

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

CONTRACT NO. _____

**SHORT TITLE OF WORK PROJECT:
Condition Assessment of Large Diameter Sewers**

This contract is between the City of Portland ("City," or "Bureau") and Brown and Caldwell, hereafter called Contractor. The City's Project Manager for this contract is Gail M. Luthy.

Effective Date and Duration

This contract shall become effective on _____. This contract shall expire, unless otherwise terminated or extended, on December 31, 2016.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$1,800,000 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): BROWN AND CALDWELL

Address: 6500 SW Macadam Ave. Suite 200, Portland, Oregon 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.

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: ☐ / 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: ☒ / 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

SCOPE OF WORK

Specific work assignments will be authorized via a written Task Order signed by the City and Contractor. The scope of work, schedule, deliverables, and compensation for each assignment shall be defined in the Task Order prior to commencement of the work. Any change to the scope of work, schedule, deliverables, and compensation must be agreed upon by the City and Contractor in writing as an amendment to the Task Order.

Typical work expected to be performed under Task Orders is described below. Additional tasks not specifically listed below may be required to complete the work. Any additional tasks will be identified in the Task Order.

- a. Review recent large diameter inspection records that have not been evaluated for rehabilitation needs to determine if the video is adequate to perform condition assessment and rehabilitation recommendations.
- b. Analyze City flow records (where available) and work with City personnel to determine the best method(s) and time for inspection of the different sewer segments. Inspections must be conducted during flow conditions that will yield the best possible information. Re-direction of flow will be possible for some reaches to facilitate assessment.
- c. Provide additional inspections including specialized inspection methodologies of sewers ranging in diameter from greater than 24 inches to 144 inches including the associated manholes.

- d. All sewers to be inspected are in service. Personnel working in these areas will be exposed to unusual hazards including, but not limited to, explosive gases, toxic gases and infectious disease-producing microorganisms. Personnel entry into sewer(s) may be necessary to perform condition assessment of some sewers. The sewers and manholes shall be considered confined spaces and are subject to Federal, State and local regulations governing confined space safety and entrance procedures (Ref.: OAR 437, Division 2, Subsection J and 29CFR 1910.146).
- e. Develop and maintain a Health and Safety Plan. The Consultant shall incorporate and implement all required health and safety precautions. At least one copy of the Health and Safety Plan shall be located on the inspection site(s) at all times.
- f. Appoint an employee who is qualified and authorized to supervise and enforce compliance with the Health and Safety Plan. Ensure that necessary protective clothing and other supplies and equipment necessary to comply with the Health and Safety Plan are available to implement the Plan.
- g. Submit the Health and Safety Plan to the City's Project Manager for review. The Consultant shall allow sufficient time for the City to review the Health and Safety Plan prior to the Consultant commencing CCTV sewer inspection.
- h. Include a Confined Space Entry Policy and Permit Procedure as part of the Health and Safety Plan. Should the Consultant's entry into the sewer become necessary, the entry shall be performed per the Health and Safety Plan and the Confined Space Entry Policy and Permit Procedure. All personnel on the entry team, including the supervisor, entrant and attendant, shall be certified for permit confined space entry. Evidence of confined space certification for each member of the team shall be presented to BES prior to entry to the sewer.
- i. Conduct an engineering assessment of the service condition and structural integrity of all sewer segments inspected.
- j. Identify sewer segments in need of repair and provide recommendations for rehabilitation method(s) and prioritization.
- k. Prepare an updated inspection plan for sewers assessed that includes: (1) return inspection schedule for each segment inspected based on consequence of failure and structural condition and (2) recommended inspection method for each segment.

Typical deliverables for work performed under this contract are described below. Specific deliverables and schedule will be identified in the Task Order.

- a. Work plan for sewers determined to be included in this project including condition assessment methodology or methodologies to be used.
- b. Health and Safety Plan for conducting sewer inspections in accordance with all applicable local, state and federal regulations. The plan shall demonstrate a proactive approach toward the prevention of accidents and potential safety problems.
- c. Quality assurance/quality control measures during field inspection and the review of the inspection documentation (digital videos, observation coding).
- d. Safety plan including confined space entry annually prior to commencement of inspections.
- e. All permits, including temporary utilities, required for conducting sewer inspections.
- f. Traffic Control Plans and personnel required to support the sewer inspections.
- g. Permanent record of the inspections through digitized images including videos. Appropriate permanent record of specialized inspections.
- h. Engineering assessment of the service condition and structural integrity of each sewer segment inspected in accordance with the City's sewer condition assessment technical memorandum. Copies of the assessment shall be provided to the City via both electronic format and hard copies.
- i. Bi-weekly schedule submittals that show detailed schedules for the current two weeks of work during periods of inspection.
- j. Project team representative attendance at project meetings during periods of inspection and on an as-needed basis for project planning and engineering during periods of non-inspection.
- k. Annual engineering reports that describe the method of inspections utilized, the existing service and structural condition of each sewer segment inspected, identifies sewer segments in need of repair, and recommends appropriate rehabilitation methods for sewer segments in need of repair with recommended prioritization of these rehabilitation projects.
- l. Final engineering report that compiles all annual engineering reports.
- m. An updated inspection plan that includes:
 - Return inspection schedule for each segment inspected based on consequence of failure and structural condition
 - Recommended inspection method for each segment
- n. Submission of a monthly progress report by the 15th of each month.
- o. Submission of a Monthly Sub-consultant Payment and Utilization Report by the 15th of each month.

