

EXHIBIT A

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

CONTRACT NUMBER 30005672

TITLE OF WORK PROJECT
Federal Electrical Regulatory Commission Part 12 Report for
Portland Hydropower Project 1 and Project 2

This contract is between the City of Portland ("City," or "Bureau") and Cornforth Consultants Inc., hereafter called Consultant. The City's Project Manager for this contract is Glenn O. Pratt.

Effective Date and Duration

This contract shall become effective on January 1, 2017. This contract shall expire, unless otherwise terminated or extended, on December 31, 2020.

Consideration

- (a) City agrees to pay Consultant a sum not to exceed \$139,776 for accomplishment of the work.
- (b) Interim payments shall be made to Consultant according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

=====

CONSULTANT DATA AND CERTIFICATION

Name (print full legal name): Cornforth Consultants Inc.

Address: 10250 SW Greenburg Road, Suite 111, Portland, OR 97223

Employer Identification Number (EIN): 93-0837288

[INDEPENDENT CONSULTANTS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN)]

City of Portland Business Tax Registration Number: 372698

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 shall 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

Consultant 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 shall 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 Consultant 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, Consultant shall pay the City all damages, costs, and sums incurred by the City as a result of the breach.
- (c) If the Consultant justifiably terminates the contract pursuant to subsection 4(b), the Consultant'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 Consultant shall be paid as if the Contract was terminated under Section 4(a).
- (e) In the event of early termination the Consultant's work product before the date of termination becomes property of the City.

6. Assignment

Consultant 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 subconsultant, the Consultant shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Consultant hereunder. The Consultant agrees that if subconsultants are employed in the performance of this Agreement, the Consultant and its subconsultants are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

7. Compliance with Applicable Law

Consultant shall comply with all applicable federal, state, and local laws and regulations. Consultant agrees it currently is in compliance with all tax laws. Consultant shall comply with Title VI of the Civil Rights Act of 1964 and its corresponding regulations. In connection with its activities under this Contract, the Consultant shall comply with all applicable Grant Terms and conditions. This includes all terms and conditions contained in this contract and, for a contract involving a grant, the Grant Terms and Conditions.

8. Indemnification for Property Damage and Personal Injury

Consultant 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 Consultant, its Subconsultants, suppliers, employees or agents in the performance of its services. Nothing in this paragraph requires the Consultant 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

Consultant shall obtain and maintain in full force at Consultant expense, throughout the duration of the Contract and any warranty or extension periods, the required insurance identified below. The City reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of the Contract.

- (a) Workers' compensation insurance as required by ORS Chapter 656 and as it may be amended. Unless exempt under ORS Chapter 656, the Consultant and all subconsultants shall maintain coverage for all subject workers.

☒ Required and attached // ☐ Proof of exemption (i.e., completion of Workers' Compensation Insurance Statement)

- (b) General commercial liability (CGL) insurance covering bodily injury, personal injury, property damage, including coverage for independent consultant's protection (required if any work shall be subcontracted), premises/operations, contractual liability, products and completed operations, in per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

- (c) Automobile liability insurance with coverage of not less than \$1,000,000 each accident, and an umbrella or excess liability coverage of \$2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

- (d) Professional Liability and/or Errors & Omissions insurance to cover damages caused by negligent acts, errors or omissions related to the professional services, and performance of duties and responsibilities of the Consultant under this contract in an amount with a combined single limit of not less than \$1,000,000 per occurrence and aggregate of \$3,000,000 for all claims per occurrence. In lieu of an occurrence based policy, Consultant may have claims-made policy in an amount not less than \$1,000,000 per claim and \$3,000,000 annual aggregate, if the Consultant obtains an extended reporting period or tail coverage for not less than three (3) years following the termination or expiration of the Contract.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

Continuous Coverage; Notice of Cancellation: The Consultant agrees to maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non-renewal of coverage without thirty (30) days written notice from Consultant to the City. If the insurance is canceled or terminated prior to completion of the Contract, Consultant shall immediately notify the City and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.

