

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

CONTRACT NO. \_\_\_\_\_

**SHORT TITLE OF WORK PROJECT:  
Skidmore and Safeway Pump Stations Upgrades**

This contract is between the City of Portland ("City," or "Bureau") and BergerABAM Engineers Inc., hereafter called Contractor. The City's Project Manager for this contract is Kelly Wood.

**Effective Date and Duration**

This contract shall become effective on April 13, 2012. This contract shall expire, unless otherwise terminated or extended, on May 1, 2017.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed \$345,520 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): BergerABAM Engineers Inc.

Address: 700 Northeast Multnomah St, Suite 900, Portland, OR 97232-4189

Employer Identification Number (EIN) 91-1422812  
 [INDEPENDENT CONTRACTORS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN) - LEAVE BLANK IF NO EIN]

City of Portland Business License # 193966

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

1. This Scope of Work and the associated budget and schedule encompasses work from project startup through design and includes bidding assistance, services during construction, and production of an Operations and Maintenance (O&M) Manual.
2. The pump station facilities will require incorporation of an "Ecoroof", but will not be required to be LEED certified.
3. Ecoroof design is included in the scope of work.
4. The electronic format for documents will be as follows: Reports – Microsoft Word; Spreadsheets – Microsoft Excel; and Drawings – AutoCAD Version 2010; Project Schedule – Microsoft Project. The Consultant also will provide copies of documents and drawings in pdf format.
5. Except for the final drawings, all project drawing progress submittals (Preliminary, 60% and 90%) will be in 11"x17" bond paper format. Final drawings shall be submitted as 22"x34" vellum, in addition to 11"x17" bond paper format.
6. The project design will be based on the following City of Portland Manuals:
  - Stormwater Management Manual, Revision 4, August 1, 2008
  - Erosion and Sediment Control Manual, March 2008
  - BES Control System Philosophy, Operation, Design and Software Standards, 2003

## BES Responsibilities

1. BES will be responsible for the public outreach effort associated with this project. BES will continue to update the Consultant on additional public outreach conducted during the course of this project. The Consultant will support BES's public outreach effort with technical background information as produced under other portions of this Scope of Work.
2. BES will be responsible for easement acquisition and recording of legal documents related to land acquisition or easement changes.
3. BES will provide documentation of land use requirements based on zoning research for each pump station.
4. BES will provide documentation from site assessments at both pump stations.
5. BES will provide consolidated comments on project deliverables using an Excel spreadsheet which includes the comment, reference location in the document and comment author.
6. BES will apply for and obtain a commercial building permit for the project. The Contract Documents will require the construction contractor to be responsible for obtaining all required City of Portland trade permits.
7. BES will submit the final plans and specifications to DEQ for review and to obtain approval to construct the project.
8. BES will prepare Bidding and Contract Requirements (CSI Divisions 0 and 1 of the specifications). The Consultant will be responsible for the remaining CSI Divisions 2 through 45, although BES will provide the necessary specification information for any specific equipment desired by BES.
9. BES will be responsible for advertising, printing and distributing the final set of bidding and contract requirements, detailed plans and technical specifications. BES will also print and issue addenda.

## Task Descriptions

The following task descriptions provide a detail of the tasks and task deliverables.

### Task 1 Project Management

Manage the Contractor's project team to ensure successful project delivery within schedule and budget expectations.

Specific work items included under this task are:

- Develop QA/QC plan and submit to the BES Project Manager (PM) for review and acceptance. Distribute plan to Contractor's team members. The Contractor's team project manager will perform QA/QC of the complete deliverables prior to submitting to BES.
- Provide monthly progress reports to the BES project manager, or on a more frequent basis as necessary or when requested. Reports will identify budget expended and tasks completed during the prior period. Any projected deviations from the approved task budgets will be communicated to the BES PM as soon as practicable.
- Disseminate information to design team members and hold weekly design team meetings to ensure continued progress and identify questions and clarifications. Collate requests for information (RFIs) and requests for clarification (RFCs) from the design team, and forward RFIs and RFCs to the BES PM as required.
- Establish design standards at the beginning of the project, and document the design standards in the pre-design report (PDR). This sub-task includes identifying CAD standards and providing BES with representative AutoCAD files at the 30%, 60%, and 90% levels of completion.
- Maintain project records and archives both in hardcopy and electronic format.
- Prepare and submit monthly invoices, sub-consultant payment and utilization reports, and progress report indicating budget expended and tasks accomplished during the prior month. Monthly invoices and progress reports are not required during periods when Contractor does not do work. Separate invoices will be submitted for Safeway and Skidmore.
- Ensure all tasks are completed within the project scope of work and identify additional scope items if they arise. The Contractor's project manager will inform the BES PM of identified out-of-scope work items in a timely manner and will prepare the technical scope description and fee proposals for contract amendments if additional scope items are requested by BES.

The scope of work for this task is based on the following assumptions:

- The design phase of the Safeway Upgrade projects is expected to require 12 months after Notice to Proceed. The design phase of the Skidmore Upgrade project is expected to require 15 months.

- The construction phase of the project is expected to require thirteen months from the contractor's Notice to Proceed through closeout of construction.

Deliverables:

- QA/QC Plan
- Monthly invoices and progress reports
- Monthly sub-consultant payment and utilization reports

**Task 2 Pre-Design**

Establish basis of design, conduct geotechnical investigations and base mapping, develop conceptual designs, prepare pre-design reports, and prepare land-use applications

Work items included under this task are:

- Attend a kick off meeting with BES and Contractor's Design Team discipline leads to review the scope-of-work and identify the project goals, objectives, expectations, and estimated design schedule for each pump station.
- Review all readily available information and background data pertaining to each facility, including geotechnical records, as-built drawings including supplemental measurements to be provided by BES, City of Portland design standards for wastewater pumping stations, land-use and zoning regulations.
- Conduct site specific geotechnical investigations including a review of existing records, subsurface explorations, infiltration testing, laboratory testing, engineering analyses, and seismic hazard analysis. The results of the geotechnical investigations will be documented in written reports.
- Base Mapping. Field surveying will be provided by BES using PBOT survey crews. The design team will use the PBOT topographic survey data to develop base maps and digital terrain models (DTMs) for each site. Base maps will include all visible features and utilities. Spot elevations used to develop DTMs will be spaced on a nominal 25-foot by 25-foot grid. Skidmore pump station survey limits will extend 50-feet in either direction from the approximate center of the existing pump station site. Safeway pump station survey limits will extend 75-feet in each direction from the approximate center of the existing pump station site.
- Land Use Assistance. Land use permitting is not anticipated to be required for the Safeway pump station upgrade as the pump station is permitted as a basic utility in the CG zone. The need for a conditional use permit is anticipated at the Skidmore pump station site, which is zoned R7. The Contractor's permit specialist will prepare the pre-application conference submittal and attend the conference, attend and assist BES as requested for a neighborhood meeting, prepare and compile a Type III Conditional Use permit application, and prepare for and attend one land use review hearing before the City hearings officer. Land use permit requirements will be summarized in a technical memorandum.
- Examine and evaluate options for upgrading the pump stations. Upgrades to be considered will include the following:
  - Options for increasing the wet well capacity at the Skidmore Pump Station, including enlargement of the existing wet well and augmenting capacity with a new wetwell.
  - Site layout alternatives showing the location of key structures including wet wells, vaults, electrical buildings, site access, landscaping, on-site stormwater management facilities, and interior vehicle circulation.
- Evaluate on-site stormwater Best Management Practices (BMPs) based on the latest version of the City of Portland Stormwater Management Manual (SWMM), and select the most appropriate BMP for each site.
- Architectural code review and predesign of the electrical/control buildings and generator shelters, including eco-roof options.
- Perform preliminary equipment evaluations and pump selections.
- Identify construction considerations, including temporary pumping, traffic control, and erosion and sediment control requirements, along with potential constructability concerns.
- Evaluate and make recommendations for energy efficient mechanical and electrical equipment. Assist BES in preparing documentation for energy efficiency incentives through the Energy Trust of Oregon and the State of Oregon Business Energy Tax Credit program.
- Evaluate the existing standby generator at the Skidmore pump station for suitability of reuse with the improvements.

