                   | 120                |
| Engineering Technician                 |              | 100                   | 150                |
| <b>Convergent Pacific</b>              |              |                       |                    |
| Structural Engineer                    |              | 150                   | 150                |
| <b>Cornforth Consultants</b>           |              |                       |                    |
| Senior Associate Engineer/Geologist    |              | 185                   | 185                |
| Associate Engineer/Geologist           |              | 150                   | 150                |
| Project Engineer/Geologist             |              | 115                   | 115                |
| Staff Engineer/Geologist               |              | 100                   | 100                |
| Technician                             |              | 70                    | 105                |
| CADD/Graphics                          |              | 90                    | 135                |
| Administrative Assistant/Secretary     |              | 67                    | 100                |
| <b>Epsilon Engineering</b>             |              |                       |                    |
| Project Management                     |              | 130                   | 130                |
| Electrical Engineer                    |              | 130                   | 130                |
| Designer/Technician                    |              | 75                    | 75                 |
| CADD                                   |              | 60                    | 90                 |



# PROPOSED COST

PORTLAND WATER BUREAU

| Staff Classification                    | Family Level | Hourly Billing Rates  |                    |
|---|--------------|-----------------------|--------------------|
|   |              | Regular Time(\$/hour) | Overtime (\$/hour) |
| Administrative Assistant/Secretary      |              | 50                    | 75                 |
| <b>ES&amp;A, LLC</b>                    |              |                       |                    |
| Principal, Sr. Environmental Scientist  |              | 145                   | 145                |
| Sr Wetland Scientist/Botanist           |              | 120                   | 120                |
| Sr Wetland Scientist/Wildlife Biologist |              | 120                   | 120                |
| Wetland Scientist                       |              | 80                    | 80                 |
| <b>JLA Public Involvement</b>           |              |                       |                    |
| Public Involvement Specialist           |              | 150                   | 150                |
| <b>Pacific Land Services, Inc.</b>      |              |                       |                    |
| Sr. Right-of-Way Agent                  |              | 85                    | 85                 |
| <b>Pinnel/Busch</b>                     |              |                       |                    |
| Principal, Project Manager              |              | 150                   | 150                |
| Construction Manager                    |              | 130                   | 130                |
| Resident Inspection                     |              | 110                   | 110                |
| <b>R Hawley Consulting</b>              |              |                       |                    |
| Principal, Engineer                     |              | 125                   | 125                |
| <b>Ukiah Engineering, Inc.</b>          |              |                       |                    |
| Construction Manager                    |              | 135                   | 135                |
| Resident Inspection                     |              | 110                   | 110                |
| <b>Winterbrook Planning</b>             |              |                       |                    |
| Principal, Sr. Permitting Specialist    |              | 150                   | 135                |
| Permitting Assistant                    |              | 110                   | 110                |

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

**CONTRACT NO. 30001483**

**SHORT TITLE OF WORK PROJECT:  
On-Call Engineering Services**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and **Brown & Caldwell**, hereafter called Contractor. The City's Project Manager for this contract is **Darren Kipper**.

**Effective Date and Duration**

This contract shall become effective on **August 30, 2010**. This contract shall expire, unless otherwise terminated or extended, on **August 30, 2013**.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed **\$500,000** 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.

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**CONTRACTOR DATA AND CERTIFICATION**

Name (please print): Brown and Caldwell

Address: 6500 SW Macadam Avenue, Suite 200, Portland, OR 97239

Employer Identification Number (EIN) 94-1446346

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

City of Portland Business License # 373682

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.

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**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 Purchasing Agent 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 / X / 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.

**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 Purchasing Agent.

## STATEMENT OF THE WORK AND PAYMENT SCHEDULE

### SCOPE OF WORK

The Contractor shall provide services to the City of Portland Water Bureau (PWB) for on-call miscellaneous professional services on an as-needed basis. There is no guarantee that the total dollar limit of the contract will be reached and there is no guarantee that all categories of services listed below will be required by the PWB. The task order amount may vary dependent upon the amount of work estimated for a particular task/project, but the contract shall not exceed \$500,000 with individual task orders not exceeding \$250,000 for the 3-year term of the contract.