Additional Insured: The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland and its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the Consultant's activities to be performed, or products or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

Certificate(s) of Insurance: Consultant shall provide proof of insurance through acceptable certificate(s) of insurance, including additional insured endorsement form(s) and all other relevant endorsements, to the City prior to the award of the Contract if required by the procurement documents (e.g., request for proposal), or at execution of Contract and prior to any commencement of work or delivery of goods or services under the Contract. The Certificate(s) shall specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Contract shall be obtained from insurance companies acceptable to the City of Portland. The Consultant shall pay for all deductibles and premium. The City reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsements evidencing the coverage the required.

Subconsultant(s): Consultant shall provide evidence that any subconsultant, if any, performing work or providing goods or service under the Contract has the same types and amounts of coverages as required herein or that the subconsultant is included under Consultant's policy.

10. Ownership of Work Product

All work product produced by the Consultant 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 Consultant 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 Consultant 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. Consultant shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Consultant 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 Consultant is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this contract, the Consultant-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 Consultant are and shall remain the exclusive property of Consultant.

11. EEO Certification

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

12. Equal Benefits

Consultant 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 Consultant 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 law's 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 Tax Registration

The Consultant shall obtain a City of Portland business tax registration number as required by PCC 7.02 prior to beginning work under this Contract.

20. Prohibited Conduct

The Consultant 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 Subconsultants

The Consultant shall timely pay all subconsultants and suppliers providing services or goods for this Contract.

22. Access to Records

The Consultant shall maintain all records relating to this Contract for three (3) years after final payment. The City may examine, audit and copy the Consultant'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 shall 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 Consultant exceed the amount to which the Consultant was entitled, the Consultant shall repay the amount of the excess to the City.

24. Electronic Signatures

The City and Consultant 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 Consultant 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 Consultant shall provide monthly progress reports to the Project Manager as described in the Statement of the Work and Payment Schedule.

28. Consultant's Personnel: ☒ Applicable ☐ Not Applicable

If applicable, the Consultant 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. Subconsultants

The Consultant shall use the subconsultants identified in its proposals. The Consultant shall not change subconsultant assignments without the prior written consent of the Chief Procurement Officer. The City shall enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Consultant in its proposals. Failure to use the identified M/W/ESB subconsultants without prior written consent is a material breach of contract.

For contracts valued \$50,000 or more, the Consultant shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. An electronic copy of the MUR may be obtained by contacting the PTE Contract Compliance Specialist.

30. Third Party Beneficiaries

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

31. Conflict of Interest

Consultant hereby certifies that, if applicable, its contract proposal is made in good faith without fraud, collusion or connection of any kind with any other proposer of the same request for proposals or other City procurement solicitation(s), that the Consultant as a proposer has competed solely on its own behalf without connection or obligation to, any undisclosed person or firm. Consultant certifies that it is not a City official/employee or a business with which a City official/employee is associated, and that to the best of its knowledge, Consultant, its employee(s), its officer(s) or its director(s) is not a City official/employee or a relative of any City official/employee who: i) has responsibility in making decisions or ability to influence decision-making on the contract or project to which this contract pertains; ii) has or shall participate in evaluation or management of the contract; or iii) has or shall have financial benefits in the contract. Consultant understands that should it elect to employ any former City official/employee during the term of the contract then that the former City official/Consultant employee must comply with applicable government ethics and conflicts of interest provisions in ORS Chapter 244, including but not limited to ORS 244.040(5) and ORS 244.047, and the City's Charter, Codes and administrative rules, including lobbying prohibitions under Portland City Code Section 2.12.080.

32. Respectful Workplace Behavior

The City of Portland is committed to a respectful work environment, free of harassment, discrimination and retaliation and other inappropriate conduct. Every individual has a right to work in a professional atmosphere where all individuals are treated with respect and dignity. The City's HR Rule 2.02 covers all employees with the City of Portland as well as consultants, vendors or consultants who provide services to the City of Portland. By signing this Contract/Agreement, the Consultant indicates compliance with all terms and conditions contained in this Contract including HR 2.02.

**STATEMENT OF THE WORK
AND PAYMENT SCHEDULE**

BACKGROUND

The City of Portland Water Bureau (PWB) is required to submit the eighth Independent Consultant's Part 12 Dam Safety Inspection Reports for Portland Hydroelectric Power (PHP) Bull Run Dam No. 1 (Development No. 1) and Bull Run Dam No. 2 and related structures (Development No. 2) to the Federal Energy Regulatory Committee (FERC) by no later than *March 23, 2017*. The seventh Portland Hydroelectric Project Independent Consultant's Part 12 Reports were initially completed and submitted to the FERC in March 2013. A supplemental update of the initial submission for Development 2 was submitted to the FERC in November 2015. A supplemental update of the initial submission for Development No. 1 was submitted to the FERC in January 2016. Potential Failure Modes Analyses (PFMA) and Supporting Technical Information Documents (STID) for both Development No. 1 and Development No. 2, were initially produced in 2006 and have since been reviewed and amended.

The FERC has indicated that another full PFMA shall not be required as a part of eighth Part 12 Reports. However, the FERC has indicated its desire that a number of additional PFMs be developed for each of the two (2) PHP Developments during the Part 12 process.

SCOPE OF WORK

The Consultant shall lead a joint review of the failure modes identified in the previous PFMA's and shall expand the list of PFMs to include the issues detailed below. The Consultant shall complete the following:

- A. Participate in a pre-inspection conference call or face-to-face meeting with FERC and the City's Project Manager or designated staff to set requirements for the PFMA review portion of the Part 12 Reports as called for in Enclosure 4 of the November 23, 2015 letter from the FERC to the City that was provided to the Consultant.

- B. Conduct a review of the amended 2013 Part 12 Reports for both Development No. 1 and Development No. 2 of the Portland Hydroelectric Project, as well as the correspondence to and from FERC concerning those reports.
- C. Conduct a review of the currently amended PFMA Reports for both Development No. 1 and Development No. 2 of the Portland Hydroelectric Project, as well as the correspondence to and from FERC concerning those reports.
- D. Conduct a review of the current STIDs for both Development No. 1 and Development No. 2 of the PHP as well as the correspondence to and from FERC concerning those documents. Provide recommendations for any needed changes to the STI documents.
- E. Conduct a review of all January 2013 through December 2016, operations, maintenance, and surveillance records for both PHP Development No. 1 and Development No. 2.
- F. Conduct Part 12 Dam Safety Inspections and Reviews of the PHP Development No. 1 and Development No. 2, including their reservoirs, dams, embankments, and all appurtenant piping, etc., excluding all generation, transformation and transmission equipment associated with the PHP and then report on their findings. The Consultant's work must specifically comply with the directions contained in the November 23, 2015 letter from the FERC to the City that may be obtained from the City Project Manager. In addition to the other general reviews as called for in the FERCs' letter, the Consultant's Part 12 reviews should include the following:
 - 1) Evaluation of the Bull Run Dam 1 foundation drain monitoring program to determine whether it would be acceptable to reduce the frequency of readings. If a reduction is considered acceptable, recommend a frequency for foundation drain readings to adequately monitor related potential failure modes.
 - 2) Evaluation of the readings of Foundation Drains No. 22, 24, 30, and 31 near the left end of Dam 1, which are high relative to other Dam 1 foundation drains, to determine the cause and recommend what, if any, follow-up action should be taken. Note that in the 2013 Part 12 Report, the previous consultant opined that the Foundation Drain 22 readings indicate a less-than-tight grout curtain in this area. The current consultants should state whether they concur with this opinion.
 - 3) Evaluation of the Bull Run Dam 2 piezometer/foundation drain/drainage weir monitoring program to determine whether it would be acceptable to reduce the quantity of piezometers monitored and to reduce the frequency of readings. If a reduction in the quantity of piezometers is considered acceptable, recommend which piezometers shall be continued to be monitored. If a reduction in the frequency of piezometer readings is considered acceptable, recommend a frequency for piezometer readings to adequately monitor related potential failure modes.
 - 4) As recommended in Section 1.3.4.a of the 2013 Part 12 Report for Bull Run Dam No. 2, the Consultant shall need to reevaluate the downstream toe area phreatic surface in light of the data collected from the recently installed Piezometer No. 53 (replacement for the abandoned Piezometer No. 11). This evaluation should also render an opinion as to whether Piezometer No. 12 also needs to be replaced.
- G. Prepare required materials for lead PFMA review sessions for both Development No. 1 and Development No. 2 of the PHP. In addition, review the previously defined PFMs for those developments. The Consultant shall be required to address the following potential new or still uncompleted PFMs:
 - 1) Failure of penstocks penetrating Bull Run Dam No. 1 from seismic activity;
 - 2) Failure of penstocks penetrating Bull Run Dam No. 1 from impinging overtopping flows of the dam;
 - 3) Failure of Bull Run Dam No. 1 from PMF overtopping flows scouring abutments and foundation rock. This may consist of a review and reassessment of PFM No. 1 for Bull Run Dam No. 1 which already deals with these scenarios; and,
 - 4) Potential new failure modes related to the PHP Development No. 2 Spillway Dam and its downstream structure of concrete slabs.
- H. Re-evaluation of Bull Run Dam No. 2 Potential Failure Mode No. 17, involving a seiche wave generated by a hypothetical fast moving massive landslide along the north rim of Bull Run Reservoir No. 2 as described under Section 3.2.17 of the 2013 Part 12 Report for Bull Run Dam No. 1. The initial preparation and plan for this review is detailed in the City's June 30, 2015 letter to the FERC. The Consultant shall complete a review of published information (including existing or available LiDar data) related to landslides around the reservoir and perform a walking reconnaissance of the landslide(s) of concern. The Consultant's outcome of the analysis is the following:
 - 1) The Consultant shall develop a qualitative opinion on whether the landslide(s) are likely to move rapidly into the reservoir. The Consultant shall review published literature of landslides and rock slides that generated seiches to characterize the failed mass and compare it to the potential failure mass for the landslide(s) of concern. This task is important due to the possible rock slides and soil slides involve different mechanisms that result in different failure rates.
 - 2) The Consultant shall develop a quantitative analysis (without computational fluid dynamic modeling) of a seiche wave that could be generated by a fast-moving landslide. The Consultant shall meet with PWB and FERC to establish the range and size(s) of seiche wave(s) that shall be evaluated for presenting a possibility of overtopping/scour at the PHP.