- Perform an odor/corrosion control evaluation for each of the two pump station projects. Evaluate the force main receiving manholes for evidence of sulfide attack and determine requirement for odor/corrosion control measures based on DEQ and BES criteria. Evaluate mitigation alternatives if deemed necessary.
- Prepare a draft Preliminary Design Report (PDR) for each pump station and submit to BES for review and comment. Each draft PDR will present the design team's recommendations for upgrading each pump station and will include recommendations for energy efficiency measures and odor/corrosion control requirements.
- Develop preliminary drawings to approximately a 30% level of completion for inclusion in each PDR. It is anticipated that the preliminary drawings will include cover sheets, drawing lists, general notes, site plans, and right-of-way plans showing easement requirements.
- Prepare 30% list of specifications sections and budgetary construction cost estimates for inclusion in the draft PDR.
- Identify required permits, including timelines for their acquisition, and include list in each draft PDR.
- Attend a review meeting with BES to discuss and clarify comments generated by BES review of each draft PDR.
- Incorporate or otherwise address BES PDR review comments and submit final versions of each PDR.

The scope of work for this task is based on the following assumptions:

- Subsurface geotechnical investigations will include one boring to approximately 40 feet deep at each pump station site, and a second boring to approximately 10 feet deep at the Skidmore site. Infiltration tests will be conducted in one boring at each site at depths of 1 to 3 feet below grade.
- Site alternatives evaluations will include two alternatives for each site.
- Specifications list and format will use the 6 digit CSI format, with numbering and titles from the 2010 Master Format Index.
- A conditional use permit will be required for the Skidmore pump station and the project will not be permitted through a nonconforming situation review per PCC 33.258.050(C).

BES Responsibilities:

- BES will provide the required minimum design firm pumping capacity flowrate for each pump station following NTP. Design criteria will be established after this information has been received.
- BES will request and coordinate PBOT survey work.
- BES will provide survey control networks and right-of-way information for each site.
- BES will provide interior measurements of each pump station to augment base mapping and assist in the preparation of design drawings.
- BES's pump station and maintenance (PUMA) group will provide input on equipment and pump preferences.
- BES will provide the following reference drawings for each of the two pump station projects:
  - R01: Bubbler Panel,
  - R02: Compressor Control Panel,
  - R03 SSPC Layout and Parts List,
  - R04 SSPC Internal Power and Discrete Input Wiring,
  - R05 SSPC Discrete Output Wiring and Analog I/O Wiring,
  - R06 SSPC Terminal, Relay, and Analog Controller Details,
  - R07 SSPC Analog Terminal Layout,
  - R08 Hydra Power and I/O Wiring Schematics,
  - R09 Hydra Layout Materials List,
  - R10 Hydra Communications Wiring and Details,
  - R11 Combustible Gas Detector (CGD) Panel, for inclusion in the 30% Design drawings.
- BES will provide the following technical specifications:
  - 40 91 19 29 Liquid Pressure Process Measurement Device,
  - 40 91 23 66 Level Process Measurement Devices, and
  - 40 95 63 Process Control Wireless Equipment specification sections for inclusion in the PDRs.

- BES will elect to have a neighborhood meeting for the Skidmore pump station. BES will coordinate, prepare, and mail the meeting announcement for the neighborhood meeting.
- BES will provide the latest versions of the "City of Portland Wastewater Pump Station Design Manual" and BES Drafting Standards along with example AutoCAD files.
- BES will provide a single point of contact for coordinating drafting standards between the City and Contractor.

