

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

CONTRACT NO. 30002549

**SHORT TITLE OF WORK PROJECT:
Water Rate Structure Review**

This contract is between the City of Portland ("City," or "Bureau") and **Gary Fiske and Associates, Inc.**, hereafter called Contractor. The City's Project Manager for this contract is **David Hasson**.

Effective Date and Duration

This contract shall become effective on **April 1, 2012**. This contract shall expire, unless otherwise terminated or extended, on **March 1, 2013**.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed **\$150,000** 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): Gary Fiske & Associates

Address: 2924 NE 43rd Avenue, Portland, OR 97213

Employer Identification Number (EIN) 261682592

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

City of Portland Business License # 439400

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.

TERMS AND CONDITIONS

1. Standard of Care: Contractor shall perform all services under this contract using that care, skill and diligence that would ordinarily be used by similar professionals in this community in similar circumstances.

2. Effect of Expiration

Passage of the contract expiration date 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 corrected.

3. Order of Precedence

This contract consists of these Terms and Conditions, the Statement of Work and Payment Schedule, and any exhibits that are attached. Any apparent or alleged conflict between these items will be resolved by using the following order of precedence: a) these Terms and Conditions; b) Statement of Work and Payment Schedule; and c) any exhibits attached to the contract.

4. Early Termination of Contract

(a) The City may terminate this Contract for convenience at any time for any reason deemed appropriate in its sole discretion. Termination is effective immediately upon notice of termination given by the City.

(b) Either party may terminate this Contract in the event of a material breach by the other party that is not cured. Before termination is permitted, the party seeking termination shall give the other party written notice of the breach, its intent to terminate and fifteen (15) calendar days to cure the breach. If the breach is not cured within 15 days, the party seeking termination may terminate immediately by giving written notice that the Contract is terminated.

5. Remedies and Payment on Early Termination

- (a) If the City terminates pursuant to 4(a) above, the City shall pay the Contractor for work performed in accordance with the Contract prior to the termination date. No other costs or loss of anticipated profits shall be paid.
- (b) If the City terminates pursuant to 4(b) above, the City is entitled all remedies available at law or equity. In addition, Contractor shall pay the City all damages, costs and sums incurred by the City as a result of the breach.
- (c) If the Contractor justifiably terminates the contract pursuant to subsection 4(b), the Contractor's only remedy is payment for work prior to the termination. No other costs or loss of anticipated profits shall be paid.
- (d) If the City's termination under Section 4(b) was wrongful, the termination shall be automatically converted to one for convenience and the Contractor shall be paid as if the Contract was terminated under Section 4(a).
- (e) In the event of early termination the Contractor's work product before the date of termination becomes property of the City.

6. 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.

7. Compliance with Applicable Law

Contractor shall comply with all applicable federal, state and local laws and regulations. Contractor agrees it currently is in compliance with all tax laws.

8. Indemnification for Property Damage and Personal Injury

Contractor shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from all claims, losses, damages, and costs (including reasonable attorney fees) for personal injury and property damage arising out of the intentional or negligent acts or omissions of the Contractor, its Subcontractors, suppliers, employees or agents in the performance of its services. Nothing in this paragraph requires the Contractor or its insurer to indemnify the City for claims of personal injury or property damage caused by the negligence of the City. This duty shall survive the expiration or termination of this contract.

9. Insurance

During the term of this contract, Contractor shall maintain in force at its own expense, the 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) Commercial 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 Insureds, but only with respect to the Contractor's services to be provided under this Contract:

Required by operating Bureau X

Waived by operating Bureau Director or designee

- (c) 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 non-owned vehicles, as applicable:

Required by operating Bureau X

Waived by operating Bureau Director or designee

- (d) Professional Liability insurance with a combined single limit of not less than \$1,000,000 per claim, incident, or occurrence. If insurance is provided on a "claims made" basis the Contractor shall acquire "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If not feasible, contractor shall notify City immediately.

Required by operating Bureau X

Waived by operating Bureau Director or designee

- (e) There shall be no cancellation, material change, reduction of limits, or intent not to renew any required insurance without 30 days written notice from the Contractor or its insurer(s) to the City.
- (f) Certificates of insurance. The Contractor shall furnish acceptable insurance certificates to the City showing the required insurance coverage. The certificate will specify all of the parties who are Additional Insureds. Certificates and insurers are subject to City approval. Complete policy copies shall be provided to the City upon request. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

10. Ownership of Work Product

All work product produced by the Contractor under this contract is the exclusive property of the City. "Work Product" includes, but is not 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.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets and other proprietary rights of Contractor are and will remain the exclusive property of Contractor.

11. EEO Certification: In the event Contractor provides in excess of \$2,500.00 for services to the City in any fiscal year, Contractor shall obtain EEO certification from the City.

12. Equal Benefits

Contractor must comply with the City's Equal Benefits program as prescribed by Chapter 3.100 of the Code of the City of Portland. The required documentation must be filed with Procurement Services, City of Portland, prior to contract execution.

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 promptly perform such additional services as may be necessary to correct errors in the services required by this contract without undue delays and without additional cost.

17. Governing Law/Venue

The provisions of this contract shall be interpreted, construed and enforced in accordance with, and governed by, the laws of the State of Oregon without reference to its conflict of laws provisions that might otherwise require the application of the law of any other jurisdiction. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

18. Amendments

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

19. Business License

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 prior to beginning work under this Contract.

20. Prohibited Conduct

The Contractor shall not hire any City employee who evaluated the proposals or authorized the award of this Contract for two years after the date the contract was authorized without the express written permission of the City and provided the hiring is permitted by state law.

21. Payment to Vendors and Subcontractors

The Contractor shall timely pay all subcontractors and suppliers providing services or goods for this Contract.

22. Access to Records

The Contractor shall maintain all records relating to this Contract for three (3) years after final payment. The City may examine, audit and copy the Contractor's books, documents, papers, and records relating to this contract at any time during this period upon reasonable notice. Copies of these records shall be made available upon request. Payment for the reasonable cost of requested copies shall be made by the City.

23. Audits

(a) The City 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 paragraph 22. 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 Government Accountability Office.

(b) If an audit discloses that payments to the Contractor exceed the amount to which the Contractor was entitled, the Contractor shall repay the amount of the excess to the City.

24. Electronic Signatures

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

25. Merger Clause

This Contract encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether verbal or written.

26. Dispute Resolution/Work regardless of disputes

The parties shall participate in mediation to resolve disputes before conducting litigation. The mediation shall occur at a reasonable time after the conclusion of the Contract with a mediator jointly selected by the parties. Notwithstanding any dispute under this Contract, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Contract for undisputed portions of the work. In the event of litigation no attorney fees are recoverable. No different dispute resolution paragraph(s) in this contract or any attachment hereto shall supersede or take precedence over this provision.

27. Progress Reports: / X / Applicable / ___ / Not Applicable

If applicable, the Contractor shall provide monthly progress reports to the Project Manager as described in the Statement of the Work and Payment Schedule.

28. Contractor's Personnel: / X / Applicable / ___ / Not Applicable

If applicable, the Contractor shall assign the personnel listed in the Statement of the Work and Payment Schedule for the work required by the Contract and shall not change personnel without the prior written consent of the City, which shall not be unreasonably withheld.

29. Subcontractors

The Contractor shall use the subcontractors identified in its proposals. The Contractor shall not change subcontractor assignments without the prior written consent of the Chief Procurement Officer. Failure to use the identified M/W/ESB subcontractors without prior written consent is a material breach of contract.

30. Third Party Beneficiaries

There are no third party beneficiaries to this contract. Enforcement of this contract is reserved to the parties.

STATEMENT OF THE WORK AND PAYMENT SCHEDULE

BACKGROUND

In 2007 the City of Portland (City) Water Bureau (PWB) discontinued its inclining block rate structure in favor of a uniform volume rate structure. This action was taken in order to simplify the rate structure and minimize the risk of problems and/or failure of a new water and wastewater billing system that the City was undertaking. This new billing system was being developed because the previous billing system implemented in 2000, did not function properly, and therefore risk minimization was a high priority. Furthermore, the inclining block rate structure that was being discontinued was generally considered to provide only a weak conservation incentive, particularly for customers other than single family residential customers.

The current uniform volume rate structure does not differentiate customers by customer class. All customers are subject to the same uniform volume rate, plus a fixed base charge. Most single family residential customers are billed quarterly, but some are billed either bi-monthly or monthly. Most multi-family, commercial, and industrial customers are billed monthly, but some are either billed bi-monthly or billed quarterly. The PWB has been directed to begin billing the majority of water customers on a monthly basis by July 1, 2012.

STATEMENT OF WORK

The Contractor shall complete the following tasks:

A. Review Current and Prior Water Rate Structure

The Contractor shall conduct a review of the existing uniform volumetric water rate and prior inclining block water rate structures for retail customers, including their form of metered billing and the level of the rates. This review shall assess billing efficiency and effectiveness, the efficacy of each rate structure's conservation incentives, and the degree to which each rate structure complies with Division 86 requirements.

Efficiency is defined as the administrative and other costs of customer billing, while effectiveness includes customer understanding of the water rate, billing frequency, and the efficacy of the conservation incentive. The conservation incentive to customers is a function of the combined water and sewer rate structures, as well as the billing frequency and perhaps other factors that may be identified as part of this scope of work, and each of these factors shall be considered in this study.

This review shall be preliminary, as it precedes the demand analysis of *Task B* identified below. The more rigorous evaluation of the current rate structure shall take place in *Task C* identified below and shall consider the results of the demand analysis.

Deliverable: The Contractor shall submit a technical memorandum describing the results of this initial rate structure review to the City's Project Manager within ten (10) calendar days of completion of the above task. The technical memorandum shall be in hard copy and an electronic format that is accessible to the City.

B. Evaluate Historical Retail Water Demand

The Contractor shall statistically evaluate trends in PWB retail water usage. This analysis shall identify annual and seasonal patterns, identify factors that have caused changes in use, determine price elasticity of demand and cross price elasticity of demand with Portland's wastewater/stormwater rates, and forecast future use based on known and anticipated changes in those causative factors. The Contractor shall also complete the following:

1. Assess Previous Models and Data Limitations

The Contractor shall carefully examine the existing demand forecasts and the underlying modeling, paying particular attention to the manner in which existing models account for the effects of price. The Contractor shall collaborate with PWB staff to ensure a thorough understanding of these models and the limitations of the underlying data. Based on this assessment, the Contractor shall prepare a technical memorandum that makes a recommendation to the PWB regarding the degree to which the existing modeling can be used to support this work. The final determination shall be made in collaboration with PWB staff.

The following subtasks specify the work that shall be performed if it is determined in this task that significant modeling activities by the Contractor shall be required. If it is determined that significant modeling shall not be required because PWB's existing modeling is determined to be sufficient for the purposes of this study, then Subtasks B.1.b: Review and Refine, through B.1.d: Statistical Modeling of Water Demand: Specification and Estimation, may be reduced in scope or eliminated entirely, as mutually agreed with the City.

a. Gather Data

The Contractor shall develop a detailed data request to staff which specifies the required data. The Contractor shall work closely with staff as they attempt to provide the necessary data in order that the available data that most closely meet the needs of the work tasks can be provided efficiently and effectively.

b. Review and Refine Data

The Contractor shall identify issues of data quality and consistency, propose solutions for each issue, and work with staff to ensure that the data is internally consistent and externally valid. As a deliverable of this subtask, the Contractor shall provide documentation of data strengths, limits, and workarounds.

c. Evaluate Modeling Alternatives in Workshop with PWB Staff

The Contractor shall develop a presentation of alternative approaches to modeling the PWB retail demands, and shall facilitate a workshop with staff to review alternatives for the demand modeling and forecasting. The goal of this workshop will be to arrive at a consensus on the most robust modeling approach that meets PWB's multiple needs.

d. Statistical Modeling of Water Demand: Specification and Estimation

The Contractor shall specify and estimate a model of water demand for the purpose of evaluating the impacts of alternative rate structures. Prior to each step, the Contractor shall discuss issues with staff to obtain comments and ensure agreement. It will be necessary to estimate two quantities in order to analyze historical demands, the number of accounts and the usage per account. The measures of account totals shall be based on utility historical records and other pertinent information that may be available. The usage per account shall be based on econometric modeling, utilizing available information provided by the PWB and/or collected independently by the Contractor. The Contractor shall also incorporate programmatic and naturally-occurring conservation savings into the analysis.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

- Technical memorandum regarding the use of existing demand modeling;
- Documentation of data issues;
- Workshop presentation regarding alternative modeling approaches; and
- Report on results of statistical modeling of historical water demand

These deliverables shall be provided by the Contractor to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

C. Evaluate Effectiveness of Current Rate Structure in Meeting Local Objectives and Needs

The Contractor shall assess the extent to which the current rate structure is meeting local needs and the degree to which rate structure modifications might be needed to better meet those needs. The Contractor shall address the following issues:

- A comparison of projected future water demands and supplies, which shall consider both changes in retail water use per account, as well as known and potential reductions in wholesale demands over the next five (5) to fifteen (15) years;
- Anticipated economic costs and benefits of alternative rate designs;
- Impacts on low and fixed-income customers;
- Provision of appropriate economic signals to customers; and
- Mitigation of the risks of revenue instability.

The Contractor shall hold discussions with the PWB staff to refine the list above and identify other issues to be addressed. Based on these discussions should the above tasks change, an amendment to this contract shall be completed.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

Technical memorandum documenting the need for enhanced conservation rate designs, if any.

These deliverables shall be provided by the Contractor to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

D. Compare Water Use Trends to Other Utilities

The Contractor shall develop a comparison of water use levels and trends in PWB's retail service area with the water use levels and trends in comparably sized water utilities elsewhere in the United States, with particular emphasis in the Pacific Northwest and western United States. This comparison shall include no fewer than five (5) major water utilities in the western United States. The Contractor shall work with PWB staff to select the water utilities and to define the form and content of the comparisons.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

A technical memorandum describing the comparison of water use trends among other utilities and comparing these trends to the experience in Portland.

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

E. Identify alternative rate structures

The Contractor shall identify alternative water rate structures that have been implemented in other large water utilities. These rate alternatives shall at a minimum include inclining block rates, seasonal rates, water budget-based rates, and uniform volume rates by class. Other rate structures for consideration may be identified and included in this study as mutually agreed upon by the Contractor and the PWB Project Manager.

The Contractor shall construct revenue-neutral versions of alternative water rate structures to serve as the basis for the Rate Evaluation in Task F. These rate alternatives may be constructed using the PWB's existing rate models if those models provide the needed information. Alternatively, a publicly available Water Research Foundation model may be implemented with sufficient precision for reaching policy conclusions. In either case, existing rate models would be used to provide the required revenue by customer class, where "customer class" is defined as retail users in the aggregate and each wholesale customer. Any further disaggregation of retail users into such classes as residential, commercial, institutional, industrial, etc. shall include an estimate of revenue requirements by customer class developed by the PWB staff using any available PWB data, supplemented by general water industry information and professional judgment. Such a disaggregation into multiple retail classes, including the revenue requirement approximations, shall then be used by the Contractor for establishing general representative rates for those customer classes. The parties understand and agree that the rate structure results of these revenue-neutral disaggregations of multiple retail customer classes shall be illustrative in nature, but may not reflect precise cost-of-service rate design.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

Technical memorandum and presentation laying out the alternative rate structures that are to be evaluated.

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

F. Evaluate Rate Structures and Make Recommendations

The final set of criteria for evaluating rate alternatives shall be determined in the course of the study. The Contractor shall include but not be limited to the final criteria listed below:

- Cost of implementation and ongoing maintenance
- Conservation impact relative to existing rate structure
- Legality
- Affordability
- Inter-class equity
- Intra-class equity
- Intergenerational equity
- Anticipated public understanding and acceptance
- Potential revenue impacts (revenue stability and revenue adequacy)
- Redistribution of customer financial responsibility
- Ease of updating
- Compliance with State of Oregon Division 86 requirements

The Contractor shall, in conjunction with City staff and stakeholders, develop a final list of criteria to be used in evaluating alternative rate structures. Based on the selected criteria, the Contractor shall evaluate each of the rate alternatives developed in Task E. Contractor shall consult with the Portland City Attorney's office regarding legal issues that relate to the alternative rate structures. For qualitative criteria, the Contractor shall develop scales against which each alternative will be rated. For the quantitative criteria, the Contractor shall propose metrics that can be used to measure performance and work with staff to refine those metrics. The Contractor shall consolidate the evaluation results into a matrix for ease of comparison.

Based on this analysis, the Contractor shall make recommendations regarding modifications to or retention of the current rate structure. The Contractor shall quantitatively and qualitatively document the reasons behind the recommendation and the estimates of conservation that might be anticipated. If a change is not recommended, the Contractor shall indicate why. The parties understand and agree that the report's recommendations shall be based on a combination of quantitative and qualitative information, data, and evidence, as well as the expert professional judgment of the Contractor.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

- Technical memorandum documenting evaluation criteria and chosen metrics
- Matrix of evaluation results
- Technical memorandum and presentation of evaluation results

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

G. Stakeholder Meetings

The Contractor shall meet with PWB staff and stakeholders up to eight (8) times over the course of the project. The timing, subject matter, and attendees of these meetings shall be determined jointly with PWB staff. The meetings shall have two purposes:

- To brainstorm issues that arise as the study proceeds in order to problem solve
- To report on progress and get feedback from staff and stakeholders

The Contractor shall prepare agendas and packages of material to be discussed at each meeting and, where appropriate, shall also prepare and make presentations. The Contractor's Project Manager and the subcontractor's Task Leader, Tom Chesnutt shall attend all eight (8) project meetings, unless the parties mutually agree otherwise, and the meetings shall be scheduled on mutually agreeable dates to accommodate this attendance.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

Agendas, handouts and presentation materials for each meeting.

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

H. Draft Report

The Contractor shall submit twenty-five (25) hard copies and an electronic copy of the draft report to the PWB Project Manager for review and feedback and shall work with staff to structure a process to ensure that all comments are communicated, understood, and incorporated as appropriate. That process shall be tailored to the number and nature of the comments that are expected.

The Contractor shall attend two (2) meetings at which the draft report is presented and shall prepare all necessary handouts and presentation materials for those meetings to communicate the methodology, findings, and recommendations. The Contractor's Project Manager shall be present at these meetings.

Deliverables

The Contractor shall provide the PWB Project Manager the following:

- Draft report delivered to PWB
- Handouts and presentation materials for draft review meetings

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

I. Final Report

The Contractor shall incorporate the feedback received on the draft report to prepare the final report. The Contractor shall submit twenty-five (25) hard copies and an electronic copy of the final report and present the report at two (2) meetings, for which the Contractor shall prepare all necessary materials. The Contractor's Project Manager shall be present at these meetings.

Deliverables

The Contractor shall complete the following:

- Final report delivered to PWB
- Handouts, and presentation materials for meetings

These deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

WORK PERFORMED BY CITY OF PORTLAND

Specific duties PWB shall perform include:

1. Provide the following information; to the extent such information is readily available:
 - Retail water demand trends, disaggregated by customer class to the extent possible
 - Water rate trends
 - Wastewater/stormwater rate trends
 - Previous econometric analyses of PWB's demands that have been developed internally
 - Existing water demand forecasts
 - Existing conservation plans and conservation program materials, including the May 2010 state approved Water Management and Conservation Plan
 - Information on supply capacities that will be utilized by the Contractor to perform Task C
 - Other information mutually agreed to by PWB and Contractor.
2. Provide an estimate of revenue requirements by customer class as described in Task E.
3. Provide comments on the draft report submitted by the Contractor.
4. Provide logistical support for the presentations that the Contractor shall make in communicating the results of this scope of work. This logistical support shall not include presentation materials, handouts, or other work products that shall be the sole responsibility of the Contractor.

The following items are **NOT** included in the study:

1. Determination of revenue requirements;
2. Review of cost allocations among customer service characteristics or between retail and wholesale customers;
3. Review of the wholesale rate structure;
4. Review or modification of the PWB rate models; and
5. Review or modification of the PWB's conservation plans, except the extent to which such a review might be directly relevant to the evaluation of the retail water rate structure and its compliance with State of Oregon Division 86 requirements.

DELIVERABLES

Deliverables shall be considered those tangible resulting work products that are to be delivered to the City such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings and reports. The successful Proposer is encouraged to provide any deliverables in accordance with the City's Sustainable Paper Use Policy. The policy can be viewed at:
<http://www.portlandonline.com/omf/index.cfm?c=37732>.