- 3) The Consultant shall determine if the landslide(s) of concern are capable of generating the prerequisite height of seiche wave to affect Dam 2. The required movement rate would be evaluated relative to the agreed upon base line regarding the likely movement rate of the landslide. This analysis would work from the expectation that the landslide is directly opposite the embankment. Refracted waves due to reservoir geometry shall not be evaluated. Seiche wave modeling shall be performed by the Consultant as required.
- I. Conduct an external audit of the PWB's Owner's Dam Safety Program and produce a brief report on the Consultant's findings.

DELIVERABLES AND SCHEDULE

The Consultant shall provide the City's Project Manager with the following Deliverables in accordance with the schedule listed below:

- A. Draft FERC Part 12 Dam Safety Reports and recommended STI updates. The Consultant shall provide three (3) hard copies of each document to the City's Project Manager. Recommended STI updates must also be supplied in digital format on a thumb drive and be in a Microsoft product format to enable editing. Final Draft of the Part 12 Report is due to the Hydropower Bureau no later than November 1, 2017, the Final Part 12 Report to FERC will be submitted no later than January 31, 2018.
- B. Final FERC Part 12 Dam Safety Reports. The Consultant shall provide three (3) hard copies, and five (5) searchable electronic PDF copies of final reports on individual thumb drives to the City's Project Manager. Final Draft of the Part 12 Report is due to the Hydropower Bureau no later than November 1, 2017, the Final Part 12 Report to FERC will be submitted no later than January 31, 2018.
- C. The Consultant shall begin work immediately upon contract execution with intermediate submittals and deliverables due as agreed and directed by the FERC timeline provided to the Consultant with final submittals and deliverables to FERC and the City's Project Manager by January 31, 2018.

Deliverables shall be considered those tangible resulting work products that are to be delivered to the City such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings and reports. The Consultant shall provide all deliverables in accordance with the City's Sustainable Paper Use Policy. The policy can be viewed at: <http://www.portlandoregon.gov/bfrs/37732>.

All deliverables and resulting work products from the awarded contract shall become the property of the City of Portland. As such, the Consultant shall be required to 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 PRODUCT CONFIDENTIALITY

Due to the highly sensitive nature of the project data and work products the Consultant shall ensure that any documents containing water system information, drawings and all project related deliverables are protected against public dissemination. All internal file directories shall be password protected and only direct Consultant Personnel and PWB staff shall have access to project materials. Paper documents and project information shall be kept in secure storage. The City Project Manager is responsible for obtaining a signed Confidentiality Form from the Consultant prior to beginning any work under this Contract.

WORK PERFORMED BY THE CITY

The City has assigned a Project Manager to oversee the Consultant's work and provide support as needed. Specific duties the City's Project Manager shall perform include:

- A. Supplying access for the successful Proposer to the dams and reservoirs in the PHP Development's No. 1 and 2.
- B. Supplying the successful Proposer with a copy of the FERC letter requiring the Inspection and a copy of the FERC letter concerning the approval of the successful Proposer's Part 12D Consultant(s).
- C. Upon request, the City will provide the successful Proposer with:
 - 1) Copies of construction specifications, plans, photos for the Portland Hydroelectric Project Bull Run Dam No. 1 and 2 in both hard copy and electronic format.
 - 2) Copies of updated STIDs and latest Surveillance Monitoring Plans and Surveillance Monitoring Reports.
 - 3) Copies of past stability analyses, site specific seismic evaluations, Potential Failure Mode Analyses, and other reports concerning the Portland Hydroelectric Project Bull Run Dams No. 1 and 2 to which the City has knowledge of and access to.

- 4) Copies of surveillance records regarding the piezometers, weirs, foundation drains, surveys, and other instrumentation at the two dam sites including report-ready plots of the data from each of the instruments from 2013 through 2016.

PUBLIC SAFETY

Public safety may require limiting access to public work sites, public facilities, and public offices, sometimes without advance notice. The Proposer shall anticipate delays in such places and include the cost of delay in the proposed cost. The successful Proposer's employees and agents shall carry sufficient identification to show by whom they are employed and display it upon request to security personnel. City Project Managers have discretion to require the Consultant's employees and agents to be escorted to and from any public office, facility, or work site if national or local security appears to require it.

CONSULTANT PERSONNEL

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

| NAME | ROLE ON PROJECT |
|------------------|----------------------------|
| Arthur C. Martin | Senior Associate Engineer |
| Gerry M. Heslin | Senior Associate Engineer |
| Randy J. Hill | Senior Associate Engineer |
| Brent Black | Senior Associate Geologist |

SUBCONSULTANTS

The Consultant shall assign the following subconsultants to perform work in the capacities designated:

| NAME | ROLE ON PROJECT | M/W/ESB | SUBCONTRACT AMOUNT |
|----------------------------|-----------------------------------|---------|--------------------|
| Columbia Geotechnical Inc. | Geotechnical Analysis of PMF Data | WBE | \$10,136 |
| West Consultants Inc. | Seiche Wave Analysis | N/A | \$19,528 |

The City shall enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Consultant in its Proposal. For contracts valued \$50,000 or more, the Consultant shall submit a Monthly subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. A copy of the subconsultant Change Request Form can be found on Procurement Services' website under Contractor Resources.

COMPENSATION

The maximum compensation shall not exceed **\$139,776**. The "not to exceed amount" is the maximum amount of compensation due the Consultant for all the work required by the contract, including reimbursable expenses, if any. Errors in estimating the number of hours necessary to perform the work is the sole responsibility of the Consultant. 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 to the Consultant may be less than that amount.

Any estimate of the hours necessary to perform the work is not binding on the City. The Consultant 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 Consultant's compensation shall be based on the Consultant's bills previously submitted for acceptable work performed and approved.

Unless authorized by a written Amendment to the Contract no additions or changes shall be made to this Contract. The cost submitted by the Consultant's must remain constant for the duration of the contract.