Deliverables:

- Sample AutoCAD files at the 30% level of completion. CAD files will be provided in 2010 format.
- Two site plan alternatives for each pump station.
- One electrical building rendering for each pump station.
- Draft and final land use technical memorandum for each pump station.
- Draft and final Type III Conditional Use Permit application package for the Skidmore PS..
- Draft and final geotechnical Reports for each pump station.
- A Draft PDR for each pump station
- Written responses to the Draft PDR review comments
- A Final PDR for each pump station

**Task 3 Final Design**

Prepare plans, technical specifications, construction cost estimate (PSE) review packages, and estimated construction schedules based on the recommendations documented in the final PDR for each pump station site.

This task includes the following sub-tasks:

*Task 3.1 60% Design Package*

Preparation of the 60% Design Package includes the following:

- Preparation of engineering drawings (plans), technical specifications, and construction cost estimates. Drawings will include the following:
  - General drawings (G-Sheets) with title blocks showing projects locations and sheet lists, survey datum, general notes, data tables, and pump system head-capacity curves.
  - Civil drawings (C-Sheets) including temporary pumping plans, temporary traffic control plans showing haul routes and contractor staging areas, site plans, right-of-way improvement plans, on-site stormwater management details, and general civil details.
  - Erosion Control (EC-Sheets) including construction erosion and sediment control plans and details, and EC notes.
  - Demolition drawings (D-Sheets) including demolition site plans and detail drawings clearly identifying items to be demolished, abandoned in place, and salvaged.
  - Architectural Drawings (A-Sheets) including building floor plan and elevation drawings, eco-roof plan and detail drawings, and door, window, and finish schedules.
  - Mechanical Drawings (M-Sheets) including piping and plumbing plan and elevation drawings, HVAC plan, elevation, and detail drawings, and general mechanical details..
  - Electrical Drawings (E-Sheets) including one-line diagrams, electrical site plans, building electrical plans, schedules, schematics, and electrical details..
  - Structural Drawings (S-Sheets) including structural notes, building foundation plans, building structural details, outdoor equipment pad details, relocated telemetry mast foundation detail, and general structural details..
- Preparation of 60% technical specifications. Technical specifications will be based on the 6-digit CSI format and will reference the City's Standard Construction Specifications to the extent possible.
- Provide initial engineers estimate of the probable cost of construction (60% construction cost estimate).
- Prepare an engineer's estimate of a 60% construction schedule for each project site.
- Submit 60% Plans, Specifications and Estimate (PSE) review packages to BES for review and comment.
- Attend meeting with BES to discuss and clarify 60% review comments. The Contractor will solicit comments from BES for ways to enhance the operation and performance of the proposed designs. It is



anticipated that representatives from BES's pump station maintenance (PUMA) section will be in attendance at the meeting and will provide input and guidance on the proposed designs.

- Provide written responses to 60% review comments.
- Update the project schedule for each site.

### *Task 3.2 90% Design Package*

Preparation of the 90% Design Package includes the following:

- Incorporate the 60% design review comments into the design.
- Refine the technical specifications in response to design review comments.
- Refine the engineer's estimate of the probable schedule for and cost of construction.
- Prepare 90% PSE review packages and submit to BES for review and comment.
- Attend a 90% review meeting to discuss and clarify 90% review comments.
- Provide written responses to 90% review comments.
- Update project schedules.

### *Task 3.3 100% Design Package*

Preparation of the 100% Design Package includes the following:

- Incorporate the 90% review comments into the design.
- Prepare 100% PSE packages and submit to BES. The 100% design package will include stamped drawings and specifications, an updated construction schedule for each project, a final engineer's estimate of the probable cost of construction, and signed and sealed structural calculations.
- Update project schedules.
- Assist the BES PM with responses to BDS review comments, and checksheets issued during the commercial building permit review process.