Deliverables and schedule for this project shall be provided to the PWB Project Manager and shall include:

1. Twenty-Five (25) copies of a draft report in hard copy format.
2. Twenty-Five (25) and one (1) electronic copy of a final report.

3. Presentation materials as required for scheduled presentations and for ongoing working meetings during the course of the contract, including, but not limited to, visual aids, handouts, and electronic files.
4. All technical memoranda, as listed in the Scope of Work.
5. Monthly Subconsultant Payment and Utilization Report by the 15th of each month with invoice (reference Part II, Section C.5 of the RFP).

All deliverables shall be provided to the PWB Project Manager within ten (10) calendar days of completion of the task requiring the deliverable. The deliverables shall be provided in one (1) hard copy format and an electronic format that is accessible to the PWB Project Manager.

All deliverables and resulting work products from this contract will become the property of the City of Portland. As such, the Contractor and any Subcontractors grant the City the right to copy and distribute (in any and all media and formats) project deliverables for regulatory, project certification/recognition, program development, public education, and/or for any purposes at the sole discretion of the City of Portland.

CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT
Gary Fiske	Project Manager

SUBCONTRACTORS

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

NAME	ROLE ON PROJECT
A&N Technical Services, Inc. - Tom Chesnutt	Task Leader

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 maximum compensation shall not exceed **\$150,000**. The budget detail is included to this Contract as Exhibit A1.

Unless authorized by a written Amendment to the Contract no additions or changes shall be made to this Contract. The hourly rates shall be as indicated in the Contractor's submitted proposal and as identified in Exhibit A1. The cost submitted in the Contractor's proposal must remain constant for the duration of the contract.

It is the policy of the City that all travel shall be allowed only when the travel is essential to the normal discharge of the Contractor's responsibilities under the Contract. All travel must be for official City business only. All travel and lodging shall be conducted in the most efficient and cost-effective manner resulting in the best value to the City.

The travel must comply with all the requirements set forth in this section and must be for official City business only. Personal expenses shall not be authorized at any time. Travel expenses shall be reimbursed for airfare and rental vehicles only if Contractor is acting within the course and scope of his/her duties under this Contract. Alcohol is not an authorized purchase under this Contract. Receipts are required for all travel expenses. All Contractor representatives shall fly "coach class," unless Contractor personally pays the difference. All Contractor representatives shall be limited to economy or compact size rental vehicles, unless Contractor personally pays the difference.

Any Out-of-Town Travel, (transportation, lodging and per diem), for Contractor and/or experts as specified in the contract or requested by PWB to a location outside a 50 mile radius of Contractor's project office shall be reimbursed. The approved mileage rate follows the current United States General Services Administration (GSA) federal rate. Meal per diem is based on the GSA per diem rates. Per Diem Rates for Oregon may be found at the GSA website link. That website address is: <http://www.gsa.gov/portal/category/21287>. All travel must be pre-authorized by the City's Project Manager in writing prior to conducting that travel.

PAYMENTS

On or before the 15th 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, Service item 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 the task.

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 Contractor must clearly roll up labor and reimbursable costs for the Contractor and subconsultants – matching the subconsultant invoices.

Invoices shall either be e-mailed to: wbaps@portlandoregon.gov. (This is the preferred method) or sent to:

City of Portland Water Bureau
Attn: Accounts Payable
1120 SW 5th 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.

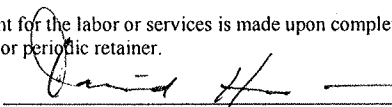
Contractor Signature _____ Date _____ Entity _____

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

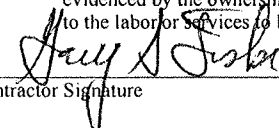
3/19/12
Date

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

3/16/12
Date

008281

185269

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.

Gary Fiske & Associates, Inc.

BY: Gary Fiske Date: 3/16/12

Name: Gary Fiske
Title: President

Contract No. 30002549

Contract Title: Retail Rate Structure Review

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:

APPROVED AS TO FORM

By: James H. Van Dyke
Office of City Attorney

CITY ATTORNEY

Date: 3/20/2012