PWB personnel shall provide the general scope of each task/project. The Contractor shall develop and negotiate the specific scope of work, budget and schedule in writing. If accepted, a task order shall be completed by the PWB's Contracts Administration Branch (CAB) and shall be signed by each party. Work to be performed may proceed once all parties have signed the task order.

Work shall be assigned as project needs are identified under this contract. The scope of work, schedule, deliverables and compensation for each project shall be established in writing via a task order prior to commencement of the work. Any changes must be agreed to by the both parties in writing as an amendment to the task order.

Following the notice to proceed issued by CAB, the PWB Project Manager shall work directly with the Contractor for the duration of the task order unless otherwise noted in the task order.

### WORK REQUIREMENTS

The Contractor shall provide engineering services as needed to complete the design of projects or project tasks as requested within potentially limited time frames. The Contractor shall be expected to work closely with designated PWB personnel. PWB shall determine the scope of work for each project.

Each assigned project shall have a maximum monetary limit established in the task order by PWB through negotiation with the successful Proposers prior to commencement of work. Such maximum amount may be exceeded only upon the written approval of the PWB via an amendment to the task order, and only for documented circumstances unforeseen at the time the project was accepted, or for a necessary change in the scope of work as originally requested by PWB.

The Contractor shall be required to:

1. Proceed with minimal direction and supervision;
2. Coordinate with other City departments and public and private utilities as directed by the PWB Project Manager;
3. Assist in securing land use and construction approvals (including work in environmental zones, conditional use approvals and building permit approvals);
4. Assist in securing other permits from other agencies, and;
5. Design each project in accordance with the following:
  - PWB Design Manual
  - PWB CAD Standards
  - Standard Construction Specifications for the City of Portland
  - Portland Water Bureaus Developers Manual
  - American Water Works Association
  - American Association of Testing Materials
  - City Erosion Control Manual
  - Occupational Safety and Health Administration
  - Oregon Administration Rules
  - Uniform Plumbing Code
  - All other applicable PWB manuals, policies and conditions included within the scope of each project.

The Contractor may be asked to provide specific services to complete engineering tasks that are a part of larger PWB projects. The engineering service areas required include planning, design, and construction management. Examples in each service area are described as follows:

### 1. Planning

This includes but is not limited to the following:

- (a) Prepare project concept reports and basis of design reports. Reports shall follow existing report outlines and guidelines provided by PWB. Existing reports typically include: project overflow/abstract, problem or opportunity statement, detailed alternative analysis, recommended alternative, key implementation challenges, and project work plan.
- (b) Hydraulic Modeling.
- (c) Business Case Development including benefit/cost analysis.
- (d) Alternative Analysis.
- (e) Cost Estimation.
- (f) Stakeholder Involvement.
- (g) Identification of permits, constructability issues, operability issues.
- (h) Geotechnical investigations and reports.
- (i) Environmental assessments.
- (j) Water availability and quality studies.
- (k) Analyze the function and operation of the project.

- (l) Evaluate cost efficiencies and refine cost estimates.
- (m) Biological assessments.
- (n) Evaluating alternatives and making recommendations.
- (o) Writing technical reports and memorandum.
- (p) Developing scopes of work for PTE services.
- (q) Project scheduling and resource loaded scheduling

## **2. Design**

This includes but is not limited to the following:

- (a) Project Management/Coordination.
- (b) Arranging survey work.
- (c) Erosion and Traffic Control Plans.
- (d) Soil Investigations.
- (e) Site Analysis.
- (f) Advancing the design to the 30% engineering design level.
- (g) Assistance in preparation of various applications, including permits to state and local government agencies.
- (h) Design milestone reports.
- (i) Developing scopes of work for PTE services.
- (j) Project scheduling and resource loaded scheduling.
- (k) Pre-design and alternative analysis.
- (l) Design services may include survey, architectural engineering, environmental engineering, public involvement, scheduling, report preparation, utility coordination, potholing, Operation & Maintenance (O&M) manuals, Quality Assurance/Quality Control (QA/QC), specification templates, preparation and submission of biddable plans and specifications and estimates.
- (m) Public education and involvement activities in the Design Project Management Plan and provide support services for PWB's Public Outreach Plans.
- (n) Writing technical reports and memorandum including Technical and Bidability, Constructability, Operability, and Environmental (BCOE) reviews of Designs, Drawings and Specifications.
- (o) Peer review of designs, drawings and specifications.
- (p) Design may also require a broad range of services such as civil, structural, mechanical, geotechnical, and electrical engineering, architectural, instrumentation and control, value engineering, public involvement, computer aided engineering for specialized engineering analysis, CAD, and permitting assistance.

## **3. Construction Management**

This includes but is not limited to the following:

- (a) Review of construction materials.

- (b) Response to PWB's construction contractor's requests for information, assistance in preparation of responses to construction claims, change orders, and other miscellaneous documents.
- (c) Construction oversight.
- (d) Attend the pre-construction conference(s)
- (e) Prepare Requests for Proposals directed to CM/GC for work considered beyond the Guaranteed Maximum Price (GMP) that may result in change orders issued by PWB.
- (f) Make periodic visits to the site to observe, as an experienced and qualified design engineer of record, the progress and quality of the assigned aspects of the work.
- (g) Determine if work is proceeding in accordance with the contract documents.
- (h) Provide a written response or report to the PWB of observations and recommendations based on site visits.
- (i) Assist in providing interpretations and clarifications of the contract documents in preparation of field orders and change orders.
- (j) Review shop drawings and submittals for contract compliance.
- (k) Provide qualified inspection services to support construction.
- (l) Collect and review all operating and maintenance manuals/instructions, schedules, certificates of inspection, tests and approvals.
- (m) Provide electronic versions of construction close-out as-builts that are developed by the construction contractor.
- (n) Develop and ensure compliance with the project punch list.
- (o) Obtain operations and maintenance data when required or specified.
- (p) Obtain guarantees and/or special warranties.
- (q) Review Requests for Information (RFI's) and provide response

#### CONTRACTOR PERSONNEL

The Contractor shall assign the following personnel to do the work in the capacities designated:

| NAME               | ROLE ON PROJECT  |
|--------------------|--|
| Jim Hansen         | Concept, BDR Reports, Preliminary Engineering/Asset Management         |
| Steff Neff         | Business Case/Cost-Benefit   |
| Butch Matthews     | Cost Estimating  |
| Jack Warburton     | Risk Analysis  |
| Steve Merrill      | Survey/Transient Analysis  |
| Robert Kremer      | Hazard Planning  |
| Bill Perisch       | Large Water Treatment Plant Design and Construction GM/GC/Disinfection |
| Angela Wieland     | Permitting, Watershed maintenance                                      |
| Marc Masionville   | Electrical, Control, SCADA   |
| Daryl Buhman       | Mechanical   |
| Eric Falken        | CAD/BIM, Structural  |
| Nate Whirty        | GIS, 3D AutoCAD  |
| Phil Roppo         | Pipeline Design  |
| Scott Harper       | Tank Design  |
| Brandon Heidelberg | Tank Design, General Civil   |
| Krystal Pruzinsky  | Pump Station Design, General Civil                                     |
| Dale Lough         | Pump Station Design, Pipeline  |

|                             |  |
|-----------------------------|--|
| Jennifer Belknap-Williamson | Leeds/Green Designs and Energy ETO         |
| Kelly Newman                | Civil Site and Piping, hydraulics          |
| Dave Murray                 | Civil Site and Piping, Disinfection        |
| Tom Lebo                    | Construction Oversight/ BCOE Reviews/GM/GC |
| Jerome Dulutzke             | Construction Management                    |
| Cameron Foucht              | Construction management                    |
| Doug Wise                   | O&M Manuals                                |
| Max Hidlerbrand             | O&M Manuals                                |
| Ralph Gabriel               | Advisor/QA/QC/Peer Review/Pipelines        |
| Neil Waterman               | Advisor/QA/QC/Peer Review/Pump Station     |
| Mike Milne                  | Watershed Maintenance                      |
| Jim Doane                   | Dams                                       |

## SUBCONTRACTORS

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

| NAME                               | ROLE ON PROJECT                           |
|------------------------------------|---|
| Baarspul Consulting, Inc           | Traffic/Construction Management           |
| Burgee Architecture, LLC           | Architectural                             |
| Cascade Design                     | Structural Tank Design                    |
| Cascade Corrosion Consulting       | Corrosion                                 |
| Crane & Merseeth                   | Inspection/Survey                         |
| Greenworks                         | Landscape                                 |
| Integrated Water Solutions, LLC    | Environmental Biological assessments      |
| Jacobs Associates                  | Tunneling Directional Boring              |
| Jeanne Lawson Associates, Inc      | Public Support                            |
| Jordan, Jones, and Guilding        | Security                                  |
| Kittleson and Associates           | Street Design –Traffic Management         |
| Pacific Geotechnical, LLC          | Geotechnical                              |
| Pinnell Busch, Inc.                | Scheduling Resources                      |
| R. Hawley Consulting               | Planning, Hydraulic, Analysis, SCADA, O7M |
| Right of Way Associates            | Property and Easement Acquisitions        |
| Robert G. Jossis Consulting        | Project Review                            |
| Robinson, Stafford, and Rude, Inc. | VE Facilitator                            |
| Winterbrook Planning               | Permitting                                |
| Shannon & Wilson, Inc.             | Geotechnical                              |
| Superelevation                     | CAD                                       |

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

The Contractor shall 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 in the attached Exhibit A, Summary of Billing Classifications and Rate. 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.

**Multiplier Information**

The multiplier applied to salaries shall not exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

**Standard Reimbursable Costs**

The following costs shall be reimbursed without mark-up:

- Out-of-Town Travel. Travel (transportation, lodging and per diem) of Contractor and/or experts when specified in the contract or requested by PWB, directly attributed to specific tasks and when to a location outside a 100 mile radius of Contractor's project office. Travel costs shall be reimbursed in accordance with the City's Travel Expense Guidelines, which are based on the General Services Administration (GSA) per diem rates.
- Photocopying/Reproduction Costs. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Contractor's or sub's own use.

**Sub-consultant Costs**

Compensation for sub-consultants shall be limited to the same restrictions imposed on the Contractor. The maximum markup on sub-consultant services shall not exceed 5%, during the terms of the contract.

**Adjustment of Hourly Rates Due to Inflation**

Annual adjustment of hourly rates shall be considered upon written request from the Contractor. 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 shall 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 and certified by the City of Portland Auditor);
- Rate increases shall not be retroactive.

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

**PAYMENT TERMS: Net 30 Days****Hourly Rates**

The Contractor shall be reimbursed in accordance with the rates listed on the attached Exhibit A, Summary of Billing Classifications and Rate.

**Progress Payments**

On or before the 15<sup>th</sup> of each month, the Contractor shall submit to the Water Bureau's Accounts Payable 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, tasks performed, and the percentage of work successfully completed for each task. The Contractor shall provide written explanation of deviations from the contract fees and provide measures of correction as necessary to ensure that the project remains on budget. The Contractor shall also attach photocopies of claimed reimbursable expenses.

## 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 Brent R. Runkle Date 6-21-10 Entity BC

**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 \_\_\_\_\_

184250

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

Contract Title: On-Call Engineering Services

**CITY OF PORTLAND SIGNATURES:**

By: N/A Date: \_\_\_\_\_  
Bureau Director

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

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

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

Approved as to Form:

By: APPROVED AS TO FORM Date: 6/25/10  
Office of City Attorney  
*Paula Nguyen*  
CITY ATTORNEY



## Proposed Cost

Overtime incurred on projects is billed at the standard hourly rates. No equipment or test fees are anticipated for the proposed service categories. Subconsultant activities (e.g., surveying, environmental permitting, ecosystems services, etc.) are billed at our cost with a 5 percent markup. Printing and other direct expenses will be billed without a markup. Indirect costs are included in our billing rates.