### BES Responsibilities

- BES will supply as-built drawings including electronic AutoCAD files if available, along with supplemental measurements of interior structures. It is assumed that the as-built drawings and supplemental measurements will have sufficient information with which to develop all necessary design criteria.
- BES will coordinate with the Bureau of Parks and Recreation to provide site and right of way landscape design and drawings for inclusion in the 100% PSE packages. BES will coordinate with the Bureau of Parks and Recreation to provide landscape plantings.
- BES will provide the following reference drawings in the 90%, and final PSE package for each PS:
  - R01: Bubbler Panel,
  - R02: Compressor Control Panel,
  - R03 SSPC Layout and Parts List,
  - R04 SSPC Internal Power and Discrete Input Wiring,
  - R05 SSPC Discrete Output Wiring and Analog I/O Wiring,
  - R06 SSPC Terminal, Relay, and Analog Controller Details,
  - R07 SSPC Analog Terminal Layout,
  - R08 Hydra Power and I/O Wiring Schematics,
  - R09 Hydra Layout Materials List,
  - R10 Hydra Communications Wiring and Details,
  - R11 Combustible Gas Detector (CGD) Panel,
- BES will provide the following technical specifications for inclusion in the 90% and final PSE packages:
  - 40 91 19.29 Liquid Pressure Process Measurement Device,
  - 40 91 23.66 Level Process Measurement Devices,
  - 40 95 63 Process Control Wireless Equipment specification sections
- BES will identify owner supplied items to be installed by the construction contractors for inclusion in the 60%, 90% and final construction cost estimates.

Deliverables:

- Selected drawing files at 30%, 60% and 90% design completion for review. AutoCAD files at the final completion. AutoCAD files will be provided in 2010 format.
- 60% and 90% PSE review packages including one set of 11x17 drawings, technical specifications, representative CAD drawing files, an updated project construction schedule and estimates of the engineer's probable costs of construction.
- Written responses to the 60% and 90% review comments.
- 100% PSE review packages including one set of stamped full-size vellum plans, one set of 11x17 drawings, stamped technical specification printed, MS Word and PDF version, and final engineers estimate of the probable cost of construction.
- Four sets of signed and sealed structural calculations.
- Written technical responses to BDS building permit review checksheets.

**Task 4 Services During Bidding**

This task will support BES during the Advertise-NTP Phase of the projects.

Work items included under this task are:

- Attend one mandatory pre-bid meeting for each construction project. Assist BES in answering technical questions during the meeting.
- Assist BES in responding to bidder requests for information (RFIs) and requests for clarification (RFC) up to the deadline date for responding to requests.
- Assist BES in preparing bid addenda including drawing revisions and technical specification revisions.

The scope of work for this task is based on the following assumptions:

- Drawing and technical specification revisions will be minor and will not require more than six hours of cumulative engineering effort for each design package.

BES Responsibilities:

- BES will act as the point of contact for prospective bidders and will notify the Contractor of items requiring their attention.
- BES will collate RFIs and RFCs and forward to the Contractor for response.
- BES will assemble the Contractor's responses to RFIs/RFCs, and revised drawings and specifications, and issue bid addenda.
- BES will provide responses to questions regarding BES designed improvements including landscaping, P&ID systems, and telemetry.

Deliverables:

- Revised drawings and technical specifications.
- Written responses to prospective bidders' RFIs and RFCs.

**Task 5 Services during Construction (SDCs)**

This task will support BES during construction of the projects.

Work items under this task are:

- Provide responses to construction contractors' requests for information (RFI) and requests for clarification (RFC). Assist the Owner's Representative in interpreting the plans and specifications.
- Attend and participate in up to four construction progress meetings for each project.
- Attend up to four mandatory City of Portland BDS site visits. Prepare and submit the required site visit reports, and final summary reports.
- Contractor will develop sub-contract for testing of wet well coatings at both pump station sites..
- Participate in the pump stations' start-up and testing prior to substantial completion.

- Prepare narrative Operations and Maintenance Manuals for each pump station in accordance with BES guidelines for Pump Station Operations and Maintenance Manuals.
- Prepare “as-built” drawings incorporating revisions made during construction and documented by the Contractor as “red-line” markups on the contract drawings. The BES Construction Services CM and inspectors will review the “red-line” markups for accuracy before they are transmitted to Contractor.

BES Responsibilities:

- BES will maintain overall responsibility for managing the construction contracts including record keeping, and administration of construction contractors.
- BES will provide field inspection and special inspection services.

Deliverables:

- Written responses to construction contractor RFIs and RFCs.
- Site visit summary reports (up to four)
- Reports documenting the wet well coating testing subcontract results
- Draft and Final narrative Operations and Maintenance Manuals (one copy for each pump station)
- “As-Built” CAD drawing files and printed vellum record drawings for archiving.

**CONTRACTOR PERSONNEL**

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

NAME	ROLE ON PROJECT
Tom Wilcox	Principal
Matt Huxley	Project Manager
Hod Wells	Structural Lead
Brian Board	Structural Engineer
James Bohanek	Civil Engineer
Don Hardy	Planning Lead
Read Stapleton	Senior Planner
Kate Blystone	Land Use Planner
Jim Gladstone	Public Involvement
Dan Ly	CAD Lead
Andres Dominguez	Administration

**SUBCONTRACTORS**

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

NAME	ROLE ON PROJECT
Epsilon Engineering	Electrical and Instrumentation and Control Design
R&W Engineering	HVAC and Miscellaneous Mechanical Engineering
Michael Willis Architects	Architectural Design
Hart-Crowser	Geotechnical Engineering

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 that the Contractor can be paid on this contract is \$345,520 (hereafter the “not to exceed” amount.). The “not to exceed” amount includes all payments to be made pursuant to this contract, including reimbursable expenses, if any. 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. The actual amount to be paid Contractor may be less than that amount.

The Contractor is entitled to receive progress payments for its work pursuant to the Contract as provided in more detail below. The City will pay Contractor based on these invoices for acceptable work performed and approved until the “not to exceed” amount is reached. Thereafter, Contractor must complete work based on the Contract without additional compensation unless there is a change to the scope of work.

Any estimate of the hours necessary to perform the work is not binding on the City. The Contractor remains responsible if the estimate proves to be incorrect. Exceeding the number of estimated hours of work does not impose any liability on the City for additional payment.

If work is completed before the “not to exceed” amount is reached, the Contractor’s compensation will be based on the Contractor’s bills previously submitted for acceptable work performed and approved.

**Payment Schedule**

The estimated task breakdown of the “not to exceed” amount is shown in the table below. Contractor may reallocate compensation between tasks with the approval of the City, provided the total “not to exceed” amount is not exceeded.

TASK	DESCRIPTION	COST NOT TO EXCEED (SAFEWAY)	COST NOT TO EXCEED (SKIDMORE)
1.0	Project Management	\$ 10,909	\$ 10,910
2.0	Predesign Services	\$ 44,633	\$ 62,849
3.0	Final Design Services	\$ 80,239	\$ 77,820
4.0	Bid Support Services	\$ 3,407	\$ 3,407
5.0	Services During Construction	\$ 24,067	\$ 27,279
TOTAL CONTRACT AMOUNT		\$ 163,255	\$ 182,265

The contract amounts noted above include \$105,875 in subcontracting to M/W/ESB certified firms, representing a 34.1% M/W/ESB participation.

**PAYMENT TERMS: Net 30 Days**

**Hourly Rates**

The billing rates shall not exceed those set forth below:

Job Billing Title	Maximum Billing Rate (\$/hour)
Principal	\$223.54
Project Manager	\$124.43
Project Manager VII	\$175.86
Structural Engineer	\$113.27
Civil Engineer	\$98.36
Planning Lead	\$152.02
Senior Planner	\$131.53
Land Use Planner	\$74.52
Public Involvement	\$115.13
Lead CAD	\$98.36
Department Coordinator	\$91.30

**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, in excess of the number required as part of the contract excluding the cost of reproduction for Consultant's or sub's own use.

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

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any 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 Thomas R. [Signature] Date 3/2/12 Entity BERGER ABAM 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.

**BergerABAM Engineers Inc.**

BY: Thomas R. Wilcox Date: 3/2/12

Name: THOMAS R. WILCOX

Title: VICE PRESIDENT