All deliverables and resulting work products from this contract will become the property of the City of Portland. As such, 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.

WORK PERFORMED BY THE CITY

The City has assigned a project manager to oversee the successful Proposer's work and provide support as needed. Specific duties the City will perform include:

- BES will provide data and maps of assets including inspection records
- BES will provide consequence of failure information for assets
- BES will provide codes for performing sewer condition assessments using CCTV inspection.
- BES will provide services to uncover manholes and perform roadway patching as required to facilitate the inspections.
- Where possible, as needed, BES will redirect flow to facilitate condition assessment.

CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT
James Hansen	Project Manager
Bryan Paulson	Principal In Charge
Robert Lee	Condition Assessment and Rehabilitation Lead
Cameron Foucht	Field Inspection Lead

SUBCONTRACTORS

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

NAME	ROLE ON PROJECT
DN Traffic Consultants	Traffic Engineering
Vigil-Agrimis	Environmental Permitting
Emerio Design	Civil Design Support
JLA Public Involvement	Public Involvement
Jacobs Associates	Tunnel Inspection
JenCourt Environmental	CCTV Inspection
AcquCoustic Remote Technologies	CCTV Inspection
Interactive Pipeline Inspection	Structure and manhole inspection
InfraMetrix	Zoom camera inspection
RedZone Robotics	Specialty service inspections
SewerVue	Pipe penetrating radar inspection

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

185298

Contractor will be paid based on its hourly rates, costs incurred in paying its subcontractors, if any, plus any authorized expenses as set forth in more detail below.

The not-to-exceed dollar amount for each Task Order will be determined through negotiation based on the scope of work, the hours Contractor estimates for performance of the work and Contractor's hourly rates. If the work requires fewer hours than those estimated in the Task Order, Contractor will be paid for the actual hours necessary to complete the work. If Contractor underestimates the number of hours that are required to perform the work, the negotiated maximum compensation for the Task Order shall be the cap of the compensation to be paid. Compensation may be amended for documentable circumstances not reasonably foreseeable to either party at the time the Task Order was issued, or for changes to the scope of work or deliverables requested by the City. Nothing in this contract requires the City to pay for work that does not meet the Standard of Care or other requirements of the Contract.

Hourly Rates

The billing rates shall not exceed those set forth below:

Firm	Classification/Staff	Hourly ¹ Rate Range	Multiplier
Brown and Caldwell	Vice President	\$205 - \$250	3.1
	Executive Engineer	\$205 - \$250	3.1
	Managing Engineer	\$184 - \$225	3.1
	Supervising Engineer	\$168 - \$205	3.1
	Principal Engineer	\$140 - \$172	3.1
	Senior Engineer	\$112 - \$152	3.1
	Engineer III	\$100 - \$123	3.1
	Engineer II	\$85 - \$113	3.1
	Engineer I	\$73 - \$89	3.1
	Lead Drafter	\$61 - \$75	3.1
	Assistant Drafter	\$52 - \$64	3.1
	Administrative Manager	\$78 - \$146	3.1
	Word Processor IV	\$57 - \$107	3.1
	Word Processor III	\$47 - \$84	3.1
Vigil-Agrimis	Principal-In-Charge	\$139 - \$171	3.0
	Sr. Project Manager	\$124 - \$155	3.0
	Sr. Engineer	\$108 - \$149	3.0
	Sr. Scientist	\$93 - \$137	3.0
	Sr. Landscape Architect	\$93 - \$137	3.0
	Project Manager	\$86 - \$121	3.0
	Professional Engineer	\$93 - \$121	3.0
	Natural Res. Specialist	\$77 - \$112	3.0
	Landscape Architect	\$77 - \$112	3.0
	Engineer-In-Training	\$77 - \$109	3.0
	Landscape Planner	\$68 - \$100	3.0
	GIS Analyst	\$62 - \$93	3.0
	CAD Drafter	\$62 - \$93	3.0
	Graphic Designer	\$62 - \$93	3.0
	Admin. Assistant	\$49 - \$81	3.0
	Seasonal Intern	\$43 - \$69	3.0