### Billing for Travel

Employee travel costs beyond a 50 mile radius of the City of Portland will be billed as a direct cost. There are no specific mobilization charges, minimum charges or trip charges other than mileage charges which are billed at the Internal Revenue Service's Standard Mileage Rates.

### Billing for Standby Time

No standby charges are anticipated for any of the service categories for which Brown and Caldwell has applied.

### Overhead, Support and Administration Charges

Project support staff will bill to the project at the hourly rates summarized in Table 8 and 9.

### Managerial Charges

Project managerial costs will bill to the project at the hourly rates summarized in Table 8 and 9. Regularly scheduled Project Delivery Officer reviews occur on all Brown and Caldwell projects to ensure project quality and adherence to the critical success factors as identified by the client. This process ensures timely, cost-effective project delivery.

Our rate table is provided below in Table 8 and 9. Hourly rates for each team member and subconsultant are provided. The multiplier applied to our Brown and Caldwell team members' hourly rates is 3.1. This multiplier does include non-reimbursable expenses as stipulated in the request for proposals. Our subconsultants' rates do not include a 5 percent Brown and Caldwell markup.

**Table 8 - Brown and Caldwell Fee Schedule**

| Classification/Staff   | Hourly Billing Rates, \$ |
|------------------------|--------------------------|
| Word Processor III     | 44                       |
| Word Processor IV      | 50                       |
| Administrative Manager | 57                       |
| Lead Drafter           | 67                       |
| Senior Designer        | 78                       |
| Engineer II            | 93                       |
| Engineer III           | 110                      |
| Senior Engineer        | 130                      |
| Principal Engineer     | 154                      |
| Supervising Engineer   | 182                      |
| Managing Engineer      | 202                      |
| Executive Engineer     | 225                      |



Table 9 - Subconsultant Fee Schedule

| Firm  | Lead Staff Member | Hourly Billing Rates, \$ |
|---|-------------------|--------------------------|
| Baarspul Consulting<br>Multiplier: 3.0        | Jerry Baarspul    | 135                      |
| Cascade Corrosion<br>Multiplier: 2.9          | George Richards   | 126                      |
| Cascade Design<br>Multiplier: 3.1             | Paul Kluvers      | 136                      |
| Don Stafford<br>Multiplier: 3.1               | Don Stafford      | 255                      |
| Greenworks<br>Multiplier: 3.1                 | Mikie Faha        | 160                      |
| Integrated Water Solutions<br>Multiplier: 2.5 | Terry Buchholtz   | 175                      |
| Jacobs Associates<br>Multiplier: 3.09         | Mark Havekost     | 210                      |
| Jeanne Lawson Associates<br>Multiplier: 3.1   | Doug Zenn         | 165                      |
| Kittelston & Associates<br>Multiplier: 3.09   | Mike Coleman      | 200                      |
| Michael Willis Architects<br>Multiplier: 3.1  | Jeff McGraw       | 110                      |
| Pacific Geotechnical<br>Multiplier: 3.067     | Andre Mare        | 140                      |
| R. Hawley Consulting<br>Multiplier: 3.0       | Randy Hawley      | 135                      |
| Right of Way Associates<br>Multiplier: 3.1    | R. David Feinauer | 103                      |
| Winterbrook Planning<br>Multiplier: 3.1       | Tim Brooks        | 157                      |
| Burgee Architecture<br>Multiplier: 3.0        | Kevin Burgee      | 150                      |
| Shannon & Wilson<br>Multiplier: 3.1           | Jerry Jacksha     | 240                      |
| Superelevation<br>Multiplier: 2.9             | Kevin Prado       | 80                       |
| R. Jossis Consulting<br>Multiplier: 2.1       | Bob Jossis        | 140                      |
| Crane & Merseth<br>Multiplier: 3              | Gordon Merseth    | 101                      |

*Billing rates for lead personnel. Billing rates for supporting staff will be at subconsultant established rates.*