Travel - It is the policy of the City that all travel shall be allowed only when the travel is essential to the normal discharge of the Consultant's responsibilities under the Contract. All travel must be for official City business only. All travel and lodging shall be conducted in the most efficient and cost-effective manner resulting in the best value to the City. Reimbursable direct costs include pre-approved travel beyond a 100-mile radius of Portland. Personal expenses shall not be authorized at any time. Alcohol is not an authorized purchase under this Contract. Travel costs shall be reimbursed in accordance with the City's Travel Expense Guidelines, which are based on the General Services Administration (GSA) per diem rates. All Travel shall be pre-approved in writing by the City's Project Manager. Upon submitting invoices which indicate travel the Consultant shall provide all travel receipts for any items being requested for reimbursement. All receipts shall indicate the company that payment was made to, detail describing the type of services purchased and the total amount paid initially by Consultant. All requests shall be in accordance with the limits of travel reimbursement. When submitting invoices and travel has been authorized and conducted by the consultant a separate line item shall be identified on the invoice.

Rates - The Consultant shall be compensated using the Hourly Rates accordance with the Hourly Rates listed below and in accordance with the Budget Detail attached as Exhibit A. Hourly Rates are provided for each classification and shall remain the same through the term of the Contract. **In no way shall the cost of hours billed by the Consultant exceed the total Contract amount of \$139,776 throughout the term of this Contract. Any new classifications and rates shall only be added through an authorized amendment to this Contract.**

Hourly Rates

The billing rates shall not exceed those set forth below:

| ROLE ON PROJECT | HOURLY RATE |
|----------------------------|-------------|
| Senior Associate Engineer | \$225 |
| Senior Associate Geologist | \$225 |
| Staff Engineer | \$152 |
| Staff Geologist | \$152 |
| Administrative | \$78 |

PAYMENT TERMS: Net 30 Days

Standard Reimbursable Costs

The following costs shall be reimbursed without mark-up:

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 Consultants 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%.

PROGRESS PAYMENTS

On or before the 15th of each month, the Consultant shall submit to the PWB's Accounts Payable an invoice for work performed by the Consultant 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: Tasks completed in accordance with the item descriptions listed above with the corresponding rate it is billed at; the percentage of work successfully completed for each task, and the percentage of work still required with remaining dollars available, project name, tasks, type of tasks performed, staff hours for each task including personnel and their classification that completed the work and the hours and rate for each individual, and total costs for the billing period. The Consultant shall also attach photocopies of claimed reimbursable expenses, if applicable. The Consultant shall submit a monthly report of task completed on each work order to the Project Manager along with the invoice.

Invoices shall either be e-mailed to: wbaps@portlandoregon.gov.

The City shall pay all amounts to which no dispute exists within 60 days of receipt of the invoice and shall be contingent on funding received by PGE. 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.

ACH PAYMENTS

It is the City's policy to pay its Consultant invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, Consultants shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at: <http://www.portlandoregon.gov/bfs/article/409834>.

Upon verification of the data provided, the Payment Authorization Agreement shall authorize the City to deposit payment for services rendered directly into Consultant accounts with financial institutions. All payments shall be in United States currency.

WORKERS' COMPENSATION INSURANCE STATEMENT

IF YOUR FIRM HAS CURRENT WORKERS' COMPENSATION INSURANCE, CONSULTANT MUST SIGN HERE:

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

Consultant Signature:

Date:

Entity:

IF YOUR FIRM DOES NOT HAVE CURRENT WORKERS' COMPENSATION INSURANCE, CONSULTANT MUST COMPLETE THE FOLLOWING INDEPENDENT CONSULTANT CERTIFICATION STATEMENT:

As an independent Consultant, I certify that I meet 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 Consultant 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. Consultant: 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

Consultant Signature

Date

FOR CITY USE ONLY

PROJECT MANAGER-COMplete ONLY IF CONSULTANT DOES NOT HAVE WORKER'S COMPENSATION INSURANCE
 ORS 670 600 Independent Consultant 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 consultant" 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

CONSULTANT 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 Consultant 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 consultant as defined in ORS 670.600.

Cornforth Consultants Inc.

BY: _____

Date: _____

Name: _____

Title: _____

CONTRACT NUMBER: 30005672

CONTRACT TITLE: Federal Electrical Regulatory Commission Part 12 Report for Portland Hydropower Project 1 and Project 2

CITY OF PORTLAND SIGNATURES:

By: N/A Date: _____
Bureau Director

By: _____ Date: _____
Chief Procurement Officer

By: N/A Date: _____
Elected Official

Approved:

By: N/A Date: _____
Office of City Auditor

Approved as to Form:

By: _____ Date: _____
Office of City Attorney