Firm	Classification/Staff	Hourly ¹ Rate Range	Multiplier
JLA Public Involvement	Senior Associate 2	\$166 - \$188	3.1
	PI Specialist 7	\$137 - \$162	3.1
	PI Specialist 6	\$122 - \$150	3.1
	PI Specialist 5	\$116 - \$132	3.1
	PI Specialist 4	\$96 - \$114	3.1
	PI Specialist 3	\$83 - \$96	3.1
	PI Specialist 2	\$75 - \$86	3.1
	PI Specialist 1	\$68 - \$79	3.1
	Administrative Manager	\$83 - \$95	3.1
	Clerical 4	\$60 - \$75	3.1
	Clerical 3	\$56 - \$64	3.1
Emerio Design	Project Manager	\$95 - \$115	3.0
	Project Engineer	\$90 - \$110	2.9
	Project Designer	\$75 - \$90	2.7
	Engineering Tech	\$45 - \$53	2.9
Jacobs Associates	Principal	\$215 - \$250	3.1
	Senior Associate	\$185 - \$225	3.1
	Associate	\$155 - \$190	3.1
	Senior Project Engineer	\$140 - \$185	3.1
	Project Engineer	\$120 - \$165	3.1
	Senior Staff Engineer	\$100 - \$145	3.1
	Staff Engineer	\$95 - \$125	3.1
	Administrative	\$75 - \$105	3.1
DN Traffic Consultants	Senior Engineer	\$120 - \$140	2.0
	Project Engineer	\$80 - \$110	2.0
	Assistant Drafter	\$100 - \$120	2.0
	Administrative Manager	\$60 - \$75	2.0

¹ Hourly rates listed are ranges for each classification. Actual billing rates will be within these ranges and will be calculated using the listed multiplier applied to the individual's base salary.

Multiplier Policy

The multiplier applied to salaries shall not exceed those listed in the hourly rates table above. 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 will be reimbursed without mark-up:

- Out-of-Town Travel. Travel (transportation, lodging and per diem) of Consultant and/or experts when specified in the contract or requested by BES, directly attributed to specific tasks and when to a location outside a 100 mile radius of Consultant's project office. Travel costs will 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

Subconsultant Costs

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. The maximum markup on subconsultant services shall not exceed 5%.

Adjustment of Labor Rates Due to Inflation

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

Rate increases are subject to the following limitations:

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

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

Progress Payments

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

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

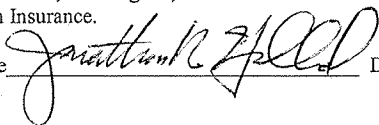
The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the City to Contractor.

INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

SECTION A

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

Contractor Signature



Date

3/21/12

Entity

Brown and Caldwell, 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.

BROWN AND CALDWELL, INC.

BY: Jonathan R. Holland Date: 3/21/12
Name: Jonathan R. Holland
Title: Vice President

Contract No. _____

Contract Title: Condition Assessment of Large Diameter Sewers**CITY OF PORTLAND SIGNATURES:**By: n/a Date: _____
Bureau DirectorBy: n/a Date: _____
Chief Procurement OfficerBy: _____ Date: _____
Elected Official

Approved:

By: _____ Date: _____
Office of City Auditor

Approved as to Form: APPROVED AS TO FORM

By: James H. Van Dyke Date: 3/23/2012
Office of City Attorney
CITY ATTORNEY



CERTIFICATE OF LIABILITY INSURANCE

5/31/2012

DATE (MM/DD/YYYY)

3/29/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Lockton Companies, LLC-I Kansas City 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Hartford Fire Insurance Company	19682
		INSURER B: Lloyds of London	
		INSURER C: Hartford Insurance Co of the Midwest	37478
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES BROCA02 PD CERTIFICATE NUMBER: 11691941 REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	Y	Y	37CSEQU0941	5/31/2011	5/31/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	N	Y	37UENQU0942	5/31/2011	5/31/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
C A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	37WNQU0940 37WBRQU0944	5/31/2011 5/31/2011	5/31/2012 5/31/2012	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	PROFESSIONAL LIABILITY	N	N	LDUSA1100482	5/31/2011	5/31/2012	\$1,000,000 PER CLAIM & AGGREGATE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: LARGE DIAMETER SEWER INSPECTION, BC PDS SID: 29441. CITY OF PORTLAND, AND ITS AGENTS, OFFICERS, AND EMPLOYEES ARE ADDITIONAL INSURED AS RESPECTS TO GENERAL LIABILITY, AS REQUIRED BY WRITTEN CONTRACT. THIRTY DAYS NOTICE OF CANCELLATION BY THE INSURER WILL BE PROVIDED TO THE CERTIFICATE HOLDER WITH RESPECT TO THE GENERAL, AUTO, PROFESSIONAL LIABILITY AND WORKERS COMPENSATION POLICIES. TEN DAYS NOTICE WILL BE PROVIDED IN THE EVENT OF NONPAYMENT OF PREMIUM. WAIVER OF SUBROGATION APPLIES TO GENERAL AND AUTO LIABILITY WHERE ALLOWED BY STATE LAW AND AS REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

CANCELLATION

11691941

POR-20
CITY OF PORTLAND
ATTN: GAIL M. LUTHY
BUREAU OF ENVIRONMENTAL SERVICES
1120 SW FIFTH AVENUE ROOM 1000
PORTLAND OR 97204

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE