

**ORDINANCE No. 189865**

Authorize a competitive invitation to bid for digester cleaning services to be performed at the Columbia Blvd. Wastewater Treatment Plant (Ordinance)

The City of Portland ordains:

**Section 1. The Council finds:**

1. The Bureau of Environmental Services needs to have its ten digesters at the Columbia Blvd. Wastewater Treatment Plant cleaned every two years to maintain maximum biosolids storage and biogas production. This translates into cleaning five digesters per year.
2. Clean digesters increase the organic material capacity therefore augmenting the potential of biogas production. By having clean digesters that contain mostly organic material, this increases the efficiency of the plant by maximizing digester volume for regulatorily mandated detention time and volatile solids reduction as well as reducing the potential to send flows to the plant's facultative lagoon when the digesters have reached their capacity.
3. The established cost is \$1.25 million per year. Funds are available in the Sewer System Operating Fund, FY 19-20 Budget, Bureau of Environmental Services, ESWW000009.

NOW, THEREFORE, the Council directs:


- a. The Chief Procurement Officer is authorized to facilitate the use of the competitive solicitation process in order to obtain the most responsible and responsive Offeror providing a general price agreement for Digester Cleaning Services.
- b. Upon Council acceptance of the Chief Procurement Officer's Report, Procurement Services is authorized to negotiate and execute a contract, provided the contract has been approved as to form by the City Attorney's office.

Passed by the Council:  
Mayor Ted Wheeler

**FEB 19 2020**

Prepared by: Bill Sterling/Cj  
Date prepared: January 8, 2020

Cost object – ESWW000009

**Mary Hull Caballero**  
Auditor of the City of Portland  
By 

Deputy

134 154

2/14/0

Agenda No.  
**ORDINANCE NO. 189865**  
Title

✓ Authorize a competitive invitation to bid for digester cleaning services to be performed at the Columbia Blvd Wastewater Treatment Plant (Ordinance)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Ted Wheeler</b></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Wheeler <i>[Signature]</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - <del>Wheeler</del> <i>Vacant SMS</i></p> <p>Position 3/Affairs - Hardesty</p> <p>Position 4/Safety - Eudaly</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: Environmental Services Bureau Head: Michael Jordan <i>[Signature]</i></p> <p>Prepared by: Bill Sterling/Cj Date Prepared: January 8, 2020</p> <p>Financial Impact &amp; Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><b>City Auditor Office Approval:</b> required for Code Ordinances</p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p> <p>Council Meeting Date <b>February 12, 2020</b></p>	<p>CLERK USE: DATE FILED <b>FEB 04 2020</b></p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p><b>ACTION TAKEN:</b> <b>FEB 12 2020 PASSED TO SECOND READING FEB 19 2020 9:30 A.M.</b></p>
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<p align="center"><b>AGENDA</b></p> <p><b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____</p> <p><b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)</p> <p><b>CONSENT</b> <input type="checkbox"/></p> <p><b>REGULAR</b> <input checked="" type="checkbox"/> <b>Total amount of time needed:</b> <u>15 mins</u> (for presentation, testimony and discussion)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th>YEAS</th> <th>NAYS</th> </tr> <tr> <td>1. Fritz</td> <td><i>[Signature]</i></td> <td><i>[Signature]</i></td> </tr> <tr> <td>2. <del>Wheeler</del> <i>Vacant</i></td> <td><del>Same</del></td> <td><del>Same</del></td> </tr> <tr> <td>3. Hardesty</td> <td>✓</td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td>✓</td> <td></td> </tr> <tr> <td>Wheeler</td> <td>✓</td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz	<i>[Signature]</i>	<i>[Signature]</i>	2. <del>Wheeler</del> <i>Vacant</i>	<del>Same</del>	<del>Same</del>	3. Hardesty	✓		4. Eudaly	✓		Wheeler	✓	
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**CITY OF PORTLAND**  
**CONTRACT FOR SERVICES**  
**for**  
**DIGESTER CLEANING, HAULING AND DISPOSAL SERVICES**

**Contract Number: 30007446**

As authorized by PCC 5.33, this Contract is made effective on December 1, 2020 (“Effective Date”) by and between the City of Portland (“City”), a municipal corporation of the State of Oregon, and Synagro West, LLC (“Contractor”), a Maryland corporation, by and through their duly authorized representatives. This Contract may refer to the City and Contractor individually as a “Party” or jointly as the “Parties.”

The initial Term of this Contract shall be from the Effective Date through June 30, 2025. The total not-to-exceed amount under this Contract shall be \$1,250,000.00 per year for the five (5) year term. The cumulative total not-to-exceed amount for the duration of the contract shall be \$6,250,000.

Party contacts and Contractor’s and City’s Project Manager for this Contract are:

For City of Portland:	For Contractor:
Name: Bill Sterling	Name: John Pugliaresi
Title: Supervisor II	Title: Sr. Area Sales Manager
Address:	Address: 3110 Gold Canal Drive, Suite E
City, State:	City, State: Rancho Cordova, CA 95670
e-mail: bill.sterling@portlandoregon.gov	e-mail: jpubliaresi@synagro.com
Copy to: Rick Knostman	Copy to: Ronald Brandon
Procurement Services	Operations Manager
1120 SW 5 <sup>th</sup> Ave.	3110 Gold Canal Drive, Suite E, Rancho Cordova, CA 95670
Portland OR 97204	rbrandon@synagro.com

**Scope and Consideration**

- (a) Contractor shall perform the Services and provide the Deliverables set forth in the Statement of Work by the due dates specified in the Contract.
- (b) City agrees to pay Contractor a sum not to exceed \$6,250,000 for accomplishment of the Project.
- (c) Payments shall be made to Contractor according to the schedule identified in Exhibit A, the Contractor’s Price.

Recitals:

In accordance to City of Portland Ordinance # 189865

WHEREAS, to further its government operations, the City of Portland desires to purchase Digester Cleaning, Hauling and Disposal Services (the “Project”); and

WHEREAS, the City issued Request for Proposal (RFP) 00001441 for Digester Cleaning, Hauling and Disposal Services

WHEREAS, Contractor, in its Proposal dated July 7, 2020 and submitted in response to the City’s RFP represented that it has the knowledge, experience, and expertise in biosolids management ; and

WHEREAS, the City selected Contractor based on its Proposal;

THE PARTIES HEREBY AGREE AS FOLLOWS:

## **SECTION 1 DEFINITIONS (10/19)**

General Definitions. (11/18) These definitions apply to the entire Contract, subsequent Amendments, and any Change Orders or Task Orders, unless modified in an Amendment. If any definition contains a substantive provision conferring rights and/or obligations upon a Party, then effect shall be given to the substantive provision.

“Acceptance” (10/19) means the Deliverable demonstrates to the City’s satisfaction that the Deliverable conforms to and operates according to the Acceptance Criteria, and if required, has successfully completed Acceptance review, and for Deliverables not requiring Acceptance Testing that the Deliverable conforms to the Acceptance Criteria or the City’s Specifications.

“Acceptance Certificate” (11/18) means a written instrument by which the City notifies Contractor that a Deliverable has been Accepted or Accepted with exceptions, and Acceptance Criteria have been met or waived, in whole or in part.

“Acceptance Criteria” (11/18) means functionality and performance requirements determined by the City, based upon the Specifications, which must be satisfied prior to City’s Acceptance of a Deliverable. City and Contractor shall agree upon written Acceptance Criteria.

“Acceptance Date” (11/18) means the date on which the City issues an Acceptance Certificate for the Deliverable(s).

“Affiliates” (11/18) means, for Contractor, any individual, association, partnership, corporation or other entity controlling, controlled by, or under common control. The term “control” means the power to direct or cause the direction of the management and policies of an individual or entity, whether through the ownership of voting securities, by contract, agreement or otherwise.

“Amendment” (12/18) means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions of the Contract, Contract amount, or substantially altering a Statement of Work.

“Business Day” (11/18) means a twenty-four hour day, excluding weekends and City holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Calendar Day” (11/18) means a twenty-four hour day, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Change Order” (12/18) means a document, agreed and signed by both Parties, that changes an existing Statement of Work. Change Orders cannot change Contract amount or Master Terms and Conditions.

“Confidential Information” (08/19) means any information that is disclosed in written, graphic or machine-recognizable form and is marked or labeled at the time of disclosure as being Confidential or its equivalent, or, if the information is in verbal or visual form, it is identified as Confidential or proprietary at the time of disclosure, or a reasonable time thereafter. Information shall always be considered Confidential Information, whether or not it is marked or identified as such, if it is described by one or more of the following categories: (1) non-public financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.345(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) information which is exempt from disclosure per Oregon Public Records Law; (6) attorney/client privileged communications; (7) information which is exempt per federal laws (including but not limited to copyright, HIPPA); and (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems including without limitation, data and information systems, any software code and related materials and processes, Customizations, Configurations, Updates, Upgrades; and any Documentation. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving Party; is already lawfully known to the receiving Party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Contract or any other agreement between the Parties or of any applicable protective or similar order, in the receiving Party’s possession without any obligation restricting disclosure; is independently developed by the receiving Party, as shown by reasonable written documentation, without breach of this Contract; or is explicitly approved for release by written authorization of the disclosing Party.

“Contract” (11/18) means the Master Terms and Conditions including all exhibits, attachments and schedules and their constituent parts listed in the Order of Precedence or incorporated by reference.

“Contract Price” (10/19) means the not-to-exceed price agreed upon by the Parties for all Services.

“Deliverable(s)” (11/18) means the Services, Documentation or documents or tangible work products described in the Statement of Work to be provided to the City by Contractor under this Contract.

“Documentation” ( 10/19) means user manuals and other written materials in any form that describe the features or functions of the Deliverables and Services, including but not limited to published specifications, online instructions and help, marketing materials, technical manuals, and operating instructions provided by Contractor to the City, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

“Defect” (10/19) means any error, problem, condition, bug, or other partial or complete inability of a Service, Deliverable or component thereof, to operate in accordance with the applicable Specifications.

“Final Acceptance” (11/18) means the City has determined that all Deliverables have successfully completed Acceptance Testing, which demonstrates to the City’s satisfaction that all Deliverables conform to and operate according to the Acceptance Criteria, applicable Documentation, and Contractor’s representations; and that for Deliverables not requiring Acceptance Testing, that the Deliverables conform to the Acceptance Criteria or the City’s specified requirements.

“Force Majeure Event” (11/18) means an exceptional and unavoidable occurrence beyond the reasonable control of the affected Party, such as, riots, epidemics, war, government regulations, labor disputes, fire, natural phenomena, or other causes beyond such Party’s reasonable control.

“Intellectual Property Rights (IPR)” (11/18) means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, trade dress, moral rights, know-how and any other similar rights or intangible assets to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations, or reissues of the foregoing now or hereafter in force.

“Key Personnel” (11/18) means the specific individuals identified in Section 3.11 to fill Key Positions.

“Key Position” (11/18) means a job position critical to the success of the Project as identified in Section 3.11 of this Contract.

“Master Terms and Conditions” (11/18) means the body of text from the preamble through the signature page of this Contract.

“Material Breach” (11/18) means any breach of this Contract that causes, caused, or may cause substantial harm to the non-breaching Party or substantially deprives the non-breaching Party of the benefit it reasonably expected under this Contract.

“Personally Identifiable Information (PII)” (11/18) means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, as described in the Oregon Consumer Identity Theft Protection Act.

“Project” (10/19) means the overall delivery of the Services including, without limitation, design, development, integration, implementation, testing, support, and any Deliverables any of which Contractor may be providing in whole or in part.

“Proposal” (10/19) means Contractor’s response to the City’s RFP referenced on page one of this Contract.

“Services” (10/19) means ordinary or professional services performed by Contractor under this Contract.

“Specifications” (10/19) means the most current cumulative statement of capabilities, functionality, and performance requirements for the System and its components as set out in the Acceptance Criteria, Change Orders, the Statement of Work, Documentation, Contractor’s representations, Contractor’s Proposal and Proposal Clarifications, and the City’s Request for Proposals.

“Statement of Work” (SOW) (10/19) means the written detailed specifications of the Services(s) to be delivered to the City by Contractor, including any Change Orders subject to the terms and conditions of this Contract.

“Subcontractor” (11/18) means any person or entity under the control of Contractor, other than an employee of Contractor, utilized by Contractor to perform all or part of this Contract.

“Task Order” (10/19) means any written request or document issued by the City and signed by both Parties for additional Service(s) to be provided under this Contract. Task Orders shall document the description of Services, price, payment schedule, Project and performance schedule, due dates, milestones and Deliverables.

“Term” (11/18) means the period of time that this Contract is in effect as stated on page one.

## **SECTION 2 ORDER OF PRECEDENCE**

- 2.1 Order of Precedence. (09/17) In the event there is a conflict or ambiguity between the terms and conditions of one portion of this Contract with another portion of this Contract, the conflict or ambiguity will be resolved in accordance with the order of precedence below. This order of precedence designates which portion of the Contract takes precedence over the other for purposes of interpretation. Contractor’s hyperlinks contained herein will not supersede or alter the Master Terms and Conditions. For the avoidance of doubt, no other terms and conditions will override the Parties’ obligations in the Confidentiality, Indemnification, or Choice of Law



provisions in these Master Terms and Conditions. In this Contract the order of precedence shall be:

1. Amendments
2. Master Terms and Conditions
3. Exhibit A, Contractor's Price
4. Change Orders
5. Exhibit B, Statement of Work
6. Exhibit C, City RFP No. 00001441
7. Exhibit D, Contractor's Proposal

### **SECTION 3 GENERAL AND ADMINISTRATIVE PROVISIONS**

- 3.1 Term. (09/17) This Contract shall begin on the Effective Date and end upon the expiration date set forth on page one of this Contract unless terminated or extended under the applicable Contract provisions.
- 3.2 Point of Contact. (09/17) Contractor shall be the sole point of contact for the City with regard to this Contract and the System.
- 3.2.1 Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, or by e-mail. All notices and written communications shall be sent to the Parties set forth on page 1 of the Contract, or to such other places as they may designate by like notice from time to time. Each Party shall provide written notice of any changes to the Party's contacts within thirty (30) Calendar Days.
- 3.3 Changes to Contract.
- 3.3.1 Amendment of the Contract. (06/19) Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for Amendment of this Contract as described in this section are not satisfied in full, then such Amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect. The City reserves the right to make administrative changes to the Contract unilaterally, such as extending option years and increasing compensation. An administrative change means a written Contract change that does not affect the substantive rights of the Parties.
- 3.3.2 Change Orders to a Statement of Work. (12/18) The City and Contractor can agree to make changes, at any time to a Statement of Work in the form of a Change Order. Contractor



agrees to timely alter the delivery of Products or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall execute an Amendment to the Contract, and if the amount of such adjustment is not calculable as a function of hours or tasks, the Parties shall negotiate in good faith a modified amount.

3.4 Time is of the Essence. (06/19) The Parties agree that time is of the essence as to the delivery of Deliverables and performance of Services under this Contract. By executing this Contract and accepting the Statement of Work, Contractor agrees that the time limits specified in the Statement of Work are reasonable. By accepting late or otherwise inadequate performance of Contractor's obligations, the City will not waive its rights to require timely performance of Contractor's obligations thereafter.

3.4.1 Late Delivery. (10/19) In the event that any specified delivery date is not met, Contractor shall be liable for any loss, expense, or damage resulting from delay in delivery or failure to deliver Deliverables or provide Services which is due to any cause except as set forth in Force Majeure. In the event of delay due to any such cause, the City may obtain substitute Services from another source and bill all additional costs directly to Contractor who shall remain financially liable for all additional acquisition costs.

3.4.2 Best Efforts. (10/19) Contractor shall use best efforts to minimize any delay in the provision of Deliverables or performance of Services. If Contractor anticipates any delay that may prevent timely performance of Contractor's obligations under this Contract, Contractor shall promptly notify the City, including the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures.

3.5 City Reporting Requirements. (12/18) The City is required to track certain types of contract data for reporting purposes. Items which the City must report on may include, but are not limited to, Subcontractor utilization, Minority, Women, Emerging Small Business, Service-Disabled Veteran Business Enterprise (D/M/W/ESB/SDVBE) participation and Subcontractor/Supplier Payment. The City will enforce all diversity in workforce and D/M/W/ESB/SDVBE subcontracting commitments made by Contractor in its Proposal.

3.6 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Exhibit A: Contractor's Price.

3.6.1 Payment shall be issued by the City net thirty (30) Calendar Days from receipt of a complete and acceptable invoice from Contractor. Contractor invoices must contain Contractor's name and address; invoice number; date of invoice; Contract number and date; description of Products and/or Services; quantity, unit price, (where appropriate), and total amount; City-required reporting, if any, and the title and phone number of the person to whom payment is to be sent. The City may stipulate how line items are entered on an invoice to

ensure compatibility with the City's accounting and financial systems and to facilitate payment to Contractor.

3.6.2 The City makes payments via electronic fund transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, Contractor shall execute the City's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment Authorization Agreement will authorize the City to deposit payment directly into specified Contractor accounts with specified financial institutions. All payments shall be made in United States currency.

3.7 Payment of Taxes/Contractor Shall Withhold. (09/17) Contractor shall, at its own expense, timely (a) pay all salaries, wages, and other compensation to its employees; (b) withhold, collect, and pay all applicable federal, state, and local income taxes (domestic or foreign), FICA, Medicare, unemployment insurance and any other taxes or charges in connection with its employees; and (c) provide and pay for workers compensation insurance and any statutory or fringe benefits to employees. Contractor shall be solely responsible for all such obligations for its employees. Contractor shall also ensure that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.

3.8 Records and Audits (06/19)

3.8.1 Records Retention. (06/19) Contractor shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Contractor agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Contract during the Term of this Contract and for a minimum of six (6) years after the expiration or termination date of this Contract or until the resolution of all audit questions or claims, whichever is longer.

3.8.2 City Audits. (06/19) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Products or Services at any time in the course of the Contract and during the records retention period listed above. 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.

3.8.3 Access to Records. (06/19) The City may examine, audit and copy Contractor's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.

3.9 Overpayment. (09/17) If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.

3.10 Independent Contractor. (09/17) Contractor is independent of the City and, accordingly, this Contract is not entered into as a joint venture, partnership, or agency between the Parties. No employment or agency relationship is or is intended to be created between the City and any individual representing Contractor. Employees of Contractor and any authorized Subcontractors shall perform their work under this Contract under Contractor's sole control.

3.11 Personnel.

3.11.1 Key Positions and Personnel. (09/17) For the period of performance until Final Acceptance has been completed, the Parties have identified Key Positions and Key Personnel as set forth in the table below, along with the percentage of their time to be allocated to the City's Project:

Name	Title/Role	Company
Ronald Brandon	Project Manager	Synagro
Simranpreet Kaur	Senior Technical Services Manager	Synagro
Lee Vernon	West Area Director	Synagro
John Pugliaresi	Senior Area Sales Manager	Synagro
Frank Foster	Region Safety Officer	Synagro

3.11.2 Substitution of Key Personnel. (09/17) Contractor shall make no substitutions of Key Personnel unless the substitution is necessitated by law, illness, death, resignation, or termination of employment. Contractor shall notify the City within ten (10) Calendar Days after the occurrence of any of these events.

Any substitutions or replacements of Key Personnel require the written approval of the City. Contractor shall provide the City with the maximum possible period of notice of substitution or replacement of Key Personnel in order to allow for background screening, fingerprint checks, and other investigation as may be required in Section 3.11.3.

For any proposed substitute or replacement Key Personnel, Contractor shall provide the following information to the City: a detailed explanation of the circumstances necessitating the proposed substitution or replacement, a complete resume for the proposed substitute(s), and any additional information requested by the City. Proposed substitutes or replacements should have qualifications comparable to or better than those of the persons being replaced.

No change in Contract prices may occur as a result of substitution or replacement of Key Personnel.

- 3.12 Termination. (06/19) The following conditions apply to termination of this Contract. The City, on thirty (30) Calendar Days' written notice to Contractor, may terminate this Contract for any reason in the City's sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all Deliverables Accepted or Services performed and Accepted through the effective date of the termination. In the event of termination all of Contractor's Work Product to date shall be delivered to the City, and it will become and remain property of the City.
- 3.13 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.14 Material Breach. (09/17) Either Party may terminate this Contract in the event of a Material Breach of this Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within thirty (30) Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.
- 3.15 Force Majeure. (09/17) Either Party may terminate this Contract due to a Force Majeure event as set forth in Section 5.12, Force Majeure.
- 3.16 Bankruptcy. (09/17) The City may terminate this Contract if Contractor: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.
- 3.17 Void Assignment. (09/17) In the event that Contractor assigns its obligations under this Contract to a third party in a manner other than as set forth in Section 5.7, Assignment, the City shall have the option to terminate this Contract without any notice or cure period or further obligation to Contractor or the assignee, and promptly receive a refund for fees paid for Products delivered and/or Services performed by the third party.
- 3.18 Waiver. (09/17) No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract. The failure of either Party to insist upon any of its

rights under this Contract upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.

- 3.19 Severability. (09/17) Any section of this Contract which is held or declared void, invalid, illegal or otherwise not fully enforceable shall not affect any other provision of this Contract and the remainder of this Contract shall continue to be binding and of full force and effect. This Contract shall be binding upon and inure to the benefit of the City and its successors and assigns.
- 3.20 Business Tax Registration. (09/17) Contractor shall register for a City of Portland business license as required by Chapter 7.02 of the Code of the City of Portland prior to execution of this Contract. Additionally, Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full Term of this Contract. Failure to be in compliance may result in payments due under this Contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.
- 3.21 EEO Certification. (09/17) Contractor shall be certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 5.33.076 of the Code of the City of Portland and maintain its certification throughout the term of this Contract.
- 3.22 Non-Discrimination in Benefits. (09/17) Throughout the term of this Contract, Contractor shall provide and maintain benefits to its employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 5.33.077 of the Code of the City of Portland.
- 3.23 Sustainability. (12 /18) Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Contractor is encouraged to incorporate these Principles into its scope of work with the City wherever possible. Therefore, in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of Products or Services that help to minimize the human health and environmental impacts of City operations. Contractor is encouraged to incorporate environmentally preferable Products or Services into its work performance wherever possible. "Environmentally preferable" means Products or Services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the Product or Service.
- 3.24 Packaging. (09/17) All packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, readily

recyclable in local recycling programs, is made from recycled materials, and/or is collected by Contractor for reuse/recycling.

- 3.25 News Releases and Public Announcements. (09/17) Contractor shall not use the City seal or other representations of the City in its external advertising, marketing, website, or other promotional efforts, nor shall Contractor issue any news release or public announcements pertaining to this Contract or the Project without the express written approval of the City. Such approval may be withheld in the City's sole discretion. Contractor shall not use the City seal without specific written permission from the City Auditor.
- 3.26 Rule of Construction/Contract Elements/Headings. (09/17) This Contract has been drafted by the City in the general format by the City as a convenience to the Parties only and shall not, by reason of such action, be construed against the City. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Contract.
- 3.27 Survival. (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination or expiration shall survive the termination or expiration of this Contract and shall, to the extent applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Contractor and the City.

#### **SECTION 4 STATUTORY REQUIREMENTS, PUBLIC RECORDS AND CONFIDENTIALITY**

- 4.1 Governing Law and Jurisdiction. (09/17) This Contract shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. Any litigation between the City and Contractor arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 4.2 Public Records Request. (09/17) Contractor acknowledges that the City of Portland is subject to the Oregon Public Records Act and Federal law. Third persons may claim that the Confidential Information Contractor submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Contractor is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Contractor requests and meets an exemption from disclosure consistent with federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.



4.3 Public Records. (09/17) The City will retain one (1) copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.

4.4 Confidentiality.

4.4.1 Contractor's Confidential Information. (08/19) During the term of this Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark Confidential Information CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked, or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Confidential Information. Subject to Section 4.2, the City shall: (1) limit disclosure of Contractor Confidential Information to those directors, employees, contractors and agents of the City who need to know the Contractor Confidential Information in connection with the City Project and who have been informed of confidentiality obligations at least as strict as those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Contractor Confidential Information, at least to the same degree of care as the City employs with respect to protecting its own proprietary and confidential information.

4.4.2 City's Confidential Information. (08/19) Contractor shall treat as confidential any City Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard or observed; or to which Contractor has had access. Contractor shall use City Confidential Information exclusively for the City's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the City, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the City Confidential Information in connection with the City Project and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use the Intellectual Property Rights of the City without the City's prior written consent.



- 4.4.3 Scope. (09/17) This Contract shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. Contractor's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- 4.4.4 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of City Confidential Information will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain injunctive relief prohibiting the breach, in addition to any other appropriate legal or equitable relief. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of Contract terms related to Confidential Information or Intellectual Property Rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- 4.4.5 Discovery of Documents. (06/19) In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.

## **SECTION 5 CONTRACTOR PERFORMANCE AND WARRANTIES**

- 5.1 General Warranties. (09/17) Contractor makes the following warranties:
- 5.1.1 Capacity. (09/17) Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.
- 5.1.2 Authority to Conduct Business. (08/19) Contractor warrants it is lawfully organized and constituted and duly authorized to operate and do business in all places where it shall be required to do business under this Contract, and that it has obtained or will obtain all necessary licenses and permits required in connection with this Contract.
- 5.1.3 Disclosure of Litigation. (09/17) Contractor warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract. Contractor further warrants that it will immediately notify the City in writing if, during the Term of this Contract, Contractor becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-judicial forum that involves Contractor or any Subcontractor and that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract.

- 5.1.4 Conflict of Interest. (09/17) Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- 5.1.5 Compliance with Applicable Law. (09/17) Contractor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is currently in compliance with all tax laws.
- 5.1.6 Public Contracts. (09/17) Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A and 279B require every public contract to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 5.1.7 Compliance with Civil Rights Act. (09/17) Contractor warrants it is in compliance with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>
- 5.1.8 Respectful Workplace Behavior. (09/17) The City 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 of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Contractor warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>
- 5.2 Grant Funding. (02/18). This Contract is currently not using grant funding. However, in the event that City acquires or uses grant funding to pay for any portion of this Contract, the City and Contractor agree to Amend the Contract to include the federally required terms and conditions. General grant terms may be found at <http://www.portlandoregon.gov/bibs/article/455735>
- 5.3 Compliance with Non-Discrimination Laws and Regulations.
- 5.3.1 Nondiscrimination. (06/19) Pursuant to all City, State, and federal non-discrimination and civil rights laws, Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, including limited English proficiency, sex, sexual orientation, gender identity, age, religion or non-religion, disability, marital status, family status, or source of income, including in employment practices, the selection and retention of subcontractors, including procurements of materials and leases of equipment.

- 5.3.2 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. (06/19) In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.
- 5.3.3 Sanctions for Noncompliance. (09/17) In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or any state or federal agency may determine to be appropriate, including, but not limited to withholding of payments to Contractor under this Contract until Contractor complies, and/or cancellation, termination, or suspension of this Contract, in whole or in part.
- 5.3.4 Required Reporting. (05/19) If any person or class of persons files a complaint with Contractor alleging discrimination under Title VI of the Civil Rights Act of 1964 (race, color, or national origin, including limited English proficiency), Contractor will notify the City of Portland of the complaint and cooperate with any investigation related to the complaint. Notifications shall be sent to Title VI Program Manager, 421 SW 6th Ave, Suite 500, Portland, Oregon 97204, or [title6complaints@portlandoregon.gov](mailto:title6complaints@portlandoregon.gov).
- 5.4 Service(s) and Deliverables Warranties. (10/19) Contractor makes the following warranties:
- 5.4.1 No Third-Party Conflict or Infringement. (01/19) As of the Effective Date, Contractor warrants the execution and performance of this Contract, shall not contravene the terms of any contracts with third parties or any third-party Intellectual Property Right; and, as of the Effective Date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision. Contractor agrees to promptly notify the City, in writing, if during the Term of the Contract, a potential third-party conflict or infringement of third-party Intellectual Property Rights arises.
- 5.4.2 No Encumbrances. (08/19) All Deliverables provided by Contractor under this Contract shall be transferred to the City free and clear of any and all restrictions of transfer or distribution and free and clear of any and all liens, claims, security interests, liabilities and encumbrances of any kind.
- 5.4.3 Conformance with Specifications. (01/19) Contractor warrants that the Deliverables and Services shall operate in conformance with the Specifications.

- 5.4.4 Compliance with Law. (10/19) Contractor warrants that the Deliverables conform to all requirements of applicable law, including all applicable health, safety, privacy, data security and environmental laws and regulations.
- 5.4.5 Industry Standards. (10/19) Contractor warrants that the Services performed under this Contract will meet the standards of skill and diligence normally employed by persons performing the same or similar services.
- 5.4.6 Substitution or Modification of Products at No Charge. (03/19) In the event that Contractor substitutes or modifies the Deliverables, Contractor shall ensure that the new or modified Deliverables shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Deliverables and shall not result in additional cost to the City.
- 5.5 No Waiver of Warranties or Representation. (10/19) Performance of Services shall not be construed to represent Acceptance nor relieve Contractor from its responsibility under any representation or warranty. If the City makes a payment prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.
- 5.6 No Third Party to Benefit. (09/17) This Contract is entered into for the benefit of the City and Contractor. Except as set forth herein, nothing in this Contract shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a Party to this Contract to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Contract.
- 5.7 Assignment. (08/19) Neither Party shall assign, transfer, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld. For purposes of this Section, the acquisition, merger, consolidation or change in control of Contractor or any assignment by operation of law shall be considered an assignment of this Contract that requires the City's prior written consent. Notwithstanding the foregoing: (a) in the event that the City's business needs change or the City enters into an agreement with a provider for outsourcing services, Contractor agrees that the City shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the City's business, including an outsourcing provider, upon written notice to the other Party, and (b) Contractor may, without the City's consent, but upon prior written notice to the City, assign its right to payment under this Contract or grant a security interest in such payment to any third party without requiring that the third party be liable for the obligations of Contractor under this Contract. Any attempted assignment or delegation in violation of this Section shall be void.
- 5.8 Notice of Change in Financial Condition. (09/17) Contractor must maintain a financial condition commensurate with the requirements of this Contract. If, during the Term of this Contract,

Contractor experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Contract, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Contract.

- 5.9 Notice of Change in Ownership. (09/17) If, during the Term of this Contract, Contractor experiences a change in ownership or control, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in ownership or control is sufficient grounds for terminating this Contract.
- 5.10 Subcontractors. (10/19) Contractor shall not subcontract any work under this Contract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors, including any Affiliates, at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City reserves the right to review any agreements between Contractor and its Subcontractors for Services authorized under this Contract.

All D/M/W/ESB/SDVBE (COBID Certified) Subcontractors/suppliers identified in Contractor's proposals shall be used in their proposed capacity during Contract performance. If Contractor desires to replace any D/M/W/ESB/SDVBE Subcontractors/suppliers under this Contract all substitution requests must have approval from the City's Chief Procurement Officer before such substitutions can be made. In no event shall Contractor subcontract any work, assign any rights, or delegate any obligations under this Contract without the City's prior written consent.

- 5.11 Flow-down Clauses. (01/19) Contractor shall include the following clauses, or substantially similar language, in its subcontracts under this Contract:

Section 4.4, Confidentiality  
Section 5.3, Compliance with Non-Discrimination Laws and Regulations  
Section 6.1, Hold Harmless and Indemnification  
Section 6.2, Insurance

- 5.12 Force Majeure. (01/19)

- 5.12.1 In the event that either Party is unable to perform any of its obligations under this Contract due to a Force Majeure Event not the fault of the affected Party, the Party who has been so affected immediately shall give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, the performance obligations affected by the Force Majeure event shall immediately be suspended.

- 5.12.2 If the period of nonperformance exceeds fifteen (15) Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract or any Statement of Work.
- 5.12.3 If the period of nonperformance due to a Force Majeure Event does not exceed fifteen (15) Calendar Days, such nonperformance shall automatically extend the Project schedule for a period equal to the duration of such events. Any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.
- 5.12.4 If the period of nonperformance due to Force Majeure Event is longer than fifteen (15) Calendar Days, the Parties shall negotiate options for mitigation of the Force Majeure Event.
- 5.13 Ownership of Property. (06/19) 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 Consultant-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. Contractor hereby grants to the City a non-exclusive, perpetual, irrevocable license, with the right to sublicense, to disclose, copy, distribute, display, perform, prepare derivative works of and otherwise exploit any pre-existing Intellectual Property Rights incorporated into the Work Product(s).

## **SECTION 6 INDEMNIFICATION, INSURANCE, BONDING, LIQUIDATED DAMAGES**

### **6.1 Hold Harmless and Indemnification. (08/19)**

- 6.1.1 Contractor shall indemnify, defend and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, and actions for all losses, damages,



liabilities, costs and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract.

6.1.2 Infringement Indemnity. (08/19) Contractor shall indemnify, defend, and hold harmless the City, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions for any damages, liabilities, losses, costs, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement of any proprietary right or Intellectual Property Right of any person whosoever. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise.

6.1.3 Contractor shall indemnify, defend, and hold harmless the City against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the City may be required to pay arising from Deliverables and Services provided by Contractor under this Contract. The City of Portland, as a municipal corporation of the State of Oregon, is a tax-exempt unit of local government under the laws of the State of Oregon and is not liable for any taxes.

6.2 Insurance. (08/19) Contractor shall not commence work until Contractor has met the insurance requirements in this section and Contractor has provided insurance certificates approved by the City Attorney. Contractor shall acquire insurance issued by insurance companies or financial institutions with an AM Best rating of A- or better and duly licensed, admitted and authorized to do business in the State of Oregon.

6.2.1 Insurance Certificate. (08/19) As evidence of the required insurance coverage, Contractor shall provide compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as certificate holder. Contractor shall maintain continuous, uninterrupted coverage for the Term of this Contract and to provide insurance certificates demonstrating the required coverage for the Term of this Contract. Contractor's failure to maintain insurance as required by this Contract constitutes a Material Breach of this Contract. Contractor must notify the City in writing thirty (30) Calendar Days prior to a cancellation, non-renewal, or changes to the insurance policy.

6.2.2 Additional Insureds. (08/19) For commercial general liability coverage, Contractor shall provide City with a blanket additional insured endorsement form that names the City of Portland, Oregon, and its officers, agents and employees, as an additional insured. The additional insured endorsement must be attached to the general liability certificate of insurance.



- 6.2.3 Insurance Costs. (08/19) Contractor shall be financially responsible for all premiums, deductibles, self-insured retentions, and self-insurance.
- 6.2.4 Coverage Requirements. (08/19) Contractor shall comply with the following insurance requirements:
- 6.2.4.1 Commercial General Liability. (08/19) Contractor shall acquire commercial general liability (“CGL”) and property damage insurance coverage in an amount not less than \$2 million per occurrence for damage to property or personal injury arising from Contractor’s work under this Contract.
- 6.2.4.2 Automobile Liability. (08/19) Contractor shall acquire automobile liability insurance to cover bodily injury and property damage in an amount not less than \$2 million for each accident. Contractor’s insurance must cover damages or injuries arising out Contractor’s use of any vehicle.
- 6.2.4.3 Workers’ Compensation. (08/19) Contractor shall comply with Oregon workers’ compensation law, ORS Chapter 656, as it may be amended. If Contractor is required by ORS Chapter 656 to carry workers’ compensation insurance, Contractor shall acquire workers’ compensation coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers’ compensation insurance on file with the City for the entire period during which work is performed under this Contract. Contractor shall acquire workers compensation coverage in an amount not less than \$1 million each accident, \$1 million disease each employee, and \$1 million disease policy limit.
- 6.2.5 Insurance Requirements for Subcontractors. (08/19) Contractor shall contractually require its Subcontractors to acquire and maintain for the duration of this Contract insurance equal to the minimum coverage limits required above.
- 6.3 Rolling Estoppel. (09/17) Unless otherwise notified by Contractor, it shall be understood that the City shall have met all its obligations under this Contract. The City will be conclusively deemed to have fulfilled its obligations, unless it receives written notification of a failure to meet such obligations in the next status report, or within ten (10) Business Days following such failure, whichever is sooner, and Contractor identifies the specific failure in that notification. The City’s failure to meet obligations must be described in terms of how it has affected the Project schedule or a specific performance requirement of Contractor.
- 6.3.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in Project timetable, the standards of performance under this Contract, or the Contract price, if Contractor knew of that problem and failed to provide notification to the City as set forth above or to include it in the applicable status report to the City’s project manager.

- 6.3.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's notification should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the City's Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the Project in an unimpeded fashion.
- 6.4 Dispute Resolution. (09/17) Contractor shall cooperate with the City to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:
- 6.4.1 Any dispute between the City and Contractor shall be resolved, if possible by the Project Manager or their designee on behalf of the City and Contractor's Project Manager on behalf of Contractor.
- 6.4.2 If the Project Manager or the Project Manager's designee and Contractor are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either Party to the other, the matter shall be submitted to Michael Jordan on behalf of the City and Emil Kneis on behalf of Contractor for resolution, if possible.
- 6.4.3 Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.
- 6.4.4 Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.
- 6.4.5 Unless ordered by the City to suspend performance of all or any portion of Contractor's Services, Contractor shall proceed with the performance of such Services without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute while having the right to withhold payments that are in dispute.
- 6.5 Remedies. (09/17) The remedies provided in this Contract are cumulative and may be exercised concurrently or separately. In the event of any Material Breach by Contractor, which Material Breach shall not have been cured as agreed to between the Parties, the City shall have the ability

to pursue the City's rights at law or equity. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.

- 6.6 Cost of Cover. (09/17) In the event of termination of this Contract by the City due to a Material Breach by Contractor, then the City may complete the Project itself, by agreement with another contractor, or by a combination thereof. After termination, in the event the cost of completing the Project exceeds the amount the City would have paid Contractor to complete the Project under this Contract, then Contractor shall pay to the City the amount of the reasonable excess.

## **SECTION 7 ACCEPTANCE AND ACCEPTANCE TESTING**

- 7.1 Right to Perform Acceptance Testing. (09/17) Prior to Accepting Deliverables or the System, the City shall have the right to perform Acceptance Testing, or for Deliverables not requiring Acceptance Testing, the City shall have the right to evaluate the Deliverable(s) to ensure they meet Acceptance Criteria. Contractor shall cooperate with the City in the development of Acceptance Criteria and the Acceptance Test Plan that shall codify and set forth the location, date, and other specifications of the test. Acceptance Testing may occur in one or more phases, depending on the integration of contingent products, scalability, performance tuning or other measurable features or milestones.
- 7.2 Procedure and Timetable. (09/17) Unless otherwise specified,
- 7.2.1 The City shall commence Acceptance Testing within a reasonable amount of time after receipt of a Deliverable.
- 7.2.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation in order to facilitate Acceptance Testing.
- 7.2.3 City will make all reasonable efforts to complete Acceptance Testing within the time period specified within the Project schedule mutually agreed upon by the Parties in writing. If an Acceptance Test is successful the City shall issue an Acceptance Certificate, a sample of which is attached in Exhibit C.
- 7.3 Failure of Acceptance Test. (09/17) The City will notify Contractor if a Deliverable or a portion of a Deliverable fails to pass an Acceptance Test and will specify in reasonable detail the identified failures and possible reasons for failure. After City's notification, Contractor shall correct the failure within ten (10) Business Days and notify the City that the correction has been completed. After Contractor's correction notification, the City shall perform a second Acceptance Test. If the Deliverable or portion of the Deliverable fails to pass the second

Acceptance Test, the City shall notify Contractor in writing, and the City may, in its sole discretion: (a) terminate this Contract with no further liability; (b) require Contractor to replace the Deliverable or defective portion of the Deliverable at no additional cost to the City, (c) require Contractor to make further corrections to prepare for retesting again; (d) Accept the Deliverable at a reduced cost to be negotiated between the Parties; or (e) issue an Acceptance Certificate for an “Acceptance with Exception(s)” in accordance with Sections 9.3.1 and 9.3.2.

7.3.1 If the City issues an Acceptance Certificate for an “Acceptance with Exception(s)” the City will list the exception(s) and the date for Contractor’s correction of the Error(s). If Error(s) are corrected by the listed date(s) the City agrees to commence further Acceptance Testing of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance Tests, the City will issue an Acceptance Certificate.

7.3.2 If a Deliverable fails a second or subsequent Acceptance Test (or in the event of a single Acceptance Test, the Acceptance Test) in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.

7.4 City Acceptance of Failure. (09/17) If the City elects to accept a Deliverable, the System, or any combination of Products even with the failure(s), then the City may request that Contractor issue a refund to the City in an amount equal to a percentage of the full fee value of the Deliverable or System that the Parties mutually determine represents the loss of functionality.

7.5 Revocation of Acceptance. (09/17) The City shall have the right to revoke “Acceptance with Exception(s)” if the City granted an “Acceptance with Exception(s)” based on Contractor’s commitment to correct the Error within a reasonable period of time, but the Error has not been so corrected. The City shall also have the right to revoke Acceptance if the City accepted the Deliverable without discovery of the Error, and the Acceptance was reasonably induced by Contractor’s assurances or by the difficulty of discovery of the Error before Acceptance. Revocation is effective only if it occurs within a reasonable time after the City discovers or should have discovered the reasons for revocation.

7.6 Termination Based on Failure of Acceptance. (09/17) If the System fails to pass the Final Acceptance Test(s), the City may terminate this Contract. Contractor shall refund all costs paid for the System or any combination of Products and Services in U.S. Dollars within fifteen (15) Calendar Days of the date of receipt of notice of termination. The refund shall be in cash and not in the form of future credits from Contractor.

7.7 No Waiver. (09/17) Acceptance shall not relieve Contractor from its responsibility under any Warranty. Payment for Products or the System or any portion thereof does not constitute Acceptance nor does it constitute a waiver of any Warranty applicable to the City.

## SIGNATURE PAGE

(08/19)

Contractor represents that Contractor has had the opportunity to consult with its own independently selected attorney in the review of this Contract. Neither Party has relied upon any representations or statements made by the other Party that are not specifically set forth in this Contract.

This Contract constitutes the entire agreement between the City and Contractor and supersedes all prior and contemporaneous proposals and oral and written agreements, between the Parties on this subject, and any different or additional terms on a City purchase order or Contractor quotation or invoice.

The Parties agree that they may execute this Contract and any Amendments to this Contract, by electronic means, including the use of electronic signatures.

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.

IN WITNESS WHEREOF, the Parties hereby cause this Contract to be executed.

CONTRACTOR



10/13/2020

Authorized Signature

Date

Elizabeth Grant, Assistant Secretary

Printed Name and Title

Address: 435 Williams Court, Suite 100

Baltimore, MD 21220

Phone: 443.489.9075

Email: egrant@synagro.com

Contract Number: 30007446

Contract Title: Digester Cleaning, Hauling and Disposal Services

CITY OF PORTLAND SIGNATURES

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

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

Approved:

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

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

Approved as to Form:

By: Glenn Fullilove  
Office of City Attorney

Date: 1.4.21

**Exhibit A**  
**Contractor's Price**

**SECTION 1 Pricing.**

<b>Description</b>	<b>Unit</b>	<b>Est. Quantity</b>	<b>Unit Price</b>	<b>Extended</b>
Mobilization	Lump sum	Charge for bringing in all their equipment to work site and set-up	\$85,146.75	\$85,146.75
Dry tons removed, dewatered, hauled	Dry ton (dT)	2,665 dT	\$594.50	\$1,578,397.50
Demobilization	Lump sum	Charge for removing all their equipment from work site and clean-up	\$45,848.25	\$45,848.25
Stand by Days	Day	10 days	\$6,694.275	\$66,942.75
<b>TOTAL</b>				<b>\$1,776,335.25</b>

Pricing is based on BES estimate of dry tons removed in previous years for three (3) digesters. Exhibit A is an annual amount based on cleaning three (3) digesters.



## **Exhibit B Statement of Work**

### **SECTION 1 SUMMARY**

- 1.1 The Contractor shall provide for the safe, efficient, and environmentally sensitive cleaning of anaerobic digesters and subsequent hauling and disposal of non-hazardous material that has been removed from the digesters. In general, these materials are referred to as digester cleaning residuals. The anaerobic digesters are owned by the City of Portland, operated by the Bureau of Environmental Service's Operations and Maintenance Group, (O&MG), located at:

Columbia Boulevard Wastewater Treatment Plant  
5001 Columbia Blvd., Portland, OR 97203

- 1.2 The Contractor shall mobilize their approved site-specific equipment to the approved project site and assume possession of the project site.
- 1.3 The Contractor will maintain their designated project site in a clean and orderly state while adhering to all BES site-specific policies.
- 1.4 The Contractor will remove the contents of each digester they are directed to clean, dewater the contents to the best of their abilities, and dispose of them in the most efficient and environmentally responsible manner.
- 1.5 The Contractor will leave the site in the same condition that it was in when they arrived.

### **SECTION 2 SCOPE OF WORK**

- 2.1 The City has ten digesters at the Columbia Blvd. Wastewater Treatment Plant. The digesters accumulate sand, grit, trash, and heavy thickened sludge. Typically, the digester cleaning residuals contain the following:
- 2.1.1 Sand, grit, and sediment material accumulated from the City's collection system and ( $\approx 85\%$ ).
- 2.1.2 Digested sewage sludge. A combination of stabilized primary and secondary sludges from the treatment process at the CBWTP ( $\approx 12\%$ ).
- 2.1.3 Plastics and other trash content ( $\approx 3\%$ ).

- 2.2 Analytical testing of the digester contents has shown that digester cleaning residuals are not a hazardous waste. Disposal of these materials should be handled under RCRA Subtitle D (nonhazardous waste) provisions of 40 CFR Part 258. Disposal of these residuals in Oregon requires a special waste permit. Factors influencing quantities in the digesters depend on the time between cleanings.

## **SECTION 3 TASKS AND DELIVERABLES**

The individual Deliverables are described in more detail below:

### **3.1 Task 1: SUBMITTALS**

The Contractor will submit for approval a site-specific work plan that includes its means and methods of digester residuals removal, method(s) of dewatering, disposal to the landfill, and proposed filtrate flow path.

- 3.1.1 The Contractor will submit for approval an aerial map of the plant showing the area(s) that their proposed equipment will occupy and the associated truck hauling routes.
- 3.1.2 The Contractor will submit for approval the total electrical power requirements, in units of horsepower, (hp), needed for their operation.
- 3.1.3 The Contractor will submit for approval the total filtrate flow, in gallons per minute(gpm), from their proposed onsite equipment.
- 3.1.4 The Contractor will submit for approval the total water volume needed for their equipment to operate in the most efficient manner in units of gallons per minute, (gpm).
- 3.1.5 The Contractor will submit for review a site-specific safety and health plan that addresses all assessed risks and controls to be used to protect workers. The site- specific safety and health plan (SSHP) shall comply with OAR 437-02-146-Confined Space Entry, including provisions for rescue.
- 3.1.6 The Contractor will submit for approval a site-specific spill prevention and cleanup plan.
- 3.1.7 The Contractor will submit for review and approval any changes to this work plan before a notice to proceed (NTP) is issued.

- 3.1.8 After the NTP is issued, any changes to this work plan or other elements of this contract shall be submitted in writing and agreed upon before the changes are executed.

### 3.2 Task 2: **KICK OFF MEETING, NOTICE TO PROCEED**

- 3.2.1 The Contractor and City shall hold a kickoff meeting prior to issuing a Notice to Proceed. This meeting shall occur before the Contractor mobilizes to the work site.
- 3.2.2 At that meeting, the City shall read the signed contract and establish hazard communications procedures, and review any onsite safety policies, The Notice To Proceed (NTP) will be issued at this meeting barring any outstanding issues.

### 3.3 Task 3: **DIGESTER CLEANING**

- 3.3.1 Contractor shall perform all work in accordance with this work plan.
- 3.3.2 Contractor shall stage equipment only within the approved location(s). This includes material processing equipment, pump hose crossings, extra sludge trailers, and tanks. It is understood that the Contractor may need to move equipment around and can therefore temporarily impede traffic for short periods.
- 3.3.3 Contractor shall perform all preliminary work necessary to provide proper and safe access to the interior of the digester. Contractor may utilize all existing access openings and may access the digester roof but shall not alter or modify the digester tank or any other City property in any way.
- 3.3.4 Contractor shall remove and dewater the contents of each digester. Contractor may use plant water to dilute digester contents as necessary. Approximate available water pressure is 80psi. Contractor shall use best efforts to minimize the use of plant water.
- 3.3.5 Contractor shall clean all digester surfaces after removing the material from the digester. Internal digester piping, mixers and their appurtenances and center structures shall be cleaned of all accumulated rags and debris. Contractor shall remove all deposits of grit, grease, sludge, scum and other materials during the cleaning process. The water used during the cleaning and washing process may be applied under pressure but shall not contain cleaners or degreasers and shall be disposed of only at the designated filtrate/centrate receiving points.
- 3.3.6 Contractor shall dispose of the digester cleaning residuals at the designated landfill (identified in Contractor work plan). Contractor shall be responsible for acquiring all

necessary permits and pay for all landfill tipping fees (See Services to Be Provided: Disposal).

- 3.3.7 Filtrate/centrate flow path will be determined via submittal. For digesters 1-4, filtrate can be disposed of via the STanks. For digesters 5-10, filtrate can be directed to the IRHP drain line.
- 3.3.8 Contractor shall furnish all labor, equipment, materials and supplies necessary to perform the work safely while including, but not limited to the following: ladders, scaffolding, lighting, pumping, cleaning, and dewatering equipment, ventilation and monitoring equipment needed to protect their workers. Contractor will install and maintain all hose crossings with nonskid coatings. Contractor will install and maintain barricades, bollards, tape, etc. to define their area of control and keep non-authorized pedestrian traffic out.
- 3.3.9 Hours of operation shall be 6:00 AM to 6:00 PM PST, Monday through Saturday. Contractor shall not perform the work at other times without the City's consent. Hours when noise will not be restricted are 6:00 AM to 6:00 PM PST.
- 3.3.10 City will provide the following drawings are provided for reference: a. Vicinity/location site map, b. Digester schematic drawing(s) c. stormwater drainage map. (provide maps)
- 3.3.11 Contractor acknowledges that the City's treatment plant operates continuously on an around-the-clock basis and other construction activity will be occurring while Contractor is performing the work. Contractor shall coordinate Contractor's activities so that Contractor does not interfere with the plant operation or construction activity. Contractor shall promptly comply with all City requests to remove equipment and other work items and work activity from locations where such items and activity may interfere with treatment plant operations or construction activity.

#### 3.3.12 **Safety and Health**

- 3.3.12.1 Contractor understands that sewage treatment facilities contain such hazards as wastewater, methane gas, high voltage electricity and large quantities of chemicals such as sodium hypochlorite and polymers.
- 3.3.12.2 Contractor warrants that Contractor is experienced in working in environments that contain such hazards. Contractor shall always require their personnel to observe proper safety and hygiene practices. Such practices shall include, but not be limited to, the following: a) No smoking or open flames; b) Use of explosion-proof devices for electrical equipment as required by all applicable codes; c) Proper ventilation and hazardous gas monitoring of work areas (**Exhibit 1**).

3.3.12.3 Contractor further understands that the work will involve permit required confined spaces as defined by OR- OSHA and that entry into the spaces will require compliance with OR- OSHA rules chapter 437-2-J, Permit Required Confined Spaces (29 CFR 1910.146). Contractor and the City's project manager shall ensure that the communications needed to comply with the rules have been completed. These communications shall include the following: a) City shall inform Contractor of the conditions and hazards that make the space a permit required space. b) City shall inform Contractor of all precautions and procedures that the City has implemented for the protection of employees in or near permit spaces where Contractor personnel will be working .c) The City and Contractor shall establish a procedure for coordinating entry operations when City personnel and Contractor personnel will be working in or near permit spaces. d) Contractor shall inform the City of Contractor's methods of employee protection.

3.3.12.4 At the conclusion of the work, the City and the Contractor shall hold a debriefing session as required by the confined space rules.

### 3.3.13 Security

3.3.13.1 Contractor understands that the City's treatment plant is a restricted area. Contractor shall not enter portions of the plant buildings or grounds outside of Contractor's designated work area. Contractor will provide their own restroom, and lunch/break room facilities.

3.3.13.2 Contractor shall be solely responsible for the security of Contractor's facilities, equipment, materials, supplies and other property. City shall not be responsible for any theft, loss or damage to these items.

### 3.3.14 Environmental Controls

3.3.14.1 Contractor shall keep the work site clean and free from spills, overflows and debris. Contractor will make sure that trucking equipment is free of material outside of the trailer before leaving the work site and the plant property. They will also ensure that their trailers are free of material after leaving the landfill.

3.3.14.2 Contractor shall use best efforts to direct any digester contents or processing related chemicals into containment vessels to prevent contents from being released onto facility grounds. Contractor shall promptly notify the Project Manager when a spill occurs and shall promptly clean up the spill. The Contractor will prevent spills from entering any storm drains or leaving the treatment plant premises.

3.3.14.3 Contractor shall promptly notify Project Manager within 24 hours of any damages to City's treatment plant property caused by Contractor. All repairs shall be subject to City's acceptance.

3.3.14.4 Upon completion of the work and prior to final acceptance, Contractor shall clear the site of all equipment, supplies and rubbish.

### 3.3.15 **Project Management**

3.3.15.1 The City's project manager shall be:

Bill Sterling,  
Supervisor II,  
bill.sterling@portlandoregon.gov,  
(503) 823-2442.

3.3.15.2 Contractor shall check in with the City project manager (or designee) each day prior to commencing work. Contractor shall address all questions that arise while the work is in progress to the City's project manager, including, but not limited to, questions that concern the operation of the treatment plant and questions that concern the work plan.

## 3.4 Task 4: **HAULING**

3.4.1 The Contractor shall be responsible for securing and maintaining all approvals, licenses, and permits required to perform the hauling services specified under this Contract.

3.4.2 The Contractor shall develop a "spill response plan" which will include; immediate notification of the City contact person, clean up procedures to be done by the Contractor, and Contractor responsibility for ensuring that all Contractor drivers are educated about appropriate spill response.

3.4.3 The Contractor shall provide well maintained equipment trucks and trailers, fuel, tools, and qualified and competent staff to haul and unload City digester cleaning residuals to the designated landfill.

3.4.4 The Contractor shall adequately cover digester material containers before transport to designated landfill to eliminate any potential spilling or leaking of digester material. Only dewatered material will be hauled. The disposal permit will require the material to pass the paint filter test (no free liquid).

- 3.4.5 The Contractor shall ensure that hauling trucks are free of biosolids prior to exiting the landfill and under no circumstance shall any biosolids come into contact with City, State, or Federal roadways.
- 3.4.6 The Contractor shall provide on-board scales or utilize off-site scales to verify load weights. Scaling facilities at the CBWTP are limited and may not provide accurate weighing of truck and trailer combinations and should be considered unavailable.
- 3.4.7 Any overloaded trucks will be the responsibility of the Contractor. There is limited space for material to be removed from an overloaded truck.
- 3.4.8 The Contractor shall not mix or combine the City's digester cleaning residuals with any other material from any other source.
- 3.4.9 The Contractor shall not stage digester cleaning residuals at any offsite location unless agreed upon beforehand.
- 3.4.10 Contractor shall be an active participant in the EPA SmartWay Program.
- 3.4.11 Diesel vehicles used for hauling biosolids shall be model year 2010 or newer or have retrofit emission control devices that reduce diesel particulate matter and NOx to similar levels as a 2010 engine. Emission control devices shall be in good operating condition throughout the resulting contract.
- 3.4.12 Biosolids shall be loaded directly into trucks and the hauling shall be done in a manner that will prevent spills, contamination, or disruption to the treatment plant operations. This will include, at a minimum, truck and trailers with tarps and sealed end gates for all loads of biosolids hauled.
- 3.4.13 Contractor will clean trucks of any residual biosolids before leaving the CBWTP and will maintain a clean loading area utilizing hoses, shovels, and brooms provided by the City in the loading area.
- 3.4.14 It shall be the direct responsibility of the Contractor to obtain and pay all charges and fees for all permits, licenses, easements, or agreements not controlled by the City, but that may be required for hauling biosolids.
- 3.4.15 Contractor shall provide traction devices for their hauling trucks.



- 3.4.16 Contractor will work cooperatively with City staff to develop and maintain a hauling work plan and spill plan.
- 3.4.17 The Contractor will maintain a satisfactory CSA (Compliance Safety Accountability) score as provided by the Federal Motor Carrier Safety Administration through the duration of the contract period.

### **3.5 DISPOSAL**

- 3.5.1 The Contractor shall provide disposal of City of Portland digester cleaning residuals at the designated landfill as required by federal, state, regional (if applicable) and local laws and regulations with no appreciable threat to human, animal, or environmental health and safety.
- 3.5.2 The Contractor will provide a numbered copy of the landfill weigh ticket for each trip to the landfill. Landfill weigh tickets shall be given to the Project Manager for proof of total weight of material disposed. All weigh tickets will be turned in to the Project Manager within two days after disposal at the landfill.
- 3.5.3 Contractor shall be responsible for all approvals, licenses, and permits required to perform the disposal services specified under this Agreement. City shall, likewise, assist in providing the necessary information needed to acquire and maintain disposal permits.

### **3.6 LABOR AND MATERIAL PROVIDED BY THE CITY**

- 3.6.1 No materials, labor or facilities will be furnished by the City unless otherwise agreed upon or provided for within this Agreement.
- 3.6.2 The City shall be responsible for implementing and maintaining usual, customary and appropriate internal accounting procedures and controls, internal controls and other appropriate procedures and controls for the City. These controls will include information technology, proprietary information, and trade secret safeguards if appropriate to City work.
- 3.6.3 The City shall furnish electrical power when available. Electrical connection locations will be by submittal and subject to plant approval, otherwise the contractor must use portable power alternatives.
- 3.6.4 The City shall provide plant water for the Contractor to use for the duration of this contract. Water is supplied at various locations. The Contractor will provide their own fittings and hoses and road crossing protection materials for hose crossings if needed.

- 3.6.5 The City shall have the discretion to pump down the digester material to any level that allows the side hatch(es) to be safely opened before handing control of the digester over to the Contractor.
- 3.6.6 The City's laboratory results will be used for calculating payment for dry tons hauled to the landfill.
- 3.6.7 The City will take grab samples every two hours from the production of dewatered solids. A grab sample will be taken every 2 hours the operation is in progress. The assigned plant operator will provide a grab sample container and request the contractor to grab a sample from the production line.
  - 3.6.7.1 A 24-hour composite (or a business day composite) will be generated from the two-hour grab samples.
  - 3.6.7.2 CBWTP will provide a split of the composite sample to the Contractor upon request.
  - 3.6.7.3 The composite sample will be sent to CBWTP WPCL for testing of percent total solid and analyzed per Standard
  - 3.6.7.4 Methods for the Examination of Water and Wastewater, SM 2540 G. CBWTP WPCL results will be the absolute source for any billing functions.
  - 3.6.7.5 CBWTP will provide laboratory analysis for percent Total Solids.
  - 3.6.7.6 As soon as WPCL results are available, CBWTP will provide those results to the contractor.
  - 3.6.7.7 Contractor may have samples analyzed at their expense as a comparative to the CBWTP lab results.

### **3.7 SERVICES SCHEDULE**

- 3.7.1 To be determined mutually between Contractor and City of Portland project management team.

### **3.8 CITY FURNISHED PROPERTY**

- 3.8.1 No materials, labor or facilities will be furnished by the City except those provided for within this Contract.

## SECTION 4 PROJECT SCHEDULE

4.1 The detailed Project schedule is shown below.

Year of service	Number of Digesters
FY20	3
FY21	3
FY22	3
FY23	3
FY24	3

## SECTION 5 PROJECT MANAGEMENT

### 5.1 Status Reports

Contractor shall summarize activities under this Contract in written weekly/monthly status reports submitted to the City Project Manager. The status reports are due on the first day of the week/month and shall include summaries of all activities and Deliverables completed in the prior week/month. The report shall include a list of any delayed items, a description of the cause of the delay, schedule impact, and a proposed method of resolution. Delayed items shall be carried over onto subsequent reports until resolved.

### 5.2 Place of Performance

Contractor shall provide City with services at City locations as directed by the City Project Manager. Some portions of the work will be performed at Contractor facilities as agreed with the City Project Manager.

### 5.3 Project Managers

5.3.1 The City's Project Manager will be Bill Sterling. The City may change City's Project Manager from time to time upon written notice to Contractor. Contact Information:

Bill Sterling  
Project Manager  
Bill.Sterling@portlandoregon.gov  
503-823-2442

5.3.2 The Contractor's Project Manager will be Ronald Brandon. Contact Information:

Ronald Brandon

Operations Manager

Mobile: (916) 201-4847

rbrandon@synagro.com

5.3.3 All project communications shall be channeled through respective project managers, when possible.

#### 5.4 Acceptance Criteria and Acceptance Test Plan

Acceptance Criteria and the Acceptance review plan shall be reviewed jointly by the City's Project Manager and Contractor's Project Manager. When agreed, the Acceptance Criteria and review plan shall be attached and incorporated here in this Statement of Work as Exhibit B-1.

**Exhibit C - City RFP 00001441**

Date: June 2, 2020



**City of Portland, Oregon**

**RFP No. 00001441**

**REQUEST FOR PROPOSALS  
for  
DIGESTER CLEANING, HAULING AND DISPOSAL SERVICES**

**PROPOSALS DUE: June 29, 2020 by 4:00 p.m.**

**SUBMITTAL INFORMATION: refer to Part II: PROPOSAL SUBMISSION (page 8)**

**Proposals Must Include:**

Cover Letter  
Attachment 1 – Representations, Certifications and Acknowledgments  
Attachment 2 – Proposed Budget  
Attachment 3 - Form 1: MWESB  
Proposal Response Documents

**Proposed timelines for this RFP:**

June 2, 2020	Public Announcement of RFP
June 22, 2020	Last Day for Proposal Questions (Due in Writing)
June 30, 2020	Proposals Due

**Refer questions to:**

Jin Huang  
Senior Procurement Specialist  
Procurement Services  
Jin.Huang@portlandoregon.gov  
503-823-5371

## PROPOSAL TERMS AND CONDITIONS

**CERTIFICATION AS AN EEO AFFIRMATIVE ACTION EMPLOYER –** Successful Proposers must be certified as Equal Employment Opportunity Affirmative Action Employers as prescribed by Chapter 5.33.076 of the Code of the City of Portland. The required documentation must be filed with Procurement Services, City of Portland, prior to contract execution.

**EQUAL BENEFITS PROGRAM –** Successful Proposers must provide benefits to their employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 5.33.077 of the Code of the City of Portland. The required documentation must be filed with Procurement Services, City of Portland, prior to contract execution.

**SUSTAINABLE PROCUREMENT:** The City has a history of striving to be more sustainable in its operations and planning. Starting with the City's Sustainable City Principles (1994) the City has established a variety of policies to guide its work on sustainability, including: the Sustainable Procurement Policy, Green Building Policy, Local Action Plan on Global Warming, and the Stormwater Management Manual (to view these and related City policies, go to the Portland Policy Documents Website: <http://www.portlandoregon.gov/citycode/26812>

As applicable to City procurement, these policies guide the City to buy products and services that reduce the City's negative environmental and social impacts. While specific goals vary, the City's sustainability objectives tend to focus on: reducing energy use; reducing air, water, and land pollution; building and maintaining high-performance green buildings; reducing the use of materials toxic to the environment and human health; utilizing resources efficiently, including the use of renewable, reusable and recycled materials; utilizing minority-owned, small, and/or local businesses; preserving or enhancing biodiversity; and maintaining fiscal health in the short and long term. As such, the City seeks to do business with firms that will actively contribute to the City's sustainability objectives.

**CITY OF PORTLAND BUSINESS LICENSE TAX account #:** Prior to execution of a Contract, Contractor shall provide City of Portland business license tax account number, or shall provide proof of exemption from said registration requirements, as issued by the City of Portland Bureau of Revenue. Failure to do so within twenty (20) days after Bidder receives tender of the Contract may result in withdrawal of the Contract award. Details of compliance requirements are available from the Revenue Bureau License and Tax Division, 111 SW Columbia Street, Suite 600, Portland, Oregon 97201, (503) 823-5157, website: <http://www.portlandoregon.gov/revenue/29320>

**ADDENDA –** If, in the opinion of the Chief Procurement Officer, additional information or interpretation is needed by the bidders, an addendum will be issued. Any addendum or addenda issued by the Chief Procurement Officer, that may include changes, corrections, additions, interpretations, clarifications, or information, and issued seventy-two (72) hours or more before the scheduled closing time for filing bids, Saturday, Sunday, and legal holidays not included, shall be binding upon the bidder. City shall supply copies of such addenda to all respondents who have obtained copies and are on the plan holder list of the RFP documents for the purpose of responding thereon, but failure of the respondent to receive or obtain such addenda shall not excuse the respondent from compliance therewith if awarded the contract.

**COST OF RESPONDING** This Request for Proposal does not commit the City to pay any costs incurred by any respondent in the submission of a response, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the RFP.

**LATE PROPOSALS** Proposal responses received after the scheduled closing time for filing will be returned to the respondent unopened. Due to heightened security measures in the Portland Building, respondents should allow extra time when delivering bids to the Procurement Services. It is the responsibility of the proposer to ensure their proposal is submitted in the proper form and in accordance with the time, date, and location specified in the RFP.

**CANCELLATION** The City of Portland reserves the right to modify, revise, or cancel this RFP. Receipt and evaluation of proposals or the completion of interviews does not obligate the City to award a contract.

**REJECTION OF PROPOSALS** The City reserves the right to reject any or all responses to the Request for Proposal if found in the City's best interest to do so.

**GOVERNING LAW** - The provisions of any contract shall be construed in accordance with the provisions of the laws of the State of Oregon without reference to its conflict of law provisions. Any action or suits involving any question arising under this contract

must be brought in the appropriate court in Multnomah County Oregon. All statutory, charter and ordinance provisions that are applicable to public contracts in the City of Portland and the State of Oregon shall be followed with respect to this contract. In connection with its activities under this Contract, Contractor shall comply with all applicable federal, state and local laws and regulations including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. These requirements may be found on the City of Portland's Procurement Services website:

<http://www.portlandoregon.gov/bfrs/27353>

Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the rules. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and the State of Oregon shall be followed with respect to this Contract. The following additional conditions apply to this solicitation and any resultant purchase order or contract: Appendix A as attached hereto.

**AMERICANS WITH DISABILITIES ACT COMPLIANCE –** Respondents agree that if awarded a contract, the successful Contractor will comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et seq. If any respondent requires special assistance or auxiliary aids during the proposal, evaluation or award process, please notify the Procurement Services, (503) 823-6855, or TDD (503) 823-6868, at least two (2) business days prior to the required assistance.

**SPECIAL CONDITIONS –** Where special conditions are written in the Request for Proposal, these special conditions shall take precedence over any conditions listed under these Proposal Terms and Conditions.

**PUBLIC RECORDS:** Any information provided to the City pursuant to this RFP shall be public record and subject to public disclosure pursuant to Oregon public records laws ORS 192.410 to 192.505 and 5.33.470.

The general requirement for public disclosure is subject to a number of exemptions. When preparing a proposal submission, a proposer must plainly mark each page containing information deemed by the proposer to remain exempt from public disclosure after proposals have been evaluated (e.g., pages containing trade secret, economic development information, etc.). A summary of the redactions shall be placed with the redacted version of the proposal response.

The fact that a proposer marks and segregates certain information as exempt from disclosure does not mean that the information is necessarily exempt. Any portion of a proposal that the proposer claims as exempt from disclosure must meet the requirements of ORS 192.501(2) and ORS 192.502(4). The City will make an independent determination regarding exemptions applicable to information that has been properly marked and redacted. Information that has not been properly marked and redacted may be disclosed in response to a public records request. When exempt information is mixed with nonexempt information, the nonexempt information must be disclosed.

Unless expressly provided otherwise in this RFP or in a separate communication, the City does not agree to withhold from public disclosure any information submitted in confidence by a proposer unless the information is otherwise exempt under Oregon law.

If the City refuses to release the records, the proposer agrees to provide information sufficient to sustain its position to the District Attorney of Multnomah County, who currently considers such appeals. If the District Attorney orders that the records be disclosed, the City will notify the proposer in order for the proposer to take all appropriate legal action. The proposer further agrees to hold harmless, defend, and indemnify the city for all costs, expenses, and attorney fees that may be imposed on the City as a result of appealing any decision regarding the proposer's records.

**ORAL INSTRUCTIONS** - Oral instructions or information concerning the RFP documents or the project given out by officers, employees, or agents of the City to prospective bidders shall not bind the City. Any changes or revisions to the specifications shall be binding only if issued in writing by the City by addendum. The City reserves the right to officially amend or cancel an RFP after issuance.

**TAXES** - Taxes, whether State or Federal, shall not be included in the offered prices. A tax exemption certificate will be provided by the City upon request.



# **PART I**

## **PROPOSAL REQUIREMENTS**

### **SECTION A GENERAL INFORMATION**

#### **1. SCOPE OF WORK**

The City of Portland (City), Bureau of Environmental Services (BES) is seeking proposals from qualified firms or contractors with demonstrated experience in digester cleaning, hauling, and disposal of residuals. BES proposes to engage the proposers for the services outlined herein Attachment A Scope of Work.

The successful Proposer will be expected to enter into a not-to-exceed Services Contract with the City (Exhibit A Sample Contract).

#### **2. PROPOSAL INVITATION**

This document constitutes an invitation for sealed competitive proposals under Portland City Code Chapter 5.33. This RFP is for the City of Portland, Bureau of Environmental Services as directed by BES as identified herein in accordance with the requirements and provisions herein.

### **SECTION B WORK REQUIREMENTS**

#### **1. TECHNICAL OR REQUIRED SERVICES**

Technical and required services are described in Attachment A – Scope of Work.

### **SECTION C ATTACHMENTS**

#### **1. ATTACHMENT A – SCOPE OF WORK**

#### **2. ATTACHMENT 1 – REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS**

#### **3. ATTACHMENT 2 – CONTRACTOR PRICING**

#### **4. ATTACHMENT 3 - M/W/ESB PARTICIPATION DISCLOSURE, FORM 1**

#### **5. ATTACHMENT 4 - REFERENCES**

#### **6. Exhibit A - SAMPLE SERVICES CONTRACT**

Exhibit A is the City's standard contract for these services and will be used as a result of this selection process. Any deviations from the Contract shall be clearly identified in a written request received by the City at least seven (7) business days prior to the proposal deadline.

#### **7. APPENDIX A – CONTRACT REQUIREMENTS**

#### **8. EXHIBIT 1 – CONFINED SPACE ENTRY POLICY AND PROCEDURES**

#### **9. EXHIBIT 2 – DIGESTER COMPLEX OVERVIEW**

#### **10. EXHIBIT 3 – CBWTP OVERVIEW**

## PART II PROPOSAL DEVELOPMENT

### SECTION A PROPOSAL PREPARATION

#### 1. PRE-PROPOSAL MEETING

There will be an online pre-proposal meeting scheduled for this project on June 5, 2020 at 2:00pm via Microsoft Teams: [Join Microsoft Teams Meeting](#). A call in option is set up for this meeting: [971-323-0035](#) Conference ID: 695 324 521# Please note the call in option has no capability to view the PowerPoint presentation.

This is a mandatory pre-proposal meeting therefore, all proposers will be required to attend if they intend to submit a proposal. The site visit offered is optional, and it is not required for proposal submittal.

The City of Portland will make reasonable accommodation for people with disabilities. Please notify us no less than three (3) business days prior to the event by phone at 503-823-2299, by the City's TTY at 503-823-6868, or by the Oregon Relay Service at 1-800-735-2900.

#### 2. INVESTIGATION

The Offeror shall make all investigations necessary to inform itself regarding the work or services to be furnished.

#### 3 QUESTIONS OR CLARIFICATIONS

It shall be the respondent's responsibility to ask questions, request changes or clarifications, or otherwise advise the City of Portland, Procurement Services if any language, specifications or requirements of this RFP appear to be ambiguous, contradictory, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source.

Every attempt shall be made to ensure that the proposer receives an adequate and prompt response. However, in order to maintain a fair and equitable RFP process, all respondents will be advised, via the issuance of an addendum to the RFP, of any relevant or pertinent additional information related to the procurement. Questions and requests for clarification regarding this Request for Proposal must be directed in writing, via email or fax, to the person listed below at least ten (10) calendar days prior to the proposal due date. Therefore, respondents are advised that any questions received less than ten (10) calendar days prior to the RFP opening date may not be answered.

Jin Huang  
Procurement Services  
1120 SW Fifth Avenue, Room 1050  
Portland, Oregon 97204  
[Jin.huang@portlandoregon.gov](mailto:Jin.huang@portlandoregon.gov)  
Phone: (503) 823-5371

If, in the opinion of the Chief Procurement Officer, additional information or interpretation is needed by the respondents, an addendum will be issued. Any addendum or addenda issued by the Chief Procurement Officer, that may include changes, corrections, additions, interpretations, clarifications, or information, and issued seventy-two (72) hours or more before the scheduled closing time for submitting the proposal, Saturday, Sunday, and legal holidays not included, shall be binding upon the respondent. City shall supply copies of such addenda to all respondents who have obtained copies and are on the plan holder list of the RFP documents for the purpose of responding thereon, but failure of the respondent to exercise due diligence to receive or obtain such addenda shall not excuse the respondent from compliance therewith if awarded the contract.

#### 4. CONTRACT REVIEW

The Services Contract as attached hereto contains the terms and conditions that will govern this Contract between the City of Portland and the successful proposer. The City of Portland is not inclined to negotiate any portion of this contract; however, if a proposer believes any of the terms and conditions contained in the City's contract are unnecessarily restrictive, limit competition, or would like to request that specific terms and conditions contained in the contract document be considered for negotiation, they shall submit a written request for negotiation to the City at least seven (7) working days prior to the proposal due date as indicated above.

The request shall identify the specific provision the proposer would like to negotiate, an explanation of why the proposer believes the provision should be a negotiable provision, and the suggested revised language. Requests that are not submitted in this format may not be considered. **Requests that state the entire contract be negotiated will not be considered.** If the City

decides that a contract term can be changed, or is willing to consider negotiation of a term, an addendum will be issued. If no addendum is issued, the City will not consider negotiation of its standard contract terms.

THIS WILL BE THE OFFEROR'S ONLY OPPORTUNITY TO TAKE EXCEPTION TO ANY OF THE TERMS AND CONDITIONS CONTAINED WITHIN THE CONTRACT AND TO REQUEST THE NEGOTIATION OF PROVISIONS CONTAINED IN THE CONTRACT. **ANY PROPOSAL WHICH TAKES EXCEPTION TO TERMS AND CONDITIONS OF THE SAMPLE CONTRACT THAT HAVE NOT BE IDENTIFIED BY ADDENDUM AS SUBJECT TO NEGOTIATION OR WHICH MAKES THE PROPOSAL CONTINGENT UPON ACCEPTANCE OR NEGOTIATION OF OTHER TERMS AND CONDITIONS SHALL BE DEEMED NON-RESPONSIVE AND THE PROPOSAL SHALL BE REJECTED.**

**5. ORAL INSTRUCTIONS**

Oral instructions or information concerning the RFP documents or the project given out by officers, employees, or agents of the City to prospective respondents shall not bind the City. Any changes or revisions to the specifications shall only be binding if issued in writing by the City by addendum. The City reserves the right to officially amend or cancel an RFP after issuance.

**6. COST OF RESPONDING**

This Request for Proposal does not commit the City to pay any costs incurred by any respondent in the submission of a response, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the RFP.

**7. PERMITS AND LICENSES**

The successful respondent shall include in their proposal the cost to obtain or maintain all permits, certifications and licenses that may be required to perform the contract.

**8. INTERGOVERNMENTAL CO-OPERATIVE PURCHASING**

The respondent agrees to extend identical prices and services under the same terms and conditions to all public agencies. Requirements stated herein reflect the City of Portland usage only.

A public agency wishing to utilize like services will execute its own contract with the awarded contractor for its requirements. The successful contractor shall provide quarterly usage reporting of the City of Portland as well as that of other public agencies to the City of Portland, Procurement Services. Any respondent by written notification included with their proposal, may decline to extend the services, prices and terms of this RFP to any and/or all other public agencies.

**9. CHANGES TO THIS RFP**

The City reserves the right to modify, revise or cancel this RFP. Receipt and evaluation of proposals or the completion of interviews do not obligate the City to award a contract.

<b>SECTION B</b>	<b>PROPOSAL SUBMISSION</b>
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**1. PROPOSALS DUE**

By submitting a proposal, the respondent agrees to provide all services specified within the RFP, at the times and prices indicated, pursuant to all requirements and specifications as contained therein.

Sealed proposals must be received in this office no later than the date shown on the cover of this solicitation. The outside of the envelope shall plainly identify the subject of the proposal, the RFP number and the name and address of the proposer. Responses received after time or date listed herein shall not be considered. Proposals received after the scheduled closing time for filing will be returned to the proposer unopened.

**2. PROPOSAL**

Proposals must be clear, succinct and not exceed twenty (20) pages, excluding Attachment materials. Proposers who submit more than the pages indicated may not have the additional pages of the proposal read or considered.

All submittals will be evaluated on the completeness and quality of the content. Only those firms providing complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.

**3. PROPOSAL SUBMISSION**

Security and confidentiality of the transmitted data: For purposes of this proposal submission, the proposer shall submit: one complete original in pdf format and one (1) complete Redacted for Public Disclosure Copy in MS Word format. If Proposer has no redactions, provide a written statement to that effect. The entire proposal shall be received at the place, and on or before the time and date, specified on the first page of the proposal document.

#### 4. REDACTION FOR PUBLIC RECORDS

Any portion of a proposal that the proposer claims as exempt from disclosure must meet the requirements of ORS 192.501(2) and ORS 192.502(4). When preparing its proposal submission, the proposer shall provide one (1) Redacted for Public Disclosure Copy of their proposal with their submission. The Redacted for Public Disclosure Copy shall be a complete copy of the submitted proposal, in which all information that the Proposer deems to be exempt from public disclosure has been redacted. For the purpose of the Redacted for Public Disclosure Copy, "redaction" means "the careful editing of a document to remove confidential references; a revised or edited document thereby obscuring the exempt information but otherwise leaving the formatted document fully intact." Proposers shall include a summary page(s) at the beginning of their Redacted for Public Disclosure Copy detailing the location of all redacted information. When exempt information is mixed with nonexempt information on the same page, the exempt information must be redacted in such a way as to allow the disclosure of the non-exempt information. Should the proposer determine that no redactions are required, that statement may be included within the text of the Cover Letter. If a proposer fails to submit a Redacted for Public Disclosure Copy of their proposal as required, the City may release the proposer's original proposal without redaction.

Please refer to the STANDARD TERMS AND CONDITIONS for more information about confidential information within public records.

#### 5. CONFLICT OF INTEREST

A respondent submitting a proposal thereby certifies that no officer, agent or employee of the City has a pecuniary interest in this RFP or has participated in the contract negotiations on the part of the City. Further the respondent certifies that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other respondent on this particular request for proposal, and that the respondent is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

#### 6. PROPOSAL ORGANIZATION

The respondents must provide all information as requested in this Request for Proposal (RFP). Responses must follow the format outlined in this RFP. Additional materials in other formats or pages beyond the stated page limit(s) may not be considered. The City may reject as non-responsive at its sole discretion any proposal or any part thereof, which is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposal responses shall be organized in the manner as described on the cover page of this RFP document.

##### 6.a COVER LETTER

##### Required

By submitting a response, the proposer is accepting the General Instructions and Conditions of this Request for Proposal (reference second page of the proposal).

The Cover Letter must state the name(s) of the person(s) authorized to represent the contractor in any negotiations, the name(s) of the person(s) authorized to sign any contract that may result, the contact person's name, mailing or street addresses, phone and fax numbers and email addresses. A legal representative of the successful firm, authorized to bind the firm in contractual matters must sign the Cover Letter and the Proposal. If appropriate, include firm's City of Portland Business License Tax account number as well as the Equal Opportunity Employer (EEO) expiration date. Failure to provide such information will be grounds for finding the contractor non-responsive and the entire proposal will be disqualified.

##### 6.b PROJECT TEAM

##### Maximum 5 Points

The main purpose of this section is to understand the skills, experience, and roles of the Proposer's staff who will be assigned to perform this work. Information may include:

Approximate number of people to be assigned to the project;

Extent of company's principal member's involvement;

Team qualifications and experience on similar or related projects:

- qualifications and relevant experience of prime contractor
- qualifications and relevant experience of sub-contractors, if any
- project manager's experience with similar projects;

Names of key team members who will perform the work on this project, and:

- their responsibilities on this project
- current assignments and location
- experience on similar or related projects
- unique qualifications
- percentage of their time that will be devoted to the project.
- years of experience in similar type of work

Key Personnel

Describe the background, directly related work experience, professional development, and demonstrated performance record of the proposed key personnel.

**6.c SERVICE AREA/PROVIDER**

**Maximum 10 Points**

Describe your firm's capabilities and resources in relation to this project. Provide the following information in a narrative format:

- a. List similar projects performed within the last five (5) years, which best characterize capabilities, work quality and cost control
- b. List similar projects with other government agencies
- c. Describe your internal procedures and/or policies associated or related to work quality and cost control
- d. Describe your management and organizational capabilities

**6.d PROJECT APPROACH AND CAPABILITY**

**Maximum 35 Points**

The Proposer should provide clear and concise understanding of the project and clarify any major issues based upon existing information. For each digester, the approach should:

- Describe the tasks and activities, the methodology that will be used to accomplish them, and which team members will work on each task;
- The time frame estimated to complete each digester.

**6.e CORPORATE RESPONSIBILITY**

**Maximum 20 Points**

Through the adoption of The Portland Plan, the Social Equity Contracting Strategy, and Sustainable Procurement Policy, the Portland City Council has shown its commitment to contracting with socially and environmentally responsible businesses. The City values and supports diversity and is dedicated to advancing equity in public contracting by increasing opportunities for State of Oregon certified Minority, Women and Emerging Small Business enterprises ("M/W/ESB").

The Social Equity Contracting Strategy promotes M/W/ESB economic growth and encourages partnering and mentoring between large and small M/W/ESB firms on City contracts. Proposing firms are encouraged to use the State's Certification Office for Business Inclusion and Diversity (COBID) website (<https://www.oregon4biz.com/How-We-Can-Help/COBID/>) for identifying potential M/W/ESB subcontractors.

**All Proposers shall address the following in their proposals:**

**(1) Oregon State Certification**

Please indicate in your response if your firm is currently certified in the State of Oregon as an MBE, WBE, or an ESB.

**(2) Minority, Women, and Emerging Small Business Contracting**

- Please list the total project contract amount including scopes of work on Form 1(Attachment 3 M/W/ESB Participation Disclosure Form 1).
- Points will be awarded based upon the maximum dollars contracted with State of Oregon certified M/W/ESB subcontractors.

**\*Note: Failure to submit Form 1 with your proposal may result in the proposal being found non-responsive and may be rejected.**

**(3) Workforce Diversity and Community Involvement**

- Describe your firm's workforce demographics and any measurable steps taken to ensure a diverse internal workforce (e.g., women and people of color).
- How do you approach internal on-the-job training, mentoring, technical training, and/or professional development opportunities for women and people of color?
- Describe your firm's employee compensation structure, (e.g., living wages, healthcare coverage, employee leaves, dependent care, etc.).
- Describe your firm's commitment to community service, (e.g., charitable programs, scholarships, economic development, etc.)

**(4) Sustainable Business Practices**

- List the top five actions/ongoing practices your firm has implemented to reduce the environmental impacts of your operations (e.g., energy efficiency, use of recycled content or non-toxic products, use of public transit or alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.).
- Regarding your top five actions, please reference implementation dates and/or timelines, and any performance metrics or third-party awards/recognition (such as Sustainability at Work).
- Does your firm participate in any third-party sustainability related organizations, networks, or committees? If so, list up to five examples and how long your firm has been an active participant in each.
- Contractor shall be an active participant in the EPA SmartWay Program.
- Diesel vehicles used for hauling biosolids shall be model year 2010 or newer or have retrofit emission control

devices that reduce diesel particulate matter and NOx to similar levels as a 2010 engine. Emission control devices shall be in good operating condition throughout the resulting contract.

The City expects thoughtful consideration of all of the above Corporate Responsibility criteria in the preparation of proposals. The City will enforce all M/W/ESB commitments submitted by the successful Proposer. The successful Proposer will not be permitted at any time to substitute, delete and M/W/ESB subcontractor without the prior written approval of the Chief Procurement Officer.

**6.f PROPOSED PRICE AND RATES**

**Maximum 30 Points**

The proposal shall include the contractor's true estimated cost or fixed-price estimate for the proposed project approach irrespective of the City's anticipated cost. Additionally, this cost shall include the hourly rates of each person associated with the project as well as the estimated number of hours each staff member will be expected to work on each task.

**6.g REFERENCES**

**Required**

Complete Attachment 4

**7. WITHDRAWAL, MODIFICATION OR ALTERATION OF PROPOSAL**

Prior to the RFP opening, changes may be made provided the change is initialed by the respondent or authorized agent. Also, a proposal may be withdrawn upon written request of the respondent prior to the scheduled closing time for accepting proposals. Negligence on the part of the respondent in preparing their proposal confers no right to withdraw their response after the scheduled closing time for filing proposals.

As a result of any of these actions, if the intent of the respondent is not clearly identifiable, the interpretation most advantageous to the City will prevail.

**8. LATE PROPOSALS**

Proposals received after the scheduled closing time for filing will be returned to the respondent unopened. Due to heightened security measures in the Portland Building, respondents should allow extra time when delivering bids to the Procurement Services. It is the responsibility of the proposer to ensure their proposal is submitted in the proper form and in accordance with the time, date, and location specified in the RFP.

**9. CANCELLATION**

The City of Portland reserves the right to modify, revise or cancel this RFP. Receipt and evaluation of proposals or the completion of interviews do not obligate the City to award a contract.

## PART III PROPOSAL EVALUATION

### SECTION A      PROPOSAL REVIEW AND SELECTION

#### 1.      EVALUATION CRITERIA

A Selection Review Committee (Committee) will be appointed to evaluate the proposals received. For the purpose of scoring proposals, each Committee member will evaluate each proposal in accordance with the criteria listed in Part II, Section B. The Committee may seek the assistance of outside expertise, including, but not limited to, technical advisors. The Committee will require a minimum of ten (10) working days to evaluate and score the proposals.

The choice regarding how or when to proceed, the need for additional clarifications, decisions to begin or terminate negotiations, determination of a reasonable time, decisions to open negotiations with a lower scoring Proposer, and any decision that a solicitation should be cancelled are all within the sole discretion of the City.

All communications shall be through the contact(s) referenced on the cover page of this RFP. At the City's sole discretion, communications with members of the evaluation committee, other City staff, or elected City officials for the purpose of unfairly influencing the outcome of this RFP may be cause for the Proposer's proposal to be rejected and disqualified from further consideration.

#### 2.      EVALUATION PROCESS

The proposal evaluation process consists of a series of Evaluation Levels that will lead to the identification of a finalist. Each proposal response will be evaluated in accordance with the following evaluation criteria:

**Evaluation Level #1 – Written Scoring** Proposal responses meeting the mandatory and responsiveness requirements will be further evaluated as part of Evaluation Level #1. One hundred possible points are available at Level #1. This step consists of a detailed review of the written proposal responses as follows:

Level #1 Evaluation Criteria		
Criteria	Maximum Level #1 Score	Point Distribution by Subsection
1. COVER LETTER		REQUIRED
2. PROJECT TEAM	5	
3. SERVICE AREA/PROVIDER AVAILABILITY IN PORTLAND AREA	10	
4. PROJECT APPROACH AND CAPABILITY	35	
5. CORPORATE RESPONSIBILITY	20	
OR State Certification		4
MWESB Subcontracting		8
Workforce Diversity & Community Involvement		3
Sustainable Business Practices		5
6. PROPOSED PRICE AND RATES	30	
7. REFERENCES	0	REQUIRED
<b>TOTAL:</b>	<b>100</b>	

**Short Listing** The Evaluation Committee may focus on only a limited number of proposals by developing a "short list" based on the scores from the written proposals or may proceed directly to contract negotiation and award. The number of proposals on the "short list" depends on whether the Committee believes such proposals have a reasonable chance of leading to the award of a contract. If the Evaluation Committee develops a "short list", the scores from Evaluation Level #1 will be held until completion of the Evaluation #2 scoring to become part of the Total Overall Score.

**Evaluation Level #2 – Oral Scoring** If oral interviews or presentations are determined to be necessary, this next step will consist of oral presentations and further clarification of the Proposer's response. Proposers invited to participate in Evaluation Level #2 will be given additional information regarding the City's desired content a reasonable time before the scheduled Evaluation Level #2 oral interviews/presentations are held. The scoring of the Level #2 will be as follows:



Level #2 Evaluation Criteria	
Criteria	Maximum Evaluation Level #3 Score
Content of Oral Presentation	100
<b>Total:</b>	<b>100</b>

Following completion of the Evaluation Level #2 scoring, each Proposer's Evaluation Level #2 score will be added to their Evaluation Level #1 score to determine their Total Overall Score. The highest scoring Proposal, based on their Total Overall Score, may be identified as the Finalist.

The selection of the Finalist shall be based on negotiated costs and conformance to the City's terms and conditions. Negotiations will follow with the Finalist, and if successful, the contractor and City will enter into a service contract for the work. If the contract with the Finalist cannot be reached within a time period deemed reasonable to the City, the City may elevate any of the respondents that passed Level #1.

The City of Portland may exercise one of the following options:

- a. Conduct serial negotiations, beginning with the highest scoring Proposer. Such negotiations could lead to an award of a contract or the City may decide to terminate the negotiations if it determines that negotiations are unlikely to result in an acceptable contract to the City within a reasonable period of time. If negotiations are terminated, the City may cancel the solicitation or proceed to negotiate with the next highest scoring respondent in the same manner. The City may then continue to negotiate with respondents further down the list in the order that scores were received or cancel the solicitation; or
- b. Conduct simultaneous competitive negotiations with the two highest scored respondents. Such negotiations could lead to an award of a contract or the City may decide to terminate the negotiations with either or both when, in the City's sole discretion, it determines that negotiations are unlikely to reach a contract acceptable to the City within a reasonable period of time. The City may then continue to negotiate with respondents further down the list in order that scores were received or cancel the solicitation; or
- c. Establish a competitive range of respondents who appear likely to be able to receive an award of a contract, to initiate discussion with such respondents to inform them of deficiencies in their initial responses, notify them of parts of their response for which the City would like additional information or otherwise allow eligible respondents to develop revised responses that will allow the City to obtain the best response based on the requirements and evaluation criteria set forth in the RFP. In proceeding with this option the City will follow the requirements of PCC 5.33.211 regarding discussions, negotiations and, if desired, best and final offers.

Proposers who are eliminated at any stage of the evaluation process will be notified of their elimination. Following final selection, if any, the City will issue a Notice of Intent to Award a contract to the Successful Proposer. At that time, Proposers who wish to protest their elimination shall file a protest within seven (7) calendar days of the notice.

The City has the right to reject any or all proposals for good cause in the public interest, and the Chief Procurement Officer may waive any evaluation irregularities that have no material effect on upholding a fair and impartial evaluation selection process.

### 3. LOCAL CONTRACTING

The City: prefers goods or services that have been manufactured or produced by a local business if price, fitness, availability and quality are otherwise equal; desires to employ local businesses in the purchase, lease, or sale of any personal property, public improvements or services; and wants the residents of the State of Oregon and SW Washington to benefit from optimizing local businesses and services, and the local employment opportunities they generate.

### 4. EVALUATION OF COST

The evaluation of Proposers' costs will be performed objectively using a ratio method. With this method, the proposal with the lowest cost receives the maximum points allowed. All other proposals receive a percentage of the points available based on their cost relationship to the lowest. The ratio method of evaluating proposed costs will take into account that the level of services provided for in the proposals, stated in the Project Approaches and identified in the Proposed Costs, are comparable. Points are determined by applying the following ratio formula:

$$(\text{Lowest Cost} \div \text{Cost Being Evaluated}) \times \text{Maximum Points Available} = \text{Awarded Points}$$

Example (maximum points available for cost = 20 points):

PROPOSER	PROPOSED COST	POINTS AWARDED
A	\$100,000 (Lowest)	$(\$100,000 \div \$100,000) \times 20 \text{ points} = 20 \text{ pts}$
B	\$105,000	$(\$100,000 \div \$105,000) \times 20 \text{ points} = 19 \text{ pts}$
C	\$110,500	$(\$100,000 \div \$110,500) \times 20 \text{ points} = 18 \text{ pts}$
D	\$125,000	$(\$100,000 \div \$125,000) \times 20 \text{ points} = 16 \text{ pts}$

#### 6. CLARIFYING PROPOSAL DURING EVALUATION PERIOD

During the evaluation process, the City has the right to require any clarification or change it needs in order to understand the respondent's view and approach to the project and scope of the work. Any changes to the proposal will be made before executing the contract and will become part of the final contractor contract.

#### 7. PROPOSALS ARE PUBLIC RECORDS

All information submitted by proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act (ORS 192.410 et seq.), except such portions of the proposals for which proposer requests exemption from disclosure consistent with Oregon Law. Any portion of a proposal that the proposer claims constitutes a "trade secret" or is "confidential" must meet the requirements of ORS 192.501(2) and ORS 192.502(4).

If the City refuses to release the records, the proposer agrees to provide information sufficient to sustain its position to the District Attorney of Multnomah County, who currently considers such appeals. If the District Attorney orders that the records be disclosed, the City will notify the proposer in order for the proposer to take all appropriate legal action. The proposer further agrees to hold harmless, defend and indemnify the City for all costs, expenses and attorney fees that may be imposed on the City as a result of appealing any decision regarding the proposers records.

#### 8. LOCAL CONTRACTING

The City: prefers goods or services that have been manufactured or produced by a local business if price, fitness, availability and quality are otherwise equal; desires to employ local businesses in the purchase, lease, or sale of any personal property, public improvements or services; and wants the residents of the State of Oregon and SW Washington to benefit from optimizing local businesses and services, and the local employment opportunities they generate.

#### 9. AWARD REVIEW AND PROTEST PROCEDURE

**REVIEW:** ORS 279B.060(5)(a) provides: "Notwithstanding ORS 192.410 to 192.505, proposals may be opened in a manner to avoid disclosure of contents to competing proposers during, when applicable, the process of negotiation, but the contracting agency shall record and make available the identity of all Proposers as part of the contracting agency's public records from and after the opening of the proposals. Notwithstanding ORS 192.410 to 192.505, proposals are not required to be open for public inspection until after the notice of intent to award a contract is issued."

**REVIEW:** Following the Notice of Intent to Award, the public may view proposal documents, but the City is entitled to withhold from disclosure any materials defined as exempt or conditionally exempt from disclosure pursuant to the Oregon Public Records Act. Proposers shall designate information they consider exempt or conditionally exempt from disclosure by stamping the word "Confidential" on such documents or by otherwise indicating the documents are considered to be confidential. Materials so designated and meeting the requirements for exempt or conditionally exempt information will not be disclosed unless the Multnomah County District Attorney determines that disclosure is required after appeal. The City reserves the right to disclose materials inappropriately marked as exempt or conditionally exempt and to withhold from disclosure materials that meet standard but which were inadvertently not marked as confidential.

Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the Evaluation Committee, subject to the City's authority to withhold documents, as stated above.

**PROTESTS:** Proposers are permitted to challenge the City's decision to exclude the Proposer from the next step in the evaluation process and/or to award a contract. Depending on the nature of the protest, Proposers may wish to review Portland

City Code (PCC) 5.33.720, 5.33.730, and 5.33.740 regarding protest procedures, all of which may be found online at the City Auditor's website.

Procurement Services shall post a Notice of Intent to Award to the successful Proposer. The Notice of Intent to Award shall be posted on the Bureau's Internet Web Page.

A Proposer who is adversely affected or aggrieved by the award of contract or evaluation decision shall have seven (7) days after the issuance of the "Notice" to file a protest. The contents to be included in the protest are found in PCC 5.33.740. A protest is not valid if the Proposer would not be eligible to be awarded a contract if its protest were upheld. The Chief Procurement Officer will review any protest and issue a written decision. Whether there are further appeal processes depends on the discretion of the Chief Procurement Officer.

Protests must be timely and must include all legal and factual information regarding the protest, and a statement of the form of relief requested. Protests received later than specified or from other than the Proposer who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in scoring the written proposals and interviews, including the use of outside expertise, is not grounds for appeal.

## **SECTION B CONTRACT AWARD**

### **1. CONTRACTOR SELECTION**

The City will award a contract to the contractor whose proposal is considered and evaluated as being the most advantageous to the City. The contractor selection process will be carried out under Portland City Code, Chapter 5.33.

### **2. CONTRACT DEVELOPMENT**

The proposal and all responses provided by the contractor may become a part of the final contract. The form of contract shall be the City's Contract for Services.

### **3. NOTICE OF INTENT TO AWARD**

A notice of intent to award posted on the Procurement Services website does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing any equipment, suppliers and/or services, the contractor must receive a properly authorized purchase order or contract.

### **4. ASSIGNMENT OF ANTI-TRUST RIGHTS**

By entering into a contract, the Contractor, for consideration paid to the contractor under the contract, does irrevocably assign to the City of Portland any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future, including, at the City's option, the right to control any such litigation on such claim for relief or cause of action, by reason of violation of 15 USC SS 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to the Contractor by any person, which goods or services are used, in whole or in part, for the purpose of carrying out the contractor's obligation under this contract.

In the event the Contractor hires subcontractors to perform any of the Contractor's duties under the contract, the Contractor shall require the subcontractor to irrevocably assign to the City of Portland, as a third party beneficiary any right, title or interest that has accrued or may accrue to the subcontractor by reasons of any violation of 15 USC SS 1-15, ORS 646.725 or ORS 646.730, including, at the City's option, the rights to control of any litigation arising thereunder, in connection with any goods or services provided to the subcontractor by any person, in whole or in part, for the purpose of carrying out the subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of the contract.

In connection with this assignment, it is an express obligation of the contractor that it will take no action, which will in any way diminish the value of the rights conveyed or assigned hereunder to the City of Portland. It is an express obligation of the Contractor to advise the City Auditor or the Office of the City Attorney of Portland, Oregon:

- a. In advance, of its intention to commence any action on its own behalf regarding such claims for relief or causes of action;
- b. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and
- b. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignment to the City of Portland.

Furthermore, it is understood or agreed that in the event that any payment under such claim is made to the Contractor, it shall promptly pay over to the city of Portland its proportionate share thereof, if any, assigned to the State hereunder.

**4. FAILURE TO EXECUTE CONTRACT**

Failure on the part of the respondent to whom a contract is awarded to execute the contract and deliver the Contract and required documents with the required bonding and insurance certificates within ten (10) calendar days shall be just cause for cancellation of the award and withdrawal of the Contract. Award may then be made to the next scored proposer, or the work may be re-advertised, or otherwise as the City may decide.

## **ATTACHMENT A SCOPE OF WORK**

### **1. SCOPE OF WORK**

The successful Proposer shall provide for the safe, efficient, and environmentally sensitive cleaning of anaerobic digesters and subsequent hauling and disposal of non-hazardous material that has been removed from the digesters. In general, these materials are referred to as digester cleaning residuals. The anaerobic digesters are owned by the City of Portland, operated by the Bureau of Environmental Service's Operations and Maintenance Group, (O&MG), located at;

Columbia Boulevard Wastewater Treatment Plant  
5001 Columbia Blvd., Portland, OR 97203

- a. The Contractor shall mobilize their approved site-specific equipment to the approved project site and assume possession of the project site.
- b. The Contractor will maintain their designated project site in a clean and orderly state while adhering to all BES site-specific policies.
- c. The Contractor will remove the contents of each digester they are directed to clean, dewater the contents to the best of their abilities, and dispose of them in the most efficient and environmentally responsible manner.
- d. The Contractor will leave the site in the same condition that it was in when they arrived.

### **2. CHARACTER OF DIGESTER RESIDUALS**

The City has ten digesters at the Columbia Blvd. Wastewater Treatment Plant. The digesters accumulate sand, grit, trash, and heavy thickened sludge. Typically, the digester cleaning residuals contain the following:

- Sand, grit, and sediment material accumulated from the City's collection system and (≈85%).
- Digested sewage sludge. A combination of stabilized primary and secondary sludges from the treatment process at the CBWTP (≈12%).
- Plastics and other trash content (≈3%).

Analytical testing of the digester contents has shown that digester cleaning residuals are not a hazardous waste. Disposal of these materials should be handled under RCRA Subtitle D (nonhazardous waste) provisions of 40 CFR Part 258. Disposal of these residuals in Oregon requires a special waste permit.

Factors influencing quantities in the digesters depend on the time between cleanings.

### **3. SERVICES TO BE PROVIDED: SUBMITTALS**

- a. The Contractor will submit for approval a site-specific work plan that includes its means and methods of digester residuals removal, method(s) of dewatering, disposal to the landfill, and proposed filtrate flow path.
- b. The Contractor will submit for approval an aerial map of the plant showing the area(s) that their proposed equipment will occupy and the associated truck hauling routes.
- c. The Contractor will submit for approval the total electrical power requirements, in units of horsepower, (hp), needed for their operation.
- d. The Contractor will submit for approval the total filtrate flow, in gallons per minute(gpm), from their proposed onsite equipment.
- e. The Contractor will submit for approval the total water volume needed for their equipment to operate in the most efficient manner in units of gallons per minute, (gpm).
- f. The Contractor will submit for review a site-specific safety and health plan that addresses all assessed risks and controls to be used to protect workers. The site- specific safety and health plan (SSHP) shall comply with OAR 437-02-146- Confined Space Entry, including provisions for rescue.
- g. The Contractor will submit for approval a site-specific spill prevention and cleanup plan.
- h. The Contractor will submit for review and approval any changes to this work plan before a notice to proceed (NTP) is issued.
- i. After the NTP is issued, any changes to this work plan or other elements of this contract shall be submitted in writing and agreed upon before the changes are executed.

### **4. SERVICES TO BE PROVIDED: KICK OFF MEETING, NOTICE TO PROCEED**

The Contractor and City shall hold a kickoff meeting prior to issuing a Notice to Proceed. This meeting shall occur before the Contractor mobilizes to the work site.

At that meeting, the City shall read the signed contract and establish hazard communications procedures, and review any onsite safety policies. The Notice To Proceed (NTP) will be issued at this meeting barring any outstanding issues.

**5. SERVICES TO BE PROVIDED: DIGESTER CLEANING**

- a. Contractor shall perform all work in accordance with this work plan.
- b. Contractor shall stage equipment only within the approved location(s). This includes material processing equipment, pumphouse crossings, extra sludge trailers, and tanks. It is understood that the Contractor may need to move equipment around and can therefore temporarily impede traffic for short periods.
- c. Contractor shall perform all preliminary work necessary to provide proper and safe access to the interior of the digester. Contractor may utilize all existing access openings and may access the digester roof but shall not alter or modify the digester tank or any other City property in any way.
- d. Contractor shall remove and dewater the contents of each digester. Contractor may use plant water to dilute digester contents as necessary. Approximate available water pressure is 80psi. Contractor shall use best efforts to minimize the use of plant water.
- e. Contractor shall clean all digester surfaces after removing the material from the digester. Internal digester piping, mixers and their appurtenances and center structures shall be cleaned of all accumulated rags and debris. Contractor shall remove all deposits of grit, grease, sludge, scum and other materials during the cleaning process. The water used during the cleaning and washing process may be applied under pressure but shall not contain cleaners or degreasers and shall be disposed of only at the designated filtrate/centrate receiving points.
- f. Contractor shall dispose of the digester cleaning residuals at the designated landfill (identified in Contractor work plan). Contractor shall be responsible for acquiring all necessary permits and pay for all landfill tipping fees (See Services to Be Provided: Disposal).
- g. Filtrate/centrate flow path will be determined via submittal. For digesters 1-4, filtrate can be disposed of via the S-Tanks. For digesters 5-10, filtrate can be directed to the IRHP drain line.
- h. Contractor shall furnish all labor, equipment, materials and supplies necessary to perform the work safely while including, but not limited to the following: ladders, scaffolding, lighting, pumping, cleaning, and dewatering equipment, ventilation and monitoring equipment needed to protect their workers. Contractor will install and maintain all hose crossings with non-skid coatings. Contractor will install and maintain barricades, bollards, tape, etc. to define their area of control and keep non-authorized pedestrian traffic out.
- i. Hours of operation shall be 6:00 AM to 6:00 PM PST, Monday through Saturday. Contractor shall not perform the work at other times without the City's consent. Hours when noise will not be restricted are 6:00 AM to 6:00 PMPST.
- j. The following drawings are provided for reference: a. Vicinity/location site map, b. Digester schematic drawing(s) c. stormwater drainage map. (provide maps)
- k. Contractor acknowledges that the City's treatment plant operates continuously on an around-the-clock basis and other construction activity will be occurring while Contractor is performing the work. Contractor shall coordinate Contractor's activities so that Contractor does not interfere with the plant operation or construction activity. Contractor shall promptly comply with all City requests to remove equipment and other work items and work activity from locations where such items and activity may interfere with treatment plant operations or construction activity.

**l. Safety and Health**

Contractor understands that sewage treatment facilities contain such hazards as wastewater, methane gas, high voltage electricity and large quantities of chemicals such as sodium hypochlorite and polymers.

Contractor warrants that Contractor is experienced in working in environments that contain such hazards. Contractor shall always require their personnel to observe proper safety and hygiene practices. Such practices shall include, but not be limited to, the following: a) No smoking or open flames; b) Use of explosion-proof devices for electrical equipment as required by all applicable codes; c) Proper ventilation and hazardous gas monitoring of work areas (**Exhibit 1**).

Contractor further understands that the work will involve permit required confined spaces as defined by OR- OSHA and that entry into the spaces will require compliance with OR-OSHA rules chapter 437-2-J, Permit Required Confined Spaces (29 CFR 1910.146). Contractor and the City's project manager shall ensure that the communications needed to comply with the rules have been completed. These communications shall include the following: a) City shall inform Contractor of the conditions and hazards that make the space a permit required space. b) City shall inform Contractor of all precautions

and procedures that the City has implemented for the protection of employees in or near permit spaces where Contractor personnel will be working .c) The City and Contractor shall establish a procedure for coordinating entry operations when City personnel and Contractor personnel will be working in or near permit spaces. d) Contractor shall inform the City of Contractor's methods of employee protection.

At the conclusion of the work, the City and the Contractor shall hold a debriefing session as required by the confined space rules.

**m. Security**

Contractor understands that the City's treatment plant is a restricted area. Contractor shall not enter portions of the plant buildings or grounds outside of Contractor's designated work area. Contractor will provide their own restroom, and lunch/break room facilities.

Contractor shall be solely responsible for the security of Contractor's facilities, equipment, materials, supplies and other property. City shall not be responsible for any theft, loss or damage to these items.

**n. Environmental Controls**

Contractor shall keep the work site clean and free from spills, overflows and debris. Contractor will make sure that trucking equipment is free of material outside of the trailer before leaving the work site and the plant property. They will also ensure that their trailers are free of material after leaving the landfill.

Contractor shall use best efforts to direct any digester contents or processing related chemicals into containment vessels to prevent contents from being released onto facility grounds. Contractor shall promptly notify the Project Manager when a spill occurs and shall promptly clean up the spill. The Contractor will prevent spills from entering any storm drains or leaving the treatment plant premises.

Contractor shall promptly notify Project Manager and within 24 hours of any damages to City's treatment plant property caused by Contractor. All repairs shall be subject to City's acceptance.

Upon completion of the work and prior to final acceptance, Contractor shall clear the site of all equipment, supplies and rubbish.

**o. Project Management**

The City's project manager shall be;

Bill Sterling,  
Supervisor II,  
[bill.sterling@portlandoregon.gov](mailto:bill.sterling@portlandoregon.gov),  
(503) 823-2442.

Contractor shall check in with the City project manager (or designee) each day prior to commencing work. Contractor shall address all questions that arise while the work is in progress to the City's project manager, including, but not limited to, questions that concern the operation of the treatment plant and questions that concern the work plan.

**6. SERVICES TO BE PROVIDED: HAULING AND DISPOSAL**

**6.1 HAULING**

a) The Contractor shall be responsible for securing and maintaining all approvals, licenses, and permits required to perform the hauling services specified under this Contract.

b) The Contractor shall develop a "spill response plan" which will include; immediate notification of the City contact person, clean up procedures to be done by the Contractor, and Contractor responsibility for ensuring that all Contractor drivers are educated about appropriate spill response.

c) The Contractor shall provide well maintained equipment trucks and trailers, fuel, tools, and qualified and competent staff to haul and unload City digester cleaning residuals to the designated landfill.

d) The Contractor shall adequately cover digester material containers before transport to designated landfill to eliminate any potential spilling or leaking of digester material. Only dewatered material will be hauled. The disposal permit will require the material to pass the paint filter test (no free liquid).

e) The Contractor shall ensure that hauling trucks are free of biosolids prior to existing the landfill and under no circumstance shall any biosolids will come into contact with City, State, or Federal roadways.



- f) The Contractor shall provide on-board scales or utilize off-site scales to verify load weights. Scaling facilities at the CBWTP are limited and may not provide accurate weighing of truck and trailer combinations and should be considered unavailable.
- g) Any overloaded trucks will be the responsibility of the Contractor. There is limited space for material to be removed from an overloaded truck.
- h) The Contractor shall not mix or combine the City's digester cleaning residuals with any other material from any other source.
- i) The Contractor shall not stage digester cleaning residuals at any offsite location unless agreed upon beforehand.
- j) Contractor shall be an active participant in the EPA SmartWay Program.
- k) Diesel vehicles used for hauling biosolids shall be model year 2010 or newer or have retrofit emission control devices that reduce diesel particulate matter and NOx to similar levels as a 2010 engine. Emission control devices shall be in good operating condition throughout the resulting contract.
- l) Biosolids shall be loaded directly into trucks and the hauling shall be done in a manner that will prevent spills, contamination, or disruption to the treatment plant operations. This will include, at a minimum, truck and trailers with tarps and sealed end gates for all loads of biosolids hauled.
- m) Contractor will clean trucks of any residual biosolids before leaving the CBWTP and will maintain a clean loading area utilizing hoses, shovels, and brooms provided by the City in the loading area.
- n) It shall be the direct responsibility of the Contractor to obtain and pay all charges and fees for all permits, licenses, easements, or agreements not controlled by the City, but that may be required for hauling biosolids.
- o) Contractor shall provide traction devices for their hauling trucks.
- p) Contractor will work cooperatively with City staff to develop and maintain a hauling work plan and spill plan.
- q) The Contractor will maintain a satisfactory CSA (Compliance Safety Accountability) score as provided by the Federal Motor Carrier Safety Administration through the duration of the contract period.

## **6.2 DISPOSAL**

- a. The Contractor shall provide disposal of City of Portland digester cleaning residuals at the designated landfill as required by federal, state, regional (if applicable) and local laws and regulations with no appreciable threat to human, animal, or environmental health and safety.
- b. The Contractor will provide a numbered copy of the landfill weigh ticket for each trip to the landfill. Landfill weigh tickets shall be given to the Project Manager for proof of total weight of material disposed. All weigh tickets will be turned in to the Project Manager within two days after disposal at the landfill.
- c. Contractor shall be responsible for all approvals, licenses, and permits required to perform the disposal services specified under this Agreement. City shall, likewise, assist in providing the necessary information needed to acquire and maintain disposal permits.

## **7. LABOR AND MATERIAL PROVIDED BY THE CITY**

No materials, labor or facilities will be furnished by the City unless otherwise agreed upon or provided for within this Agreement.

The City shall be responsible for implementing and maintaining usual, customary and appropriate internal accounting procedures and controls, internal controls and other appropriate procedures and controls for the City. These controls will include information technology, proprietary information, and trade secret safeguards if appropriate to City work.

The City shall furnish electrical power when available. Electrical connection locations will be by submittal and subject to plant approval, otherwise the contractor must use portable power alternatives.

The City shall provide plant water for the Contractor to use for the duration of this contract. Water is supplied at various locations. The Contractor will provide their own fittings and hoses and road crossing protection materials for hose crossings if needed.

The City shall have the discretion to pump down the digester material to any level that allows the side hatch(es) to be safely opened before handing control of the digester over to the Contractor.

The City's laboratory results will be used for calculating payment for dry tons hauled to the landfill.

The City will take grab samples every two hours from the production of dewatered solids. A grab sample will be taken every 2 hours the operation is in progress. The assigned plant operator will provide a grab sample container and request the contractor to grab a sample from the production line.

- A 24-hour composite (or a business day composite) will be generated from the two-hour grab samples.
- CBWTP will provide a split of the composite sample to the Contractor upon request.
- The composite sample will be sent to CBWTP WPCL for testing of percent total solid and analyzed per Standard Methods for the Examination of Water and Wastewater, SM 2540 G. CBWTP WPCL results will be the absolute source for any billing functions.
- CBWTP will provide laboratory analysis for percent Total Solids.
- As soon as WPCL results are available, CBWTP will provide those results to the contractor.
- Successful proposer may have samples analyzed at their expense as a comparative to the CBWTP lab results.

**8. SERVICES SCHEDULE:** To be determined mutually between successful Proposer and City of Portland project management team.

**9. CITY FURNISHED PROPERTY**

No materials, labor or facilities will be furnished by the City unless otherwise provided for within the Contract.

**[End of Attachment A Scope of Work]**

**ATTACHMENT 1**  
**REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS**  
**DIGESTER CLEANING, HAULING AND DISPOSAL SERVICES**  
*[must be submitted with bid]*

PROPOSAL DATE	
PROPOSER NAME	
PROPOSER DOING BUSINESS AS	
PROPOSER ADDRESS	
AUTHORIZED REPRESENTATIVE NAME	
AUTHORIZED REPRESENTATIVE TITLE	
AUTHORIZED REPRESENTATIVE PHONE	
AUTHORIZED REPRESENTATIVE EMAIL	
AUTHORIZED REPRESENTATIVE MAILING ADDRESS	
AUTHORIZED REPRESENTATIVE SIGNATURE	
LOCAL REPRESENTATIVE	
LOCAL REPRESENTATIVE PHONE	
LOCAL REPRESENTATIVE EMAIL	
CITY OF PORTLAND BUSINESS LICENSE TAX ACCOUNT #	
STATE OF OREGON REGISTRY NUMBER	
FEDERAL TAXPAYER IDENTIFICATION NUMBER (TIN)	
TYPE OF ORGANIZATION	<input type="checkbox"/> Sole proprietorship; <input type="checkbox"/> Partnership; <input type="checkbox"/> Corporate entity (not tax-exempt); <input type="checkbox"/> Corporate entity (tax-exempt); <input type="checkbox"/> Government entity (Federal, State, or local); <input type="checkbox"/> Other _____.
COMMON PARENT	<input type="checkbox"/> Offeror is not owned or controlled by a common parent: <input type="checkbox"/> Name and TIN of common parent: Name _____ TIN _____
RESIDENT PROPOSER	<p>All Proposers must state whether or not they are an Oregon resident Proposer as defined in ORS 279A.120, a resident Proposer is one who has paid unemployment taxes or income taxes in the State during the twelve (12) calendar months immediately preceding bid submission, has a business address in Oregon, and has stated in their bid to be a resident bidder.</p> <input type="checkbox"/> Proposer is a Resident Proposer <input type="checkbox"/> Proposer is not a Resident Proposer State of Residence _____

## ATTACHMENT 2 PRICE SCHEDULE

<b>Description</b>	<b><u>Unit</u></b>	<b><u>Est. Quantity</u></b>	<b><u>Unit Price</u></b>	<b><u>Extended</u></b>
Mobilization	lump sum	Charge for bringing in all their equipment to work site and set-up		
Dry tons removed, dewatered, hauled	dry ton (dT)	2,665 d/T	\$/dT	
Demobilization	lump sum	Charge for removing all their equipment from work site and clean-up		
Stand by Days	day	10 days		
<b>TOTAL</b>				

**INSTRUCTIONS FOR ATTACHMENT 3  
MWESB PARTICIPATION DISCLOSURE FORM 1**

The City's disclosure program is used to document the utilization of Oregon certified Minority, Women and Emerging Small Businesses (M/W/ESBs) on City projects.

This Request for Proposal (RFP) requires submission by the Proposer of the City's M/W/ESB Participation Disclosure Form 1. Proposers must disclose the following information with their proposal response:

- 1) Contact information and Employer Identification Number (EIN or FED ID#) for all contract participants
- 2) State of Oregon M/W/ESB designation. **(Verify current certification status with the Office of Minority, Women, and Emerging Small Business at <http://egov.oregon.gov/DCBS/OMWESB/index.shtml>)**
- 3) The proposed scope or category of work that the Proposer and any subcontractors will be performing
- 4) The dollar amount of the Proposer's self-performing work and of all subcontractors' contract(s)
- 5) Percentage of total contract amount allocated to Oregon certified M/W/ESB participation

Report all amounts in United States Dollars (USD). The use of 'TBD', 'N/A', or similar symbols is not acceptable. All requested information must be provided.

If the Proposer will not be using any subcontractors, the Proposer is still required to enter its own information in the appropriate section and to indicate **"NONE"** in the subcontractor section of the accompanying form and submit the form with its proposal.

**FAILURE TO SUBMIT THE City's M/W/ESB PARTICIPATION DISCLOSURE FORM 1 WITH THE PROPOSAL MAY RESULT IN THE PROPOSAL BEING FOUND NON-RESPONSIVE AND REJECTED FROM CONSIDERATION**

# ATTACHMENT 3 CITY OF PORTLAND M/W/ESB PARTICIPATION DISCLOSURE FORM 1

This Request for Proposal requires submission by the Proposer of the following information and presented on this M/W/ESB PARTICIPATION DISCLOSURE FORM 1. Proposers must disclose the following information:

**Please print all information clearly.**

**Proposer Name:** \_\_\_\_\_ **Proposer's Total Cost: \$** \_\_\_\_\_

**Project Name:** \_\_\_\_\_ **RFP Number:** \_\_\_\_\_

**Contact Name:** \_\_\_\_\_ **Phone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

Percentage of total contract amount allocated to Oregon certified M/W/ESB participation	(Proposer & subcontractors added together)	%
---	--	---

PROPOSER INFORMATION (Please Print)	M/W/ESB	SCOPE / TYPE OF WORK	SELF- PERFORMING AMOUNT
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$
SUBCONTRACTOR INFORMATION (Please Print)	M/W/ESB	SCOPE / TYPE OF WORK	SUBCONTRACT AMOUNT
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$
<b>NOTE:</b> 1) The Proposer and all subcontractors must be listed on this form. Leave M/W/ESB column blank if firm is not confirmed as currently certified through the State of Oregon Office of Minority, Women, and Emerging Small Business: <a href="http://egov.oregon.gov/DCBS/OMWESB/index.shtml">http://egov.oregon.gov/DCBS/OMWESB/index.shtml</a> . 2) If the Proposer will not be using any subcontractors, please indicate "NONE" in the Subcontractor Information section of this form. 3) Do not enter Social Security numbers on this form.			

**ATTACHMENT 4**  
**REQUIRED REFERENCES – 0 POINTS**

**INSTRUCTIONS:** Provide a minimum of three (3) current professional references that you have performed digester cleaning for.

**Proposer Name:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

**REFERENCES**

All References will be verified. (Note: Failure to complete information may be cause for proposal rejection).

**Supportive References of Similar Scope:**

**1. Name of Company** \_\_\_\_\_

Address: \_\_\_\_\_

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

Contact Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Length of Service: \_\_\_\_\_

Description of work performed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2. Name of Company** \_\_\_\_\_

Address: \_\_\_\_\_

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

Contact Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Length of Service: \_\_\_\_\_

Description of work performed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3. Name of Company** \_\_\_\_\_

Address: \_\_\_\_\_

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

Contact Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Length of Service: \_\_\_\_\_

Description of work performed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**[END OF ATTACHMENT 5 – REFERENCES]**



## EXHIBIT A SAMPLE CONTRACT

### CITY OF PORTLAND

### CONTRACT FOR SERVICES for DIGESTER CLEAN, HAULING, AND DISPOSAL SERVICES

Contract Number: \_\_\_\_\_

As authorized by PCC 5.33, this Contract is made effective on \_\_\_\_\_ (“Effective Date”) by and between the City of Portland (“City”), a municipal corporation of the State of Oregon, and \_\_\_\_\_ (“Contractor”), a(n) \_\_\_\_\_ corporation, by and through their duly authorized representatives. This Contract may refer to the City and Contractor individually as a “Party” or jointly as the “Parties.”

The initial Term of this Contract shall be from the Effective Date through \_\_\_\_\_. The total not-to-exceed amount under this Contract for the initial Term shall be \$\_\_\_\_\_.

Party contacts and Contractor’s and City’s Project Manager for this Contract are:

For City of Portland:	For Contractor:
Name:	Name:
Title:	Title:
Address:	Address:
City, State:	City, State:
e-mail:	e-mail:
Copy to: Jin Huang	Copy to:
Procurement Services	
1120 SW 5 <sup>th</sup> Ave.	
Portland OR 97204	

#### Scope and Consideration

- (a) Contractor shall perform the Services and provide the Deliverables set forth in the Statement of Work by the due dates specified in the Contract.
- (b) City agrees to pay Contractor a sum not to exceed \$\_\_\_\_\_ for accomplishment of the Project.
- (c) Payments shall be made to Contractor according to the schedule identified in Exhibit A, the Contractor’s Price.

## EXHIBIT A SAMPLE CONTRACT

Recitals:

WHEREAS, to further its government operations, the City of Portland desires to purchase digester cleaning, hauling, and disposal services (the “Project”); and

WHEREAS, the City issued Request for Proposal (RFP) \_\_\_\_\_ for \_\_\_\_\_

WHEREAS, Contractor, in its Proposal dated \_\_\_\_\_ and submitted in response to the City’s RFP represented that it has the knowledge, experience, and expertise in \_\_\_\_\_ for \_\_\_\_\_; and

WHEREAS, the City selected Contractor based on its Proposal;

THE PARTIES HEREBY AGREE AS FOLLOWS:

### SECTION 1 DEFINITIONS (10/19)

General Definitions. (11/18) These definitions apply to the entire Contract, subsequent Amendments, and any Change Orders or Task Orders, unless modified in an Amendment. If any definition contains a substantive provision conferring rights and/or obligations upon a Party, then effect shall be given to the substantive provision.

“Acceptance” (10/19) means the Deliverable demonstrates to the City’s satisfaction that the Deliverable conforms to and operates according to the Acceptance Criteria, and if required, has successfully completed Acceptance review, and for Deliverables not requiring Acceptance Testing that the Deliverable conforms to the Acceptance Criteria or the City’s Specifications.

“Acceptance Certificate” (11/18) means a written instrument by which the City notifies Contractor that a Deliverable has been Accepted or Accepted with exceptions, and Acceptance Criteria have been met or waived, in whole or in part.

“Acceptance Criteria” (11/18) means functionality and performance requirements determined by the City, based upon the Specifications, which must be satisfied prior to City’s Acceptance of a Deliverable. City and Contractor shall agree upon written Acceptance Criteria.

“Acceptance Date” (11/18) means the date on which the City issues an Acceptance Certificate for the Deliverable(s).

“Affiliates” (11/18) means, for Contractor, any individual, association, partnership, corporation or other entity controlling, controlled by, or under common control. The term “control” means the power to direct or cause the direction of the management and policies of an individual or entity, whether through the ownership of voting securities, by contract, agreement or otherwise.

## EXHIBIT A SAMPLE CONTRACT

“Amendment” (12/18) means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions of the Contract, Contract amount, or substantially altering a Statement of Work.

“Business Day” (11/18) means a twenty-four hour day, excluding weekends and City holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Calendar Day” (11/18) means a twenty-four hour day, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Change Order” (12/18) means a document, agreed and signed by both Parties, that changes an existing Statement of Work. Change Orders cannot change Contract amount or Master Terms and Conditions.

“Confidential Information” (08/19) means any information that is disclosed in written, graphic or machine-recognizable form and is marked or labeled at the time of disclosure as being Confidential or its equivalent, or, if the information is in verbal or visual form, it is identified as Confidential or proprietary at the time of disclosure, or a reasonable time thereafter. Information shall always be considered Confidential Information, whether or not it is marked or identified as such, if it is described by one or more of the following categories: (1) non-public financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.345(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) information which is exempt from disclosure per Oregon Public Records Law; (6) attorney/client privileged communications; (7) information which is exempt per federal laws (including but not limited to copyright, HIPPA); and (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems including without limitation, data and information systems, any software code and related materials and processes, Customizations, Configurations, Updates, Upgrades; and any Documentation. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving Party; is already lawfully known to the receiving Party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Contract or any other agreement between the Parties or of any applicable protective or similar order, in the receiving Party’s possession without any obligation restricting disclosure; is independently developed by the receiving Party, as shown by reasonable written documentation, without breach of this Contract; or is explicitly approved for release by written authorization of the disclosing Party.

“Contract” (11/18) means the Master Terms and Conditions including all exhibits, attachments and schedules and their constituent parts listed in the Order of Precedence or incorporated by reference.

“Contract Price” (10/19) means the not-to-exceed price agreed upon by the Parties for all Services.

## EXHIBIT A SAMPLE CONTRACT

“Deliverable(s)” (11/18) means the Services, Documentation or documents or tangible work products described in the Statement of Work to be provided to the City by Contractor under this Contract.

“Documentation” ( 10/19) means user manuals and other written materials in any form that describe the features or functions of the Deliverables and Services, including but not limited to published specifications, online instructions and help, marketing materials, technical manuals, and operating instructions provided by Contractor to the City, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

“Defect” (10/19) means any error, problem, condition, bug, or other partial or complete inability of a Service, Deliverable or component thereof, to operate in accordance with the applicable Specifications.

“Final Acceptance” (11/18) means the City has determined that all Deliverables have successfully completed Acceptance Testing, which demonstrates to the City’s satisfaction that all Deliverables conform to and operate according to the Acceptance Criteria, applicable Documentation, and Contractor’s representations; and that for Deliverables not requiring Acceptance Testing, that the Deliverables conform to the Acceptance Criteria or the City’s specified requirements.

“Force Majeure Event” (11/18) means an exceptional and unavoidable occurrence beyond the reasonable control of the affected Party, such as, riots, epidemics, war, government regulations, labor disputes, fire, natural phenomena, or other causes beyond such Party’s reasonable control.

“Intellectual Property Rights (IPR)” (11/18) means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, trade dress, moral rights, know-how and any other similar rights or intangible assets to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations, or reissues of the foregoing now or hereafter in force.

“Key Personnel” (11/18) means the specific individuals identified in Section 3.11 to fill Key Positions.

“Key Position” (11/18) means a job position critical to the success of the Project as identified in Section 3.11 of this Contract.

“Master Terms and Conditions” (11/18) means the body of text from the preamble through the signature page of this Contract.

“Material Breach” (11/18) means any breach of this Contract that causes, caused, or may cause substantial harm to the non-breaching Party or substantially deprives the non-breaching Party of the benefit it reasonably expected under this Contract.

“Personally Identifiable Information (PII)” (11/18) means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, as described in the Oregon Consumer Identity Theft Protection Act.

## EXHIBIT A SAMPLE CONTRACT

“Project” (10/19) means the overall delivery of the Services including, without limitation, design, development, integration, implementation, testing, support, and any Deliverables any of which Contractor may be providing in whole or in part.

“Proposal” (10/19) means Contractor’s response to the City’s RFP referenced on page one of this Contract.

“Services” (10/19) means ordinary or professional services performed by Contractor under this Contract.

“Specifications” (10/19) means the most current cumulative statement of capabilities, functionality, and performance requirements for the System and its components as set out in the Acceptance Criteria, Change Orders, the Statement of Work, Documentation, Contractor’s representations, Contractor’s Proposal and Proposal Clarifications, and the City’s Request for Proposals.

“Statement of Work” (SOW) (10/19) means the written detailed specifications of the Services(s) to be delivered to the City by Contractor, including any Change Orders or Task Orders subject to the terms and conditions of this Contract.

“Subcontractor” (11/18) means any person or entity under the control of Contractor, other than an employee of Contractor, utilized by Contractor to perform all or part of this Contract.

“Task Order” (10/19) means any written request or document issued by the City and signed by both Parties for additional Service(s) to be provided under this Contract. Task Orders shall document the description of Services, price, payment schedule, Project and performance schedule, due dates, milestones and Deliverables.

“Term” (11/18) means the period of time that this Contract is in effect as stated on page one.

### SECTION 2 ORDER OF PRECEDENCE

2.1 Order of Precedence. (09/17) In the event there is a conflict or ambiguity between the terms and conditions of one portion of this Contract with another portion of this Contract, the conflict or ambiguity will be resolved in accordance with the order of precedence below. This order of precedence designates which portion of the Contract takes precedence over the other for purposes of interpretation. Contractor’s hyperlinks contained herein will not supersede or alter the Master Terms and Conditions. For the avoidance of doubt, no other terms and conditions will override the Parties’ obligations in the Confidentiality, Indemnification, or Choice of Law provisions in these Master Terms and Conditions. In this Contract the order of precedence shall be:

1. Amendments
2. Master Terms and Conditions
3. Exhibit A, Contractor’s Price
4. Change Orders

## EXHIBIT A SAMPLE CONTRACT

5. Exhibit B, Statement of Work
6. Exhibit C\_, City RFP No. 00001441
7. Exhibit D\_, Contractor's Proposal
8. Exhibit E - Sample Documents: E-1, Sample Status Reports, E-2 Certificate of Acceptance, E-3 Change Order
9. Contractor's Hyperlinks

### SECTION 3 GENERAL AND ADMINISTRATIVE PROVISIONS

- 3.1 Term. (09/17) This Contract shall begin on the Effective Date and end upon the expiration date set forth on page one of this Contract unless terminated or extended under the applicable Contract provisions.
- 3.2 Point of Contact. (09/17) Contractor shall be the sole point of contact for the City with regard to this Contract and the System.
  - 3.2.1 Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, or by e-mail. All notices and written communications shall be sent to the Parties set forth on page 1 of the Contract, or to such other places as they may designate by like notice from time to time. Each Party shall provide written notice of any changes to the Party's contacts within thirty (30) Calendar Days.
- 3.3 Changes to Contract.
  - 3.3.1 Amendment of the Contract. (06/19) Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for Amendment of this Contract as described in this section are not satisfied in full, then such Amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect. The City reserves the right to make administrative changes to the Contract unilaterally, such as extending option years and increasing compensation. An administrative change means a written Contract change that does not affect the substantive rights of the Parties.
  - 3.3.2 Change Orders to a Statement of Work. (12/18) The City and Contractor can agree to make changes, at any time to a Statement of Work in the form of a Change Order. Contractor agrees to timely alter the delivery of Products or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall execute an Amendment to the Contract, and if the amount of such adjustment is not calculable as a function of hours or tasks, the Parties shall negotiate in good faith a modified amount.



## EXHIBIT A SAMPLE CONTRACT

3.4 Time is of the Essence. (06/19) The Parties agree that time is of the essence as to the delivery of Deliverables and performance of Services under this Contract. By executing this Contract and accepting the Statement of Work, Contractor agrees that the time limits specified in the Statement of Work are reasonable. By accepting late or otherwise inadequate performance of Contractor's obligations, the City will not waive its rights to require timely performance of Contractor's obligations thereafter.

3.4.1 Late Delivery. (10/19) In the event that any specified delivery date is not met, Contractor shall be liable for any loss, expense, or damage resulting from delay in delivery or failure to deliver Deliverables or provide Services which is due to any cause except as set forth in Force Majeure. In the event of delay due to any such cause, the City may obtain substitute Services from another source and bill all additional costs directly to Contractor who shall remain financially liable for all additional acquisition costs.

3.4.2 Best Efforts. (10/19) Contractor shall use best efforts to minimize any delay in the provision of Deliverables or performance of Services. If Contractor anticipates any delay that may prevent timely performance of Contractor's obligations under this Contract, Contractor shall promptly notify the City, including the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures.

3.5 City Reporting Requirements. (12/18) The City is required to track certain types of contract data for reporting purposes. Items which the City must report on may include, but are not limited to, Subcontractor utilization, Minority, Women, Emerging Small Business, Service-Disabled Veteran Business Enterprise (D/M/W/ESB/SDVBE) participation and Subcontractor/Supplier Payment. The City will enforce all diversity in workforce and D/M/W/ESB/SDVBE subcontracting commitments made by Contractor in its Proposal.

3.6 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Exhibit A: Contractor's Price.

3.6.1 Payment shall be issued by the City net thirty (30) Calendar Days from receipt of a complete and acceptable invoice from Contractor. Contractor invoices must contain Contractor's name and address; invoice number; date of invoice; Contract number and date; description of Products and/or Services; quantity, unit price, (where appropriate), and total amount; City-required reporting, if any, and the title and phone number of the person to whom payment is to be sent. The City may stipulate how line items are entered on an invoice to ensure compatibility with the City's accounting and financial systems and to facilitate payment to Contractor.

3.6.2 The City makes payments via electronic fund transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, Contractor shall execute the City's



## EXHIBIT A SAMPLE CONTRACT

standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment Authorization Agreement will authorize the City to deposit payment directly into specified Contractor accounts with specified financial institutions. All payments shall be made in United States currency.

- 3.7 Payment of Taxes/Contractor Shall Withhold. (09/17) Contractor shall, at its own expense, timely (a) pay all salaries, wages, and other compensation to its employees; (b) withhold, collect, and pay all applicable federal, state, and local income taxes (domestic or foreign), FICA, Medicare, unemployment insurance and any other taxes or charges in connection with its employees; and (c) provide and pay for workers compensation insurance and any statutory or fringe benefits to employees. Contractor shall be solely responsible for all such obligations for its employees. Contractor shall also ensure that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.
- 3.8 Records and Audits (06/19)
- 3.8.1 Records Retention. (06/19) Contractor shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Contractor agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other records pertinent to this Contract during the Term of this Contract and for a minimum of six (6) years after the expiration or termination date of this Contract or until the resolution of all audit questions or claims, whichever is longer.
- 3.8.2 City Audits. (06/19) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Products or Services at any time in the course of the Contract and during the records retention period listed above. 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.
- 3.8.3 Access to Records. (06/19) The City may examine, audit and copy Contractor's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.
- 3.9 Overpayment. (09/17) If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.
- 3.10 Independent Contractor. (09/17) Contractor is independent of the City and, accordingly, this Contract is not entered into as a joint venture, partnership, or agency between the Parties. No

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employment or agency relationship is or is intended to be created between the City and any individual representing Contractor. Employees of Contractor and any authorized Subcontractors shall perform their work under this Contract under Contractor's sole control.

### 3.11 Personnel.

- 3.11.1 Key Positions and Personnel. (09/17) For the period of performance until Final Acceptance has been completed, the Parties have identified Key Positions and Key Personnel as set forth in the table below, along with the percentage of their time to be allocated to the City's Project:

Name	Title/Role	% of Time	Company

- 3.11.2 Substitution of Key Personnel. (09/17) Contractor shall make no substitutions of Key Personnel unless the substitution is necessitated by law, illness, death, resignation, or termination of employment. Contractor shall notify the City within ten (10) Calendar Days after the occurrence of any of these events.

Any substitutions or replacements of Key Personnel require the written approval of the City. Contractor shall provide the City with the maximum possible period of notice of substitution or replacement of Key Personnel in order to allow for background screening, fingerprint checks, and other investigation as may be required in Section 3.11.3.

For any proposed substitute or replacement Key Personnel, Contractor shall provide the following information to the City: a detailed explanation of the circumstances necessitating the proposed substitution or replacement, a complete resume for the proposed substitute(s), and any additional information requested by the City. Proposed substitutes or replacements should have qualifications comparable to or better than those of the persons being replaced. No change in Contract prices may occur as a result of substitution or replacement of Key Personnel.

- 3.11.3 Security Requirements for Personnel. (09/17) If required by the City, Contractor shall conduct a criminal history/records check of all personnel that will have access to City information, systems, or payments and ensure ongoing security requirements for personnel are maintained.

## EXHIBIT A SAMPLE CONTRACT

- 3.12 Termination. (06/19) The following conditions apply to termination of this Contract. The City, on thirty (30) Calendar Days' written notice to Contractor, may terminate this Contract for any reason in the City's sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all Deliverables Accepted or Services performed and Accepted through the effective date of the termination. In the event of termination all of Contractor's Work Product to date shall be delivered to the City, and it will become and remain property of the City.
- 3.13 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.14 Material Breach. (09/17) Either Party may terminate this Contract in the event of a Material Breach of this Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within thirty (30) Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.
- 3.15 Force Majeure. (09/17) Either Party may terminate this Contract due to a Force Majeure event as set forth in Section 5.12, Force Majeure.
- 3.16 Bankruptcy. (09/17) The City may terminate this Contract if Contractor: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.
- 3.17 Void Assignment. (09/17) In the event that Contractor assigns its obligations under this Contract to a third party in a manner other than as set forth in Section 5.7, Assignment, the City shall have the option to terminate this Contract without any notice or cure period or further obligation to Contractor or the assignee, and promptly receive a refund for fees paid for Products delivered and/or Services performed by the third party.
- 3.18 Waiver. (09/17) No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract. The failure of either Party to insist upon any of its rights under this Contract upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.
- 3.19 Severability. (09/17) Any section of this Contract which is held or declared void, invalid, illegal or otherwise not fully enforceable shall not affect any other provision of this Contract and the

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remainder of this Contract shall continue to be binding and of full force and effect. This Contract shall be binding upon and inure to the benefit of the City and its successors and assigns.

- 3.20 Business Tax Registration. (09/17) Contractor shall register for a City of Portland business license as required by Chapter 7.02 of the Code of the City of Portland prior to execution of this Contract. Additionally, Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full Term of this Contract. Failure to be in compliance may result in payments due under this Contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.
- 3.21 EEO Certification. (09/17) Contractor shall be certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 5.33.076 of the Code of the City of Portland and maintain its certification throughout the term of this Contract.
- 3.22 Non-Discrimination in Benefits. (09/17) Throughout the term of this Contract, Contractor shall provide and maintain benefits to its employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 5.33.077 of the Code of the City of Portland.
- 3.23 Sustainability. (12 /18) Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Contractor is encouraged to incorporate these Principles into its scope of work with the City wherever possible. Therefore, in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of Products or Services that help to minimize the human health and environmental impacts of City operations. Contractor is encouraged to incorporate environmentally preferable Products or Services into its work performance wherever possible. "Environmentally preferable" means Products or Services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the Product or Service.
- 3.24 Packaging. (09/17) All packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, readily recyclable in local recycling programs, is made from recycled materials, and/or is collected by Contractor for reuse/recycling.
- 3.25 News Releases and Public Announcements. (09/17) Contractor shall not use the City seal or other representations of the City in its external advertising, marketing, website, or other promotional efforts, nor shall Contractor issue any news release or public announcements pertaining to this

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Contract or the Project without the express written approval of the City. Such approval may be withheld in the City's sole discretion. Contractor shall not use the City seal without specific written permission from the City Auditor.

- 3.26 Rule of Construction/Contract Elements/Headings. (09/17) This Contract has been drafted by the City in the general format by the City as a convenience to the Parties only and shall not, by reason of such action, be construed against the City. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Contract.
- 3.27 Survival. (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination or expiration shall survive the termination or expiration of this Contract and shall, to the extent applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Contractor and the City.
- 3.28 Permissive Cooperative Procurement. (09/17) Pursuant to ORS 279A.215, as additional consideration for this Contract, Contractor agrees to extend an option to purchase any Products or Services covered under this Contract at the same prices as are specified in Exhibit A: Contractor's Price, and under the same terms and conditions, to all public agencies. Each public agency shall execute its own contract with Contractor and shall have the option to negotiate its own terms and conditions.

### SECTION 4 STATUTORY REQUIREMENTS, PUBLIC RECORDS AND CONFIDENTIALITY

- 4.1 Governing Law and Jurisdiction. (09/17) This Contract shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. Any litigation between the City and Contractor arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 4.2 Public Records Request. (09/17) Contractor acknowledges that the City of Portland is subject to the Oregon Public Records Act and Federal law. Third persons may claim that the Confidential Information Contractor submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Contractor is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Contractor requests and meets an exemption from disclosure consistent with



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federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.

4.3 Public Records. (09/17) The City will retain one (1) copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.

4.4 Confidentiality.

4.4.1 Contractor's Confidential Information. (08/19) During the term of this Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark Confidential Information CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked, or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Confidential Information. Subject to Section 4.2, the City shall: (1) limit disclosure of Contractor Confidential Information to those directors, employees, contractors and agents of the City who need to know the Contractor Confidential Information in connection with the City Project and who have been informed of confidentiality obligations at least as strict as those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Contractor Confidential Information, at least to the same degree of care as the City employs with respect to protecting its own proprietary and confidential information.

4.4.2 City's Confidential Information. (08/19) Contractor shall treat as confidential any City Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard or observed; or to which Contractor has had access. Contractor shall use City Confidential Information exclusively for the City's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the City, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the City Confidential Information in connection with the City Project and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use the Intellectual Property Rights of the City without the City's prior written consent.

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- 4.4.3 Scope. (09/17) This Contract shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. Contractor's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- 4.4.4 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of City Confidential Information will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain injunctive relief prohibiting the breach, in addition to any other appropriate legal or equitable relief. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of Contract terms related to Confidential Information or Intellectual Property Rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- 4.4.5 Discovery of Documents. (06/19) In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.

## SECTION 5 CONTRACTOR PERFORMANCE AND WARRANTIES

- 5.1 General Warranties. (09/17) Contractor makes the following warranties:
- 5.1.1 Capacity. (09/17) Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.
- 5.1.2 Authority to Conduct Business. (08/19) Contractor warrants it is lawfully organized and constituted and duly authorized to operate and do business in all places where it shall be required to do business under this Contract, and that it has obtained or will obtain all necessary licenses and permits required in connection with this Contract.
- 5.1.3 Disclosure of Litigation. (09/17) Contractor warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract. Contractor further warrants that it will immediately notify the City in writing if, during the Term of this Contract, Contractor becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-



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judicial forum that involves Contractor or any Subcontractor and that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract.

- 5.1.4 Conflict of Interest. (09/17) Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- 5.1.5 Compliance with Applicable Law. (09/17) Contractor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is currently in compliance with all tax laws.
- 5.1.6 Public Contracts. (09/17) Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A and 279B require every public contract to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 5.1.7 Compliance with Civil Rights Act. (09/17) Contractor warrants it is in compliance with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>
- 5.1.8 Respectful Workplace Behavior. (09/17) The City 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 of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Contractor warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>
- 5.2 Grant Funding. (02/18). This Contract is currently not using grant funding. However, in the event that City acquires or uses grant funding to pay for any portion of this Contract, the City and Contractor agree to Amend the Contract to include the federally required terms and conditions. General grant terms may be found at <http://www.portlandoregon.gov/bibs/article/455735>
- 5.3 Compliance with Non-Discrimination Laws and Regulations.
- 5.3.1 Nondiscrimination. (06/19) Pursuant to all City, State, and federal non-discrimination and civil rights laws, Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, including limited English proficiency, sex, sexual orientation, gender identity, age, religion or non-religion, disability, marital status, family status, or source of income, including in employment practices, the

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selection and retention of subcontractors, including procurements of materials and leases of equipment.

- 5.3.2 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. (06/19) In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.
- 5.3.3 Sanctions for Noncompliance. (09/17) In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or any state or federal agency may determine to be appropriate, including, but not limited to withholding of payments to Contractor under this Contract until Contractor complies, and/or cancellation, termination, or suspension of this Contract, in whole or in part.
- 5.3.4 ADA Compliance. (07/18) Contractor shall comply with the Americans With Disabilities Act (ADA), including any duty the ADA may impose on City or Contractor as a result of the Products, Services or activities requested to be provided for City under this Agreement.
- 5.3.5 Required Reporting. (05/19) If any person or class of persons files a complaint with Contractor alleging discrimination under Title VI of the Civil Rights Act of 1964 (race, color, or national origin, including limited English proficiency), Contractor will notify the City of Portland of the complaint and cooperate with any investigation related to the complaint. Notifications shall be sent to Title VI Program Manager, 421 SW 6th Ave, Suite 500, Portland, Oregon 97204, or [title6complaints@portlandoregon.gov](mailto:title6complaints@portlandoregon.gov).

5.4 Service(s) and Deliverables Warranties. (10/19) Contractor makes the following warranties:

- 5.4.1 No Third-Party Conflict or Infringement. (01/19) As of the Effective Date, Contractor warrants the execution and performance of this Contract, shall not contravene the terms of any contracts with third parties or any third-party Intellectual Property Right; and, as of the Effective Date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision. Contractor agrees to promptly notify the City, in writing, if during the Term of the Contract, a potential third-party conflict or infringement of third-party Intellectual Property Rights arises.
- 5.4.2 No Encumbrances. (08/19) All Deliverables provided by Contractor under this Contract shall be transferred to the City free and clear of any and all restrictions of transfer or distribution and free and clear of any and all liens, claims, security interests, liabilities and encumbrances of any kind.

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- 5.4.3 Conformance with Specifications. (01/19) Contractor warrants that the Deliverables and Services shall operate in conformance with the Specifications.
- 5.4.4 Compliance with Law. (10/19) Contractor warrants that the Deliverables conform to all requirements of applicable law, including all applicable health, safety, privacy, data security and environmental laws and regulations.
- 5.4.5 Industry Standards. (10/19) Contractor warrants that the Services performed under this Contract will meet the standards of skill and diligence normally employed by persons performing the same or similar services.
- 5.4.6 Substitution or Modification of Products at No Charge. (03/19) In the event that Contractor substitutes or modifies the Deliverables, Contractor shall ensure that the new or modified Deliverables shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Deliverables and shall not result in additional cost to the City.
- 5.5 No Waiver of Warranties or Representation. (10/19) Performance of Services shall not be construed to represent Acceptance nor relieve Contractor from its responsibility under any representation or warranty. If the City makes a payment prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.
- 5.6 No Third Party to Benefit. (09/17) This Contract is entered into for the benefit of the City and Contractor. Except as set forth herein, nothing in this Contract shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a Party to this Contract to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Contract.
- 5.7 Assignment. (08/19) Neither Party shall assign, transfer, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld. For purposes of this Section, the acquisition, merger, consolidation or change in control of Contractor or any assignment by operation of law shall be considered an assignment of this Contract that requires the City's prior written consent. Notwithstanding the foregoing: (a) in the event that the City's business needs change or the City enters into an agreement with a provider for outsourcing services, Contractor agrees that the City shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the City's business, including an outsourcing provider, upon written notice to the other Party, and (b) Contractor may, without the City's consent, but upon prior written notice to the City, assign its right to payment under this Contract or grant a security interest in such payment to any third party

## EXHIBIT A SAMPLE CONTRACT

without requiring that the third party be liable for the obligations of Contractor under this Contract. Any attempted assignment or delegation in violation of this Section shall be void.

- 5.8 Notice of Change in Financial Condition. (09/17) Contractor must maintain a financial condition commensurate with the requirements of this Contract. If, during the Term of this Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Contract, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Contract.
- 5.9 Notice of Change in Ownership. (09/17) If, during the Term of this Contract, Contractor experiences a change in ownership or control, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in ownership or control is sufficient grounds for terminating this Contract.
- 5.10 Subcontractors. (10/19) Contractor shall not subcontract any work under this Contract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors, including any Affiliates, at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City reserves the right to review any agreements between Contractor and its Subcontractors for Services authorized under this Contract.

All D/M/W/ESB/SDVBE (COBID Certified) Subcontractors/suppliers identified in Contractor's proposals shall be used in their proposed capacity during Contract performance. If Contractor desires to replace any D/M/W/ESB/SDVBE Subcontractors/suppliers under this Contract all substitution requests must have approval from the City's Chief Procurement Officer before such substitutions can be made. In no event shall Contractor subcontract any work, assign any rights, or delegate any obligations under this Contract without the City's prior written consent.

- 5.11 Flow-down Clauses. (01/19) Contractor shall include the following clauses, or substantially similar language, in its subcontracts under this Contract:

Section 4.4, Confidentiality

Section 5.3, Compliance with Non-Discrimination Laws and Regulations

Section 6.1, Hold Harmless and Indemnification

Section 6.2, Insurance

- 5.12 Force Majeure. (01/19)

5.12.1 In the event that either Party is unable to perform any of its obligations under this Contract due to a Force Majeure Event not the fault of the affected Party, the Party who has been so

## EXHIBIT A SAMPLE CONTRACT

affected immediately shall give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, the performance obligations affected by the Force Majeure event shall immediately be suspended.

5.12.2 If the period of nonperformance exceeds fifteen (15) Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract or any Statement of Work.

5.12.3 If the period of nonperformance due to a Force Majeure Event does not exceed fifteen (15) Calendar Days, such nonperformance shall automatically extend the Project schedule for a period equal to the duration of such events. Any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.

5.12.4 If the period of nonperformance due to Force Majeure Event is longer than fifteen (15) Calendar Days, the Parties shall negotiate options for mitigation of the Force Majeure Event.

5.13 Ownership of Property. (06/19) 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 Consultant-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. Contractor hereby grants to the City a non-exclusive, perpetual, irrevocable license, with the right to sublicense, to disclose, copy, distribute, display, perform, prepare derivative works of and otherwise exploit any pre-existing Intellectual Property Rights incorporated into the Work Product(s).

## SECTION 6 INDEMNIFICATION, INSURANCE, BONDING, LIQUIDATED DAMAGES



## EXHIBIT A SAMPLE CONTRACT

### 6.1 Hold Harmless and Indemnification. (08/19)

- 6.1.1 Contractor shall indemnify, defend and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, and actions for all losses, damages, liabilities, costs and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract.
- 6.1.2 Infringement Indemnity. (08/19) Contractor shall indemnify, defend, and hold harmless the City, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions for any damages, liabilities, losses, costs, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement of any proprietary right or Intellectual Property Right of any person whatsoever. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise.
- 6.1.3 Contractor shall indemnify, defend, and hold harmless the City against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the City may be required to pay arising from Deliverables and Services provided by Contractor under this Contract. The City of Portland, as a municipal corporation of the State of Oregon, is a tax-exempt unit of local government under the laws of the State of Oregon and is not liable for any taxes.

### 6.2 Insurance. (08/19) Contractor shall not commence work until Contractor has met the insurance requirements in this section and Contractor has provided insurance certificates approved by the City Attorney. Contractor shall acquire insurance issued by insurance companies or financial institutions with an AM Best rating of A- or better and duly licensed, admitted and authorized to do business in the State of Oregon.

- 6.2.1 Insurance Certificate. (08/19) As evidence of the required insurance coverage, Contractor shall provide compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as certificate holder. Contractor shall maintain continuous, uninterrupted coverage for the Term of this Contract and to provide insurance certificates demonstrating the required coverage for the Term of this Contract. Contractor's failure to maintain insurance as required by this Contract constitutes a Material Breach of this Contract. Contractor must notify the City in writing thirty (30) Calendar Days prior to a cancellation, non-renewal, or changes to the insurance policy.
- 6.2.2 Additional Insureds. (08/19) For commercial general liability coverage, Contractor shall provide City with a blanket additional insured endorsement form that names the City of Portland, Oregon, and its officers, agents and employees, as an additional insured. The

## EXHIBIT A SAMPLE CONTRACT

additional insured endorsement must be attached to the general liability certificate of insurance.

6.2.3 Insurance Costs. (08/19) Contractor shall be financially responsible for all premiums, deductibles, self-insured retentions, and self-insurance.

6.2.4 Coverage Requirements. (08/19) Contractor shall comply with the following insurance requirements:

6.2.4.1 Commercial General Liability. (08/19) Contractor shall acquire commercial general liability ("CGL") and property damage insurance coverage in an amount not less than \$2 million per occurrence for damage to property or personal injury arising from Contractor's work under this Contract.

6.2.4.2 ☒ Required and attached ☐ Reduced by Authorized Bureau Director ☐ Waived by Authorized Bureau Director  
Automobile Liability. (08/19) Contractor shall acquire automobile liability insurance to cover bodily injury and property damage in an amount not less than \$2 million for each accident. Contractor's insurance must cover damages or injuries arising out Contractor's use of any vehicle.

☒ Required and attached ☐ Reduced by Authorized Bureau Director ☐ Waived by Authorized Bureau Director

6.2.4.3 Workers' Compensation. (08/19) Contractor shall comply with Oregon workers' compensation law, ORS Chapter 656, as it may be amended. If Contractor is required by ORS Chapter 656 to carry workers' compensation insurance, Contractor shall acquire workers' compensation coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City for the entire period during which work is performed under this Contract. Contractor shall acquire workers compensation coverage in an amount not less than \$1 million each accident, \$1 million disease each employee, and \$1 million disease policy limit.

☒ Required and attached ☐ Proof of exemption (Complete Independent Contractor Certification Statement)

6.2.5 Insurance Requirements for Subcontractors. (08/19) Contractor shall contractually require its Subcontractors to acquire and maintain for the duration of this Contract insurance equal to the minimum coverage limits required above.

6.3 Rolling Estoppel. (09/17) Unless otherwise notified by Contractor, it shall be understood that the City shall have met all its obligations under this Contract. The City will be conclusively deemed to have fulfilled its obligations, unless it receives written notification of a failure to meet such obligations in the next status report, or within ten (10) Business Days following such failure, whichever is sooner, and Contractor identifies the specific failure in that notification. The City's failure to meet obligations must be described in terms of how it has affected the Project schedule or a specific performance requirement of Contractor.



## EXHIBIT A SAMPLE CONTRACT

- 6.3.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in Project timetable, the standards of performance under this Contract, or the Contract price, if Contractor knew of that problem and failed to provide notification to the City as set forth above or to include it in the applicable status report to the City's project manager.
- 6.3.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's notification should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the City's Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the Project in an unimpeded fashion.
- 6.4 Dispute Resolution. (09/17) Contractor shall cooperate with the City to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:
- 6.4.1 Any dispute between the City and Contractor shall be resolved, if possible by the Project Manager or their designee on behalf of the City and Bill Sterling on behalf of Contractor.
- 6.4.2 If the Project Manager or the Project Manager's designee and Contractor are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either Party to the other, the matter shall be submitted to Michael Jordan on behalf of the City and [REDACTED] on behalf of Contractor for resolution, if possible.
- 6.4.3 Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.
- 6.4.4 Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.
- 6.4.5 Unless ordered by the City to suspend performance of all or any portion of Contractor's Services, Contractor shall proceed with the performance of such Services without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures. During the pendency of any of the foregoing dispute resolution procedures, the

## EXHIBIT A SAMPLE CONTRACT

City shall continue to make all payments that are not in dispute while having the right to withhold payments that are in dispute.

- 6.5 Remedies. (09/17) The remedies provided in this Contract are cumulative and may be exercised concurrently or separately. In the event of any Material Breach by Contractor, which Material Breach shall not have been cured as agreed to between the Parties, the City shall have the ability to pursue the City's rights at law or equity. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.
- 6.6 Cost of Cover. (09/17) In the event of termination of this Contract by the City due to a Material Breach by Contractor, then the City may complete the Project itself, by agreement with another contractor, or by a combination thereof. After termination, in the event the cost of completing the Project exceeds the amount the City would have paid Contractor to complete the Project under this Contract, then Contractor shall pay to the City the amount of the reasonable excess.

### SECTION 7 PRODUCT WARRANTY AND MAINTENANCE PROVISIONS

These provisions shall apply to all Maintenance Services. These provisions shall cover any Third Party Software supplied by Contractor as a component of the System. Should any ambiguities or conflicts arise between this SECTION 8 and any other terms within this Contract, this Section shall prevail in matters of Maintenance.

- 7.1 Product Warranty Period. (09/17) Contractor shall provide Maintenance at no charge for one year from the date of Final Acceptance.
- 7.2 Maintenance Term. (09/17) The City's obligation to pay for Maintenance commences on the date of expiration of the Product Warranty Period. The price for annual Maintenance is set forth in Exhibit A, Price. Where necessary, prices for Maintenance shall be pro-rated to ensure that Maintenance periods will co-term with this Contract.
- 7.3 Optional Maintenance. (09/17) If the City suspends or discontinues Use of the System, in whole or in part, the City may elect to suspend or discontinue Maintenance and payment of Maintenance Fees for the portion of the System not Used.
- 7.4 Services Included. (09/17) Contractor shall keep the System, and all individual components thereof, conforming to the Specifications and respond to requests by the City. Maintenance shall include the following:

## EXHIBIT A SAMPLE CONTRACT

- 7.4.1 Preventive. (09/17) Maintenance shall include the development, release and installation of Updates and Upgrades, and performance monitoring, evaluation, or use of diagnostic applications or tools.
- 7.4.2 Repair. (09/17) Within the time specified in the table below, Contractor shall Repair all Products for which an Error has been identified by Contractor or the City in Maintenance Requests. A workaround or patch which eliminates the symptoms of the particular Error reported, but impairs the City's operations, shall be deemed an interim Repair and cannot last longer than seven (7) Calendar Days, unless otherwise mutually agreed in writing by both Parties.
- 7.4.3 Replacement. (09/17) Contractor shall replace defective Products that cannot be Repaired. Replacement Equipment shall include all current Software and Equipment Updates and Upgrades.
- 7.4.4 Telephone Helpline/Staffing. (09/17) During the Coverage Hours Contractor shall maintain a no-cost telephone helpline. Contractor shall staff the helpline with competent technical consultants who shall be trained in and thoroughly familiar with the System and with the City's applicable Configuration. Telephone support and all communication shall be delivered in English.
- 7.5 Updates and Upgrades. (09/17) Contractor shall automatically provide the City with Upgrades and Updates at no additional cost. Maintenance charges shall not be increased due to such Upgrades or Updates. However, in no event shall modifications, Updates, or Upgrades degrade the core functionality of the Software or any component thereof, or interfere with City's Use of the core functionality of the Software with the original Equipment.

If Contractor plans to modify, Update, or Upgrade the Software in a manner that will cause it to no longer conform to the Specifications or that will require the City to obtain new or additional hardware or other Equipment to enable the City to Use the Software, Contractor shall provide the City at least one year's notice prior to making any such modifications, Updates, or Upgrades and agrees to continue supporting the City's System for an additional year if the City is required to purchase new Equipment to run the modified, Updated, or Upgraded Software.

- 7.6 Training. (09/17) At the City's request, Contractor shall provide training to the City in connection with Upgrades or major Repairs that change the functional operation of the System or any Software or Equipment component whether Repair or alteration is a permanent or interim modification. Training shall be provided at no cost to the City and a time and location convenient to the City.
- 7.7 Version Support. (09/17) If the City elects not to install any Module, Software, or Product Upgrade, Contractor shall, at the City's request, maintain the ability to support up to two (2) earlier versions of the Product(s) in operation. Contractor shall provide the City with at least twelve (12) months' prior written notice, before discontinuing Maintenance in support of

## EXHIBIT A SAMPLE CONTRACT

Product(s) currently in use by the City. After such discontinuation, the Contractor shall make available to the City the option of continued support upon payment of a fee that shall not exceed one hundred and ten percent (110%) of the annual Maintenance fee for the most current version of the component Product.

- 7.8 Redundant Systems. (09/17) Contractor shall provide Maintenance for a Redundant System on the exact same basis as for a primary System. All rights, obligations, warranties, and other Services which apply and extend to a primary System shall apply and extend to an equal extent to a Redundant System.
- 7.9 Other Standard Services. (09/17) Contractor shall, at no additional cost to the City, provide other standard Services which Contractor offers at no cost to its other customers.
- 7.10 Priority. (09/17) The following categories shall apply to a Maintenance Request by the City:

Table 8A: Definitions of Priority Levels

Priority Level	Description
1	The System, or a critical function, is not functioning properly, causing significant impact to City governmental operations, and no work-around acceptable to the City is available, or there are Errors that cause data to be lost.
2	A non-critical function or overall performance is materially impaired, or a critical function is not functioning properly, causing significant impact to City governmental operations, and a temporary work-around that is acceptable to the City is available.
3	A problem which does not materially impair the City's governmental operations but may impact noncritical work. The System is able to accomplish all functions, but not as efficiently as normal, or operations could be improved by correction of a minor Error.
4	The City requires information or assistance about System, such as questions about capabilities, installation, Configuration, operation, or cosmetic issues.

- 7.11 Response and Resolution Time. (09/17) Contractor shall respond to a Maintenance Request from City within the times specified in this Contract. Such Response Times shall be measured from the time the City requests Maintenance. Contractor shall provide Maintenance as outlined in this Section under the Response and Resolution Times set forth for specific priority levels in the table below.

Table 8B: Error Response and Resolution Commitments

Level	Response Time	Resolution Time	Status Update
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## EXHIBIT A SAMPLE CONTRACT

1	1 hour	1 Business Day	Every 2 hours or as otherwise agreed
2	2 hours	3 Business Days	Every 8 hours
3	1 Business Day	10 Business Days or with next Software Upgrade	Weekly
4	5 Business Days	As mutually agreed	As mutually agreed

7.12 Management of Maintenance Requests. (09/17) All Maintenance Requests will be assigned a unique tracking number by Contractor. This unique tracking number will be referenced in all subsequent communications and status updates to the City. Initial responses for all Level 1 and Level 2 Maintenance Requests will be by telephone. Subsequent status updates may be by phone or email, whichever is deemed most appropriate by the City. Any intent to change the priority of a Maintenance Request, by either the City or Contractor, will require agreement by the other Party. Maintenance Requests will remain open and active until both Parties concur in writing that successful resolution has been achieved.

7.13 Escalation. (09/17) If the City is unsatisfied with Contractor's Response Time or Resolution Time, the following escalation procedure will apply:

7.13.1 The City shall notify Contractor in writing of its intent to escalate. This notice will be sent to Contractor's Maintenance contact. Upon receipt of this notice, Contractor will contact the City immediately to acknowledge the request and obtain more information.

7.13.2 If within twenty-four (24) hours after the notice of intent to escalate, the City is not satisfied with the response or resolution, the City will contact the following Contractor executives, in the order specified below, to resolve the problem:

Name	Title	Phone	Email

7.13.3 In the case of a Level 1 or Level 2 Error which is not resolved within the Resolution Time stated above, Contractor shall immediately provide expert personnel to resolve the Error, either on-site or by means of secure remote access, at City's option. All costs incurred in connection with on-site or remote support shall be borne by Contractor. Contractor shall work on the solution until the Error is resolved to the satisfaction of the City. If requested by the City, Contractor will provide a patch or workaround outside the normal release and quality assurance process, including telephone assistance with the implementation of the patch or workaround.

7.13.4 In the case of a Level 3 Error and the next Upgrade is scheduled to be released within ninety (90) Calendar Days of the Maintenance Request, then the Error shall be resolved by the subsequently scheduled release or a mutually agreed upon release schedule. If the Error cannot be resolved by

## EXHIBIT A SAMPLE CONTRACT

the subsequently scheduled release, or within a mutually agreed upon release schedule, Contractor shall provide expert personnel off-site to resolve the Error. All remote access and off-site assistance shall be at no additional cost to the City. Contractor shall work on the solution until the Error is resolved to the satisfaction of the City. If requested by the City, Contractor will provide a patch or workaround outside the normal release and quality assurance process, including telephone assistance with the implementation of the patch or workaround.

### 7.14 Maintenance Remedies.

7.14.1 Failure to Meet Response and Resolution Times. (09/17) In the event Contractor fails to meet the Response and Resolution Times or the requirements for timely status updates within Table 7B for Level 1 or 2, or other timelines as mutually agreed by Contractor and the City, the Maintenance Fees for one month (or one-twelfth (1/12th) of the annual Maintenance Fees) shall be refunded to the City.

7.14.2 Remedies Not Exclusive. (09/17) In addition to any other remedies provided for in this Contract or at law or in equity, the City shall have the right to obtain one or more of the following non-exclusive remedies in the event of any failure of Contractor to meet Maintenance obligations: (a) suspension of payment obligations for Maintenance accruing during the period for which Contractor did not meet Maintenance obligations; (b) a refund of all Maintenance Fees paid by the City to Contractor for the period during which Contractor did not meet Maintenance obligations; and (c) notice to Contractor of Material Breach.

## SECTION 8 ACCEPTANCE AND ACCEPTANCE TESTING

8.1 Right to Perform Acceptance Testing. (09/17) Prior to Accepting Deliverables or the System, the City shall have the right to perform Acceptance Testing, or for Deliverables not requiring Acceptance Testing, the City shall have the right to evaluate the Deliverable(s) to ensure they meet Acceptance Criteria. Contractor shall cooperate with the City in the development of Acceptance Criteria and the Acceptance Test Plan that shall codify and set forth the location, date, and other specifications of the test. Acceptance Testing may occur in one or more phases, depending on the integration of contingent products, scalability, performance tuning or other measurable features or milestones.

8.2 Procedure and Timetable. (09/17) Unless otherwise specified,

8.2.1 The City shall commence Acceptance Testing within a reasonable amount of time after receipt of a Deliverable.

8.2.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation in order to facilitate Acceptance Testing.



## EXHIBIT A SAMPLE CONTRACT

- 8.2.3 City will make all reasonable efforts to complete Acceptance Testing within the time period specified within the Project schedule mutually agreed upon by the Parties in writing. If an Acceptance Test is successful the City shall issue an Acceptance Certificate, a sample of which is attached in Exhibit C.
- 8.3 Failure of Acceptance Test. (09/17) The City will notify Contractor if a Deliverable or a portion of a Deliverable fails to pass an Acceptance Test and will specify in reasonable detail the identified failures and possible reasons for failure. After City's notification, Contractor shall correct the failure within ten (10) Business Days and notify the City that the correction has been completed. After Contractor's correction notification, the City shall perform a second Acceptance Test. If the Deliverable or portion of the Deliverable fails to pass the second Acceptance Test, the City shall notify Contractor in writing, and the City may, in its sole discretion: (a) terminate this Contract with no further liability; (b) require Contractor to replace the Deliverable or defective portion of the Deliverable at no additional cost to the City, (c) require Contractor to make further corrections to prepare for retesting again; (d) Accept the Deliverable at a reduced cost to be negotiated between the Parties; or (e) issue an Acceptance Certificate for an "Acceptance with Exception(s)" in accordance with Sections 9.3.1 and 9.3.2.
- 8.3.1 If the City issues an Acceptance Certificate for an "Acceptance with Exception(s)" the City will list the exception(s) and the date for Contractor's correction of the Error(s). If Error(s) are corrected by the listed date(s) the City agrees to commence further Acceptance Testing of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance Tests, the City will issue an Acceptance Certificate.
- 8.3.2 If a Deliverable fails a second or subsequent Acceptance Test (or in the event of a single Acceptance Test, the Acceptance Test) in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.
- 8.4 City Acceptance of Failure. (09/17) If the City elects to accept a Deliverable, the System, or any combination of Products even with the failure(s), then the City may request that Contractor issue a refund to the City in an amount equal to a percentage of the full fee value of the Deliverable or System that the Parties mutually determine represents the loss of functionality.
- 8.5 Revocation of Acceptance. (09/17) The City shall have the right to revoke "Acceptance with Exception(s)" if the City granted an "Acceptance with Exception(s)" based on Contractor's commitment to correct the Error within a reasonable period of time, but the Error has not been so corrected. The City shall also have the right to revoke Acceptance if the City accepted the Deliverable without discovery of the Error, and the Acceptance was reasonably induced by Contractor's assurances or by the difficulty of discovery of the Error before Acceptance. Revocation is effective only if it occurs within a reasonable time after the City discovers or should have discovered the reasons for revocation.



## EXHIBIT A SAMPLE CONTRACT

- 8.6 Termination Based on Failure of Acceptance. (09/17) If the System fails to pass the Final Acceptance Test(s), the City may terminate this Contract. Contractor shall refund all costs paid for the System or any combination of Products and Services in U.S. Dollars within fifteen (15) Calendar Days of the date of receipt of notice of termination. The refund shall be in cash and not in the form of future credits from Contractor.
- 8.7 No Waiver. (09/17) Acceptance shall not relieve Contractor from its responsibility under any Warranty. Payment for Products or the System or any portion thereof does not constitute Acceptance nor does it constitute a waiver of any Warranty applicable to the City.

SAMPLE CONTRACT

## EXHIBIT A SAMPLE CONTRACT

### SIGNATURE PAGE

(08/19)

Contractor represents that Contractor has had the opportunity to consult with its own independently selected attorney in the review of this Contract. Neither Party has relied upon any representations or statements made by the other Party that are not specifically set forth in this Contract.

This Contract constitutes the entire agreement between the City and Contractor and supersedes all prior and contemporaneous proposals and oral and written agreements, between the Parties on this subject, and any different or additional terms on a City purchase order or Contractor quotation or invoice.

The Parties agree that they may execute this Contract and any Amendments to this Contract, by electronic means, including the use of electronic signatures.

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.

IN WITNESS WHEREOF, the Parties hereby cause this Contract to be executed.

CONTRACTOR

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**EXHIBIT A SAMPLE CONTRACT**

Contract Number: XXXXXXXXX

Amendment Number: XX

Contract Title:

**CITY OF PORTLAND SIGNATURES**

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

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

Approved:

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

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

Approved as to Form:

By: \_\_\_\_\_  
Office of City Attorney

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

EXHIBIT A SAMPLE CONTRACT

Exhibit A  
Contractor's Price

SECTION 1 Pricing.

SAMPLE CONTRACT

## EXHIBIT A SAMPLE CONTRACT

### Exhibit B Statement of Work

#### SECTION 1 SUMMARY

#### SECTION 2 SCOPE OF WORK

Contractor shall provide the following Services

#### SECTION 3 TASKS AND DELIVERABLES

The individual Deliverables are described in more detail below:

##### 3.1 Task 1:

###### 3.1.1 Deliverable 1:

###### 3.1.1.1 Acceptance Criteria:

###### 3.1.2 Deliverable 2:

###### 3.1.2.1 Acceptance Criteria:

###### 3.1.3 Deliverable 3:

###### 3.1.3.1 Acceptance Criteria:

##### 3.2 Task 2:

###### 3.2.1 Deliverable 1:

###### 3.2.1.1 Acceptance Criteria:

###### 3.2.2 Deliverable 2:

###### 3.2.2.1 Acceptance Criteria:

###### 3.2.3 Deliverable 3:

## EXHIBIT A SAMPLE CONTRACT

### 3.2.3.1 Acceptance Criteria:

### 3.3 Task 3:

#### 3.3.1 Deliverable 1:

##### 3.3.1.1 Acceptance Criteria:

#### 3.3.2 Deliverable 2:

##### 3.3.2.1 Acceptance Criteria:

#### 3.3.3 Deliverable 3:

##### 3.3.3.1 Acceptance Criteria:

## SECTION 4 PROJECT SCHEDULE

The detailed Project schedule is shown below (or as another Schedule B-X to this Exhibit B) –OR –  
The Project shall be completed no later than [insert CALENDAR DATE].

## SECTION 5 PROJECT MANAGEMENT

### 5.1 Status Reports

Contractor shall summarize activities under this Contract in written weekly/monthly status reports submitted to the City Project Manager. The status reports are due on the first day of the week/month and shall include summaries of all activities and Deliverables completed in the prior week/month. The report shall include a list of any delayed items, a description of the cause of the delay, schedule impact, and a proposed method of resolution. Delayed items shall be carried over onto subsequent reports until resolved.

### 5.2 Place of Performance

Contractor shall provide City with services at City locations as directed by the City Project Manager. Some portions of the work will be performed at Contractor facilities as agreed with the City Project Manager.

### 5.3 Project Managers

The City's Project Manager will be \_\_\_\_\_. The City may change City's Project Manager from time to time upon written notice to Contractor. Contact Information:

## EXHIBIT A SAMPLE CONTRACT

The Contractor's Project Manager will be \_\_\_\_\_. Contact Information:

### 5.4 Acceptance Criteria and Acceptance Test Plan

Acceptance Criteria and the Acceptance review plan shall be reviewed jointly by the City's Project Manager and Contractor's Project Manager. When agreed, the Acceptance Criteria and review plan shall be attached and incorporated here in this Statement of Work as Exhibit B-1.

SAMPLE CONTRACT



**EXHIBIT A SAMPLE CONTRACT**

**Exhibit C - City RFP #00001441**

**SAMPLE CONTRACT**

**EXHIBIT A SAMPLE CONTRACT**


**Exhibit D, Contractor's Proposal**

SAMPLE CONTRACT

## EXHIBIT A SAMPLE CONTRACT

### Exhibit E Sample Forms

#### Exhibit E-1: STATUS REPORT

	<b>BUREAU NAME</b>	<b>Bureau Logo</b>
<b>Contractor</b>		<b>Project Title</b>
<b>Contract No.</b>		<b>Report Date</b>
<b>Contract Date</b>		<b>Submitted by:</b>

#### 1. Key Status Indicators:

Description	No	Yes	Explanation
Has scope changed?			
Will target dates slip?			
Are there resource problems?			
Any other issues?			

#### 2. Major Activities Completed For Reporting Week (Key Accomplishments):

Activity	Comment(s)

#### 3. Major Activities Planned For Reporting Week and Not Completed:

Activity	Comment(s)

#### 4. Major Activities Planned For Next Week:

Activity	Comment(s)

## EXHIBIT A SAMPLE CONTRACT


### 5. Status of Key Team Deliverables:

Deliverable	Comment(s)

### 6. Major Issues Requiring Immediate Attention:

Issue	Resolution

### 7. Weekly Summary of Performance by Individual

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

## EXHIBIT A SAMPLE CONTRACT

### Exhibit E-2: FINAL ACCEPTANCE CERTIFICATE (08/19)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City certifies Final Acceptance of (name Deliverable(s)), in accordance with Contract No. \_\_\_\_\_. This Certificate of Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverables (or combination of Products) described herein.

-- OR --

### FINAL ACCEPTANCE CERTIFICATE WITH EXCEPTIONS

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City certifies Final Acceptance of (name of Deliverable(s)), in accordance with Contract No. \_\_\_\_\_. This Certificate of Final Acceptance is issued subject to the following exceptions:

- 1.
- 2.
- 3.

Exceptions must be completed by \_\_\_\_\_. If Exceptions are not completed by \_\_\_\_\_, the City may revoke Final Acceptance of the Deliverables.

This Certificate of Final Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverable(s) described herein.

### CITY OF PORTLAND


\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## EXHIBIT A SAMPLE CONTRACT

### Exhibit E-3: CHANGE ORDER

	<b>BUREAU NAME</b>	<b>LOGO</b>

#### CHANGE ORDER

<b>Contractor</b>		<b>Project Title</b>	
<b>Contract No.</b>		<b>Change Order No.</b>	*SAMPLE*
<b>Contract Date</b>		<b>Change Order Date</b>	

Select	Type	Description and Reason for Change	Modification to:
<input type="checkbox"/>	Time		Project Schedule and/or Contract
<input type="checkbox"/>	Scope or Specifications		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Deliverables		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Price		Statement of Work and/or Contract
<input type="checkbox"/>	Terms and Conditions		Request Amendment to Contract
<input type="checkbox"/>	Other		

1. Additional time is necessary and the Project Schedule for the Statement of Work or a specific Deliverable is hereby extended through (DATE) or modified as shown on the attached Project Schedule.
2. Additional work or a change in work or Specifications is necessary. For example, changes to the Statement of Work, Deliverables and/or the Acceptance.
3. A price adjustment is necessary for the following Deliverables. These changes will NOT affect the total not-to-exceed value of the Contract. For example, price changes that show the original price and the modified price.

## EXHIBIT A SAMPLE CONTRACT

4. An Amendment to the Contract is requested for the following reasons. For example, any change to the total value of the Contract, the term or ending date of the Contract, or the Contract terms and conditions requires an Amendment.

The Change Order is subject to the terms and conditions of the above-referenced Contract.

The rest of the Statement of Work shall remain unchanged and in full force and effect.

### CITY OF PORTLAND

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
City Project Manager

\_\_\_\_\_  
Title

### CONTRACTOR

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title



## APPENDIX A

### CONTRACT REQUIREMENTS

Contractor shall observe all applicable state and local laws pertaining to public contracts including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the rules. ORS Chapters 279A, 279B and 279C require every public contract to contain certain provisions. Pursuant to those chapters, the following provisions shall be a part of this contract, as applicable.

- Pursuant to ORS 279B.220, on every public contract, the contractor shall make payment promptly, as due, to all persons supplying to the contractor labor or material for the performance of the work provided for in the contract; shall pay all contributions or amounts due the Industrial Accident Fund from the contractor or subcontractor incurred in the performance of the contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department of Revenue all sums withheld from employees under ORS 316.167.
- Pursuant to ORS 279C.505, on public improvement contracts, the contractor shall make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract. The contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract. The contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall demonstrate that an employee drug-testing program is in place.
- Pursuant to ORS 279C.510 (1), in every public contract for demolition the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. Pursuant to ORS 279B.225 and 279C.510 (3) in every public contract and every public improvement contract for lawn and landscape maintenance, the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- Pursuant to ORS 279B.230(1), in every public contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
- Pursuant to ORS 279B.230(2), in every public contract, all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- Pursuant to ORS 279B.235(1), persons may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it. In such cases, the employee shall be paid a) at least time and half pay for all overtime in excess of 8 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or b) for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week if four consecutive days, Monday through Friday; and c) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.
- Pursuant to ORS 279C.515(1), on public improvement contracts, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of such contract. The payment of a claim in the manner authorized by ORS 279C.515 shall not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.
- Pursuant to ORS 279C.515(2), on public improvement contracts, if the contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.
- Pursuant to ORS 279C.515 (3), in every public improvement contract and every contract related to the public improvement contractor, if the contractor or subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- Pursuant to ORS 279C.520, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. The contractor shall give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of contracts for personal services as defined in ORS 279C.100, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime. Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540 (1) (b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The contractor

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shall give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- Pursuant to ORS 279C.530(1), in every public improvement contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. In every public contract, subject to ORS 279C, all employers working under the contract are subject employers that shall comply with ORS 656.017.
- Pursuant to ORS 279C.580(3)(a), the contractor shall include in each

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- public improvement subcontract for property or services entered into by the contractor and a subcontractor, including a material supplier, for the purpose of performing a construction contract, a payment clause that obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the contractor by the public contracting agency under such contract, and an interest penalty clause that obligates the contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to ORS 279C.580 (3), for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and computed at the rate specified in ORS 279C.515 (2).
- Pursuant to ORS 279C.580(4), the contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580 (B) (4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.
- Pursuant to ORS 279C.830(1)(a) workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

July 25, 2008

CITY OF PORTLAND BUREAU OF  
ENVIRONMENTAL SERVICES

# CONFINED SPACE ENTRY POLICY & PROCEDURES

November 2018

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## DEFINITIONS

**Attendant** – An individual stationed outside a permit space who monitors the authorized entrant(s); may also serve as an Entry Supervisor. Performs specific duties.

**Authorized Bureau Representative** – Bureau employee who is in charge, with the responsibility of managing or coordinating with the Non-BES identity who will have employees entering a BES confined space. i.e. Project Managers.

**Authorized Entrant** – An employee, authorized by the Bureau, to enter a permit space.

**Calibration** – The checking of a direct-reading instrument against an accurate standard (such as a calibration gas) to determine any deviation and correct for errors.

Note: A similar process may also be referred to as a “bump test” in which an instrument is tested with an accurate standard to ensure it is still reading correctly. For the purpose of this rule, a “bump test” performed in accordance with the manufacturer’s instructions can be used to verify calibration.

**Confined Space** – A space that is large enough and so configured that an employee can bodily enter and perform assigned work; and:

- Has limited or restricted means for entry or exit (example: tanks, sewers, wells, pipelines, vaults and pits).
- Is not designed for continuous employee occupancy.

**Continuous System** – A confined space that meets all the following:

- Part of, and contiguous with a larger confined space (storm sewers, sanitary sewers, or stream tunnels)
- Cannot be isolated from the larger confined space
- Subject to a potential release from the larger confined space that can overwhelm control measures and/or personal protective equipment, resulting in a hazard that is immediately dangerous to life and health.

**Emergency** – Any occurrence (including any failure of hazard control or monitoring equipment), internal or external to the permit space, that could endanger entrants.

**Engulfment** – The surrounding and effective capture of a person by a liquid or flowable, solid substance that can be aspirated to cause death by filling the respiratory system or that can exert enough force on the body to cause death by suffocation, constriction or drowning.

**Entry** – The action by which a person passes through an opening into a permit confined space. Entry includes work activities in that space and is considered to have occurred as soon as *any* part of the entrant’s body breaks the plane of the opening into the space.

## EXHIBIT 1

**Entry Permit** – The written or printed document that is provided by the employer to allow controlled entry into a permit space.

**Entry Supervisor** – The person responsible for determining if acceptable entry conditions are present at a permit space where entry is planned, for authorizing entry and overseeing entry operations, and for terminating entry as required.

**Hazardous Atmosphere** – An atmosphere that exceeds threshold limits noted on “safe level” of Gas Meter Chart, Appendix A-2.

**Host Employer** – An employer who owns or manages the property on which confined space work is taking place.

**Hot Work** – The employer’s written authorization to perform operations (for example riveting, welding, cutting, burning and heating) capable of providing a source of ignition.

**Immediately Dangerous to Life or Health (IDLH)** – Any condition that poses an immediate or delayed threat to life or that would cause irreversible adverse effects or that would interfere with an individual’s ability to escape unaided from a permit space.

**Inerting** – The displacement of the atmosphere in a permit space by noncombustible gas (such as nitrogen) to such an extent that the resulting atmosphere is noncombustible. **Note:** This procedure may produce an IDLH oxygen-deficient atmosphere.

**Isolation** – The process by which a permit space is protected against release of energy and material into the space by such means as: lockout or tagout of all sources of energy; or blocking, bleeding or disconnecting all mechanical linkages. Refer to BES Lockout/Tagout Policies & Procedures.

**Job Hazard Analysis (JHA)** – Process of identifying sequence of work, potential hazards and measures to control or eliminate.

**LEL** – Lower explosive level. Allowable threshold 10%.

**Line Breaking** – The intentional opening of a pipe, line, valve, or a duct that is or has been carrying flammable, corrosive or toxic material, an inert gas, or any fluid at a volume, pressure or temperature capable of causing injury.

**Non-BES Employees/employer** – Vendors, contractors, entities with permission to enter.

**Non-Permit Confined Space** – A confined space that does not contain or, with respect to atmospheric hazards, have the potential to contain any hazard capable of causing death or serious physical harm, subject to downgrade.

**Oxygen Deficient Atmosphere** – An atmosphere containing less than 19.5 percent oxygen by volume.

**Oxygen Enriched Atmosphere** – An atmosphere containing more than 23.5 percent oxygen by volume.



## EXHIBIT 1

### **Permit Required Confined Space (PRCS) – A**

confined space that has one or more of the following characteristics:

- Contains or has a potential to contain a hazardous atmosphere;
- Contains a material that has the potential for engulfing an entrant;
- Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or
- Contains any other recognized serious safety or health hazard.

**Permit Required Confined Space Program –** The employer's overall program for controlling and where appropriate, protecting employees from permit space hazards, and for regulating employee entry into permit spaces.

**Permit System –** The employer's written procedure for preparing and issuing permits for entry and for returning permit space to service following entry.

**Photo Ionization Detector (PID) –** A type of gas detector to measure volatile organic compounds and other gases in concentrations from sub parts per billion to 10,000 parts per million (ppm).

**Prohibited Condition –** Any condition in a permit space that is not allowed by the permit during the period when entry is authorized (i.e. exceeding atmospheric thresholds).

**Rescue Service –** The personnel or outside agency designated to perform entry rescues from permit spaces. If outside agencies are being used, a written agreement shall be developed between the two parties.

**Retrieval System –** The equipment (including a retrieval line, chest or full-body harness, wristlets, if appropriate, and a lifting device or anchor) used for non-entry rescue of persons from permit spaces.

**Testing –** The means by which the hazards that may confront entrants of a permit space are identified and evaluated. Testing includes specifying the tests that are to be performed in the permit space. **Note:** Testing enables employers both to devise and implement adequate control measures for the protection of entrants.

**Ventilate or Ventilation –** Controlling a hazardous atmosphere using powered equipment, such as fans and blowers, to continuously move air.

## OBJECTIVE

This document contains technical information with very specific language. Important terms have been placed in the Definitions Section. Those involved with Confined Space activities shall adhere to the contents of this Policy & Procedure document.

## POLICY STATEMENT

It shall be the policy of the Bureau of Environmental Services that Confined Space Entry (CSE) work is approved by a management representative and/or designee, and that all entries into Permit Required Confined Spaces (PRCS) be assessed and authorized by the Entry Supervisor.

It is each Bureau employee's responsibility to perform work in a safe and thoughtful manner. Failure to comply with this policy could result in injury, illness, or death. Additionally, non-compliance with this policy is a violation of OAR 437, Division 2/J, Permit-Required Confined Spaces (1910.146), which could result in regulatory fines by Oregon OSHA (OR-OSHA).

## SCOPE

This policy contains the necessary procedures and precautions to protect Bureau employees from hazards while working in PRCS and/or Non-Permit Confined Spaces (NPCS). For any unusual Confined Space Entry or circumstance not covered under the procedural guidelines, a job hazard analysis (JHA) shall be developed. All CSE participants, supervisor and Risk Services shall be involved in the JHA.

## TRAINING

Under no circumstances shall Bureau employees be allowed to work in Confined Spaces until they have been sufficiently trained as an Authorized Entrant, Attendant, or Entry Supervisor. The Bureau shall verify that each employee who works in and around confined spaces has the essential understanding, knowledge, and skills and abilities to safely perform their duties, according to their assigned responsibilities.

Training will include understanding OR-OSHA Standards and Regulations, and identification of hazards typically encountered in BES confined spaces. Physical and atmospheric hazard control and a review of monitoring instruments will be covered. Instructions on equipment use and maintenance shall be provided in addition to training on the written program, entry permits and coordinated entries. Training will include a field demonstration with rescue techniques prior to engaging in confined space entry work. Following demonstration of proficiency in the field, an exam shall be given by the instructor, which requires a minimum passing grade of 80% to obtain certification. Standard training agenda is located in Appendix A-1.

## EXHIBIT 1

Awareness training is required for those who frequent areas where confined space entries occur. This does not include those who are authorized to enter confined spaces.

### BES-SPECIFIC CONFINED SPACES

The bureau has a variety of spaces that are considered as confined spaces under this policy. The table below catalogues and classifies these hazards.

1. Includes but is not limited to: clarifiers, digesters, vaults, channels, manholes, wet & dry wells, pipelines, sewers, excavations with existing pipelines, process vessels, tanks, and tunnels.
2. Evaluation of each work site shall include space classification and entry precautions.
3. Non-routine entries (i.e. multiple entrants, attendant watch needed below grade, non-direct vertical access, entrant not within sight of attendant, space configuration issues), require a JHA.

CONFINED SPACE TYPE	POTENTIAL HAZARDS	CLASSIFICATIONS
Primary & Secondary Clarifiers	Bio-hazard Slip & Falls, Falls from ladder, & Engulfment	Permit Required when sewage present
Aeration Basins	Engulfment & Falls from ladder	Non-permit when energy lockout
Vaults (valve, pump, & electrical)	Atmospheric, Falls, & Electrical Hazards	Permit Required
Digesters	Atmospheric	Permit Required
Channels	Atmospheric & Engulfment	Permit Required
Manholes	Falls, Atmospheric, & Engulfment	Permit Required
Pump Stations (wet)	Atmospheric, Falls, & Engulfment	Permit
Pump Stations (dry)	Falls	Non-permit
Sewers	Engulfment, Atmospheric, & Falls	Permit Required
Excavations w/ Open Connections to Active Sewer Pipelines Entered	Falls, Atmospheric, & Engulfment	Permit Required

Please note that other hazards may exist which shall be identified on CSE Permit.

## STANDARDS AND REGULATIONS

- OAR 437, Division 2/J
- OR OSHA 1910.146 Permit Required Confined Space

## RESPONSIBILITIES

### DIRECTOR & GROUP MANAGERS

1. Provide commitment, leadership, staffing, and financial resources necessary to enable adherence to the requirements of this policy.
2. Hold managers and supervisors accountable for compliance with this policy.
3. Continue to promote and reinforce individual responsibility and accountability as it relates to Occupational Safety and Health.

### SUPERVISORS

1. Ensure that personnel who perform Confined Space Entry work are educated as to the contents of this policy.
2. Ensure that employees assigned to work in and around confined spaces (Entrants, Attendants, and Entry Supervisors) are certified to perform Confined Space Entry work, and that training records are properly maintained according to City Records Management Policy.
3. Ensure that employees certified to work in and around confined spaces (Entrants, Attendants, and Entry Supervisors) complete annual rescue refresher training no more than 12 months before an entry, to maintain certification.
4. Ensure that crews performing confined space entries are made in compliance with BES policies and procedures.
5. Ensure that Confined Space Entry equipment and personal protective equipment (PPE) are included in budgetary planning and appropriate safety equipment is available and used during Confined Space Entries.
6. Coordinate the activities of contractors/outside personnel/vendors who will be working in or near permit required confined spaces.

### AUTHORIZED BUREAU REPRESENTATIVES (Those Organizing CSE Tasks w/Contractors and/or Vendors)

1. No entry shall occur until the Entry Authorization form has been completed.
2. Authorized Bureau Representatives shall include in their scope of services and/or bid specifications, provisions for compliance with the approved confined space procedures.
3. Coordinate the activities of Contractors and/or non-BES employees who will be working in or near PRCS spaces and ensure their compliance with OAR 437 Division 2/J, Permit-Required Confined Spaces (1910.146). Complete authorization form (*Appendix C*) of this document. After the Authorization Form has been completed and reviewed with the

## EXHIBIT 1

Contractor, the Project Manager, and/or designee shall:

- a. Provide a copy to Non-BES Employer
  - b. Provide a copy to the Entry Supervisor (if different than the outside personnel)
  - c. File a copy in the Project file; and
  - d. Forward a copy to BES Risk Services: Interoffice B310, BES Employee who manages the space, Columbia Boulevard Wastewater Treatment Plant (CBWTP), Tryon Creek Wastewater Treatment Plant (TCWTP), or Pump Station Maintenance (PUMA) manager.
4. Inform the non-BES employee/employer that the work they are performing requires entry into a Confined Space and that they are responsible for the safety and health of their employees and must comply with OAR 437 Division 2/J, Permit-Required Confined Spaces (1910.146).
  5. Inform non-BES employee/employer of hazards the Bureau has identified with that specific space.
  6. Inform Non-BES Employer of any precautions or procedures that the Bureau has taken to protect its employees.
  7. Coordinate entry operations with the outside personnel if Bureau employees will also be entering the space. When an entry is made by both bureau and contract employees working together, procedures must be documented (daily reports/permit).
  8. Debrief non-BES employee/employer to determine if problems were encountered requiring a change in procedure.
  9. Review non-BES employee/employer's work periodically and issue a stop work order if safety procedures are not followed.
  10. If Hot Work is performed, ensure that non-BES employee/employer follow hot work procedures and complete a hot work permit.

### NON-BES EMPLOYEE/EMPLOYER

1. The prime contractor shall coordinate the entries of the subcontractors and/or vendors.
2. In addition to complying with permit space requirements, outside personnel shall:
  - a. Obtain information regarding confined space hazards and entry operations from the authorized Bureau Representative.
  - b. Coordinate entry operations with Bureau employees if Bureau employees are entering the same confined space.
  - c. Employers of non-BES employee/employer shall provide equipment necessary to comply with safety standards. BES will not loan equipment to the Contractor.
  - d. Employers of non-BES employee/employer shall be responsible for training of their employees.
3. The contractor/vendor shall submit their policy & procedures for entering confined spaces to the Authorized Bureau Representative for approval.

## EXHIBIT 1

### ENTRY PERSONNEL

1. All personnel shall:
  - a. Be certified in BES Confined Space Entry Procedures and maintain certification via required refresher training.
  - b. Follow the appropriate Confined Space Entry Procedures (Permit Confined Space & Non-Permit) and ensure that equipment is used properly.
  - c. Be held responsible and accountable for personal safety.
2. Entrant(s) Duties (Permit space only):
  - a. Know the potential hazards of the confined space (e.g. possible LEL conditions) during entry.
  - b. Complete refresher confined space rescue training annually.
  - c. Identify and properly use safety equipment provided for the work.
  - d. Entrants should be able to see any/all air tests whenever requested.
  - e. Maintain communication with the Attendant.
  - f. Alert Attendant immediately when a hazardous condition or problem develops.
  - g. Exit the space immediately upon atmospheric alarm or ordered to by the Attendant.
  - h. Exit the space if feeling ill, in pain, claustrophobic, or cannot perform entry tasks.
3. Attendants shall (Permit space only):
  - a. Test atmosphere prior to Entrant entry and record results.
  - b. Continuously monitor the atmosphere during entry unless atmosphere monitor is worn by the Entrant.
  - c. Ensure barriers or other guards are in place around the space opening if necessary.
  - d. Be First Aid and CPR trained and certified.
  - e. Complete refresher confined space rescue training no more than 12 months prior to the entry.
  - f. Simultaneously serve as an Entry Supervisor if necessary.
  - g. Know the potential hazards of the confined space being entered.
  - h. Remain outside the confined space until the entry is completed.
  - i. Monitor activities inside and outside the space for safety.
  - j. Maintain active communication with Entrant.
  - k. Maintain a correct count of authorized Entrants.
  - l. Keep unauthorized persons from entering the space.
  - m. Perform no duties that might interfere with Attendant's primary duty (i.e. flagging and miscellaneous distractions).
  - n. Order Entrant to evacuate if a dangerous situation develops.
  - o. Perform top side vertical rescue only. Under no circumstances shall the Attendant enter the space to perform rescue. Refer to scope for non-standard entries using JHA approach (i.e. 2nd attendant monitoring entrant inside space).
  - p. Call 911 emergency services if necessary.

## EXHIBIT 1

4. Entry Supervisor Duties
  - a. May simultaneously serve as an Entry Attendant.
  - b. Know the potential hazards of the confined space to be entered.
  - c. Evaluate the potential hazards of the confined space ensure safety controls are in place.
  - d. Determine the responsibility for permit requirements, hazard controls and permit sign-off.
  - e. Terminate the entry and cancel the permit.
  - f. Verify that rescue procedures are in place and rescue services are available if necessary.
  - g. Remove unauthorized individuals from entry site.
  - h. Review Confined Space work in progress to ensure that acceptable entry conditions are maintained, and workers are following the procedure.
  - i. Coordinate entry with other parties who may be entering the space or to other spaces that may be connected to the space by a continuous system, and with parties who may be performing tasks on the system that could create hazards for entrants.

## PROCEDURES

### PRE-ENTRY EVALUATION

The Entry Supervisor Shall:

1. Evaluate whether the Confined Space must be entered. Explore whether other controls/procedures could be used to prevent someone from entering the Confined Space. Explore possible alternative to avoid the entry.
2. Consider all spaces to be Permit-Required until all the hazardous conditions in a permit space have been eliminated.
3. Any confined space with sewage or residue of such is always a Permit Required Confined Space. No exceptions.
4. Conduct a visual survey of the Confined Space to identify any potential hazards: hazardous atmosphere, physical hazards, history and location of the space, etc.
5. If the Entry Supervisor is unclear whether a Confined Space is PRCs or non-permit, then the Pre-Entry Checklist (Appendix E) must be completed.
6. The Entry Supervisor must determine what safety equipment, including personal protective equipment is needed for the job, and ensure that the gas monitor has been calibrated and bump tested per manufacturer guidelines.
7. Review work to be done in the Confined Space to evaluate its potential to create a hazardous atmosphere or other hazard during the course of the work.
8. Identify the potential type of entry rescue and whether outside services will be required.



## PERMIT-REQUIRED SPACE PROCEDURE

1. Pre-Entry: The Entry Supervisor shall conduct the Pre-Entry Evaluation (above) and determine if the Confined Space is to be Permit-Required.
  - a. Attendant shall be current with CPR/First Aid certification.
  - b. When "Hot Work" is being performed in a confined space; the Bureau of Environmental Services Wastewater Group's Hot Work Permit Policy shall be utilized and implemented in addition to the Confined Space Entry Permit.
2. Inspection: The Entry Supervisor shall ensure that safety equipment is visually inspected prior to each use or entry and is in a "ready state." Equipment includes, but is not limited to:
  - a. Ladders (where applicable)
  - b. Tripod/ davit system/fall block/winch retrieval
  - c. Safety Harness/LifeLines/Lanyards
  - d. Gas Monitors Top side and Portable (calibrated, properly zeroed, field- checked and/or bump tested)
  - e. Communication Systems
  - f. Explosion-proof equipment if needed
3. External: The perimeter of the Confined Space shall be barricaded, roped off, or guarded by personnel, to prevent unauthorized personnel from entering the space or use other controls if necessary. Additionally, if entrance covers are removed, the opening shall be *promptly* guarded by personnel, a railing, or temporary cover.
  - a. Manholes must be guarded or blocked by a vehicle or an Attendant. Entry Supervisor is responsible for keeping people out of a work zone.
4. Environmental Survey: The Entry Supervisor and other on-site personnel shall survey the surrounding work environment to ensure that:
  - a. If entry occurs on or near an industrial site, potential toxic discharges are evaluated & addressed for possible volatile organic compounds (VOC);
  - b. External controls are in place (traffic control, barricades);
  - c. Physical hazards have been eliminated or controlled;
  - d. The Confined Space opening is guarded by a railing or temporary barrier;
  - e. Isolating devices are in place (lockout, blanking lines, etc.);
  - f. Ventilating equipment is operating sufficiently; and
  - g. Purging, inerting, and flushing vessels/lines to eliminate or control atmospheric hazards.
5. Air Testing: Air test the Confined Space for oxygen (O<sub>2</sub>), flammability (LEL), hydrogen sulfide (H<sub>2</sub>S), carbon monoxide (CO), and other possible contaminants based on Pre-Entry Survey. Collection system entries in certain industrial locations may require a specialized meter with a volatile organic compounds (VOC) sensor to identify a foreign substance.

## EXHIBIT 1

- a. Air contaminants might be introduced into the space during work activities, additional air testing for these air contaminants may be needed during entry.
  - b. Atmospheric sampling test shall occur:
    - i. Prior to entry;
    - ii. During entry/continuous;
    - iii. Prior to reentering the space after work is suspended for any reason; and
    - iv. At all levels due to weight of certain gasses that may stratify.
  - c. Entry is prohibited until initial testing of the atmosphere is done from outside the space and has been determined to be safe. If the site data (i.e. industrial site) indicates the potential for toxic or flammable atmosphere, an initial PID test must be taken through the small holes in the manhole cover prior to removal. Eliminate all ignition sources, and use only tools that will not emit sparks, to open the cover.
  - d. Each Entrant shall be provided the opportunity to observe and obtain results of pre-entry monitoring or other testing of a PRCs. If a request is made by an employee to reevaluate the Confined Space, then the Entry Supervisor shall comply with that request before proceeding with the entry.
  - e. If the alarm sounds while working in the space, Entrants must exit from the space immediately, and the permit must be cancelled
6. Personal Protective Equipment: Basic PPE required for entry includes, but is not limited to:
- a. Hard hats
  - b. Eye wear (glasses or goggles depending on the hazard)
  - c. Gloves
  - d. Protective clothing (coveralls, raingear, chemical suits)
  - e. Respiratory protection
7. Respiratory: The Entry Supervisor shall consider potential inhalation exposures (ammonia, sewage mists/vapors etc.) prior to each entry and determine the need for respiratory protection. The supervisor shall also define the specific respirator protection for the entry. Half-face respirators equipped with organic vapor cartridges in conjunction with *N 100* particulate filters will protect against low level industrial solvents and particulate mists from sewage (reference BES Respirator Policy).
8. Entry Permit: The Entry Supervisor shall obtain an "Entry Permit" and complete each section prior to entry (See Appendix D). The following rules apply:
- a. Permits shall be completed at the Confined Space location
  - b. Permits are only valid for the duration of work:
    - i. If Entrants exit from the space for short periods (breaks, lunches, etc.) a new permit does not have to be issued provided that the Entry Supervisor conducts atmospheric testing prior to re-entry, documents the readings on the permit, and double checks that potential hazards are controlled.
  - c. The Entry Supervisor terminates permits when:
    - i. Work is temporarily postponed, (work not needed in space).
    - ii. Work is completed.

## EXHIBIT 1

- iii. A hazardous condition develops during entry.
  - d. Terminated permits shall be forwarded to B310.
  - e. Permits shall be kept for one year.
  - f. Permits shall be posted at the job site or displayed visibly on vehicle dashboard for the duration of the entry.
  - g. If duties are transferred to new personnel, the new Entry Supervisor/ Attendant shall completely re-evaluate the atmosphere of space and retest with gas detection instrument
  - h. If a permit is canceled due to an atmospheric hazard or for any other hazardous condition, a copy of the canceled permit describing the reason for canceling, shall be sent to a BES Risk Services Representative.
  - i. Air contaminants might be introduced into the space during work activities.  
Additional air testing for these air contaminants may be needed during entry.
    - i. Under no circumstances shall entries be made with a supplied air or with an auxiliary escape bottle unless alternative procedures are discussed between the Entry Supervisor and the BES Risk Services Staff prior to entry.
9. Fall Protection: The Entry Supervisor shall ensure that Entrant uses fall protection when working from any unguarded surface. Equipment used in confined spaces shall be consistent with manufacturer's specifications.
10. Communication: The Attendant must remain in continuous contact with the Entrant(s) and be prepared to retrieve the Entrant(s) whenever a prohibited condition occurs (i.e., Entrant exhibits behavior changes, gas monitor alarms, etc.). If visual contact cannot be maintained, portable radios or some other reliable, pre-approved means must be used to maintain effective communication.
11. Self- Rescue: The immediate evacuation of the confined space by the authorized entrants under their own power. Self-rescue from a confined space is mandatory for all entrants when: the attendant orders evacuation, an atmospheric testing device alarms, acceptable entry conditions no longer exist, or any time the entrants perceive that they are in danger
12. Non-Entry Rescue: The removal of entrant(s) shall be done by a vertically positioned tripod and retrieval winch they are attached to. When feasible, the use of non-entry retrieval system will be used
- a. Retrieval system shall include:
    - i. Full body harness for entrant with retrieval line attached at the center of the entrant back, near shoulder level. Wristlets or ankle straps may be used for horizontal entries.
    - ii. Retrieval line shall be attached to tripod, davit arm or fixed point outside the space so that rescue can begin swiftly.
    - iii. If space is greater than 5' deep, the retrieval line must be connected to mechanical rescue/retrieval winch.
  - b. Designated rescue person or team shall be able to perform rescue in a timely manner.

## EXHIBIT 1

Response time is based on the hazards of the space. No entries shall be made in an IDLH confined space.

- c. Employees responsible for non-entry rescue shall:
    - i. Be trained in First Aid/CPR
    - ii. Practice performing rescues at least once every 12 months to maintain CSE certification. Practice shall include every type of space in which rescue team may perform rescue and include removing persons, dummies or mannequins from an actual space with similar size and configuration as actual PRCS.
13. Entry Rescue from Outside Services: BES employees will not perform entry rescue. Where Non-Entry rescue is not feasible or would increase the overall risk to the entrant, BES may contract with a certified rescue team trained and equipped for entry rescue. This could be a complex space with horizontal runs at multiple depths. A stand-by team may be required if potential hazards identified necessitate this approach. When an outside rescue team is used, a written agreement will be developed which will detail the arrangement as required by Oregon OSHA.
- a. The Entry Supervisor shall ensure that rescue procedures are discussed with all Entrants and Attendants prior to each entry. The following rescue rules shall apply on all entries unless a JHA has been conducted and reviewed by BES Risk Services staff.
    - i. The entrant shall wear a full body harness.
    - ii. A mechanical lifting device shall be utilized at the job site to remove personnel from any vertical space more than 5 feet deep. Entrants shall be attached to an approved retrieval system.
    - iii. Rescue attempts shall occur from outside the Confined Space.
    - iv. Under no circumstances shall the Attendant enter the Confined Space to perform a rescue.
    - v. The Attendant will have a two-way radio or cellular phone to notify dispatch or 911.
    - vi. Responding outside rescue service (i.e. Portland Fire Bureau) shall assume full authority during the rescue procedures. The Attendant shall remain at the entry point.

## ALTERNATE ENTRY PROCEDURES

- 1. Permit spaces may be entered by using an Entry checklist instead of an Entry Permit when:
  - a. All hazards in the space have been eliminated, or
  - b. All physical hazards, if any, have been eliminated and the atmospheric hazards are controlled with forced air ventilation.
  - c. Continuous forced air ventilation does not eliminate the hazard. It only controls the

## EXHIBIT 1

- hazard.
- d. Continuous air monitoring must be conducted if ventilation will be used to control atmospheric hazards during entry.
2. Alternate Entry cannot be used to enter a continuous system unless you can positively isolate the area to be entered from the rest of the space or can demonstrate and document that the conditions which caused the hazard no longer exist within the system during entry.
  3. Entering under Alternate Procedures allows less of an emphasis on the permit entry system that would require attendants and rescue. Entry procedures still require:
    - a. The hazards of the space be evaluated
    - b. Methods used to eliminate those hazards
    - c. Atmospheric testing and monitoring
    - d. Protocols for evacuating the space when acceptable entry conditions cannot be maintained
    - e. Sufficient employee confined space training
    - f. Verification that proper confined space entry procedures are in place and being followed
  4. Atmospheric testing and monitoring shall be performed. Use only properly calibrated direct-reading meters. Ensure the direct-reading meters are used and tested according to the instructions and recommendations from the manufacturer.
  5. If gas detector indicates an atmospheric hazard, forced ventilation is required. (Refer to "Ventilation" below). Steps taken to identify and evaluate the hazards should be documented.
  6. If acceptable entry conditions cannot be maintained, the space must be immediately evacuated until safe entry conditions can be restored and re-entry is treated and documented as a new entry. If not, the space must be entered as PRCs.
  7. Ventilation: If alarms occur, or the Entry Supervisor determines that a source of fresh air is needed, ventilation shall be used to provide adequate levels of oxygen, to dilute toxic and flammable gases, and to improve general air quality. Ventilation equipment shall be explosion proof and be set at 100% outside air. To increase air circulation, open additional manholes and other sources of fresh air on the upside/downside of the Confined Space.
  8. "Closed" Confined Spaces (vaults, wet/dry wells, manholes, etc.) may require the use of forced, mechanical ventilation, if life safety ventilation systems are not present.
  9. Natural ventilation should be sufficient in all "open" Confined Spaces (clarifiers). However, if there is any doubt about the air quality, then mechanical ventilation shall be used.

## EXHIBIT 1

10. Forced air ventilation shall be used in sewer/sanitary line entries to improve atmospheric conditions.
11. If ventilation is needed:
  - a. Introduce fresh air near the bottom of the immediate area where the Entrant will be present; and
  - b. Position the fresh air intake in a clean air zone away from all combustion sources (i.e. vehicle exhaust).
  - c. Retest air
12. Electric: The Entry Supervisor must ensure that only double insulated electric tools or tools on a ground fault circuit interrupter system are used. All portable lights and tools shall be explosion proof where a potential flammable or explosive atmosphere exist.
13. Lockout: The Entry Supervisor and the Entrant shall ensure that Potential Energy Sources have been eliminated from the space, prior to entry. This includes blocking lines and locking out gates/flow.
14. Traffic: The Entry Supervisor shall ensure that employees working in roadways/walkways have the proper controls for traffic and access to manholes. Necessary barriers and traffic control devices shall be used. Employees handling traffic shall be trained in flagging and traffic control.
15. Records: At completion of the entry, the Entry Supervisor shall forward completed permits to: Records B310. An annual review of archived permits will be conducted by BES Risk Services.

## NON-PERMIT SPACE PROCEDURE

A Non-Permit Space does not contain potential atmospheric hazards. The space has sufficient ventilation (forced or natural) to maintain a safe entry and all physical hazards, (e.g., mechanical equipment) can be controlled from outside the space prior to entry, and there is no chance for engulfment.

1. Work activities shall not introduce a hazardous atmosphere into the space (see Hot Work Policy Appendix F).
2. Training: Same as permit spaces.
3. Pre-Entry: If Supervisor/Attendant completes the Pre-Entry Checklist (Appendix E), the checklist must be posted outside the entry portal or another visible location at the entry site. The Pre-Entry Checklist cannot extend beyond the initial job purpose, or one shift, whichever is of the shortest duration.

## EXHIBIT 1

4. External Controls: The Entrant shall survey the surrounding work environment to ensure that all external controls are in place (traffic control, barricades) and that all physical hazards have been eliminated or controlled. The Supervisor/Attendant shall guard the Confined Space opening by a railing or temporary barrier and will double check to ensure that isolating devices are in place (lockout/tagout, blanking lines, etc.).
5. Inspection: Entrant shall inspect and ensure that all safety equipment is in good condition. If the job requires travel to a satellite work location, proper safety equipment must be in the vehicle. Use the Entry Permit as a checklist (Appendix D).
6. Entrant: Non-Permit entries do not require an Attendant, however, the Entrant shall notify their manager/supervisor/and or lead person prior to entering a space and when the entry is complete.
7. Air Testing: Prior to entry, the Entrant shall note atmospheric readings for oxygen, flammability, carbon monoxide and hydrogen sulfide, and other possible contaminants based on Pre-Entry Survey. If initial pre-planning identifies the potential for a flammable atmosphere (methane), then the under-side of the Confined Space cover shall be "sniffed" prior to opening. If atmospheric tests indicate the atmosphere is safe, then proceed with the entry.
8. Continuous Monitoring: Entries must be monitored continuously. The gas monitor shall be attached to the Entrant during entry and if the meter goes into alarm mode, the Entrant shall exit from the space immediately
  - a. The Non-Permit Confined Space will then be reclassified into a PRCS and no entry shall occur until the atmospheric hazard has been eliminated.
  - b. If it has been determined that there is zero potential for atmospheric hazards (especially at the Wastewater Treatment Plant), continuous monitoring can be waived.
9. Ventilation: "Closed" Confined Spaces (vaults, wet/dry wells, manholes, etc.) may require the use of forced, mechanical ventilation, if fixed ventilation systems are not present. The Entrant will determine the need for ventilation. Natural ventilation should be sufficient in "open" Confined Spaces (clarifiers). However, if there is any doubt about the air quality, then mechanical ventilation shall be used.
  - a. If ventilation is needed:
    - i. Introduce fresh air near the bottom of the immediate area where the Entrant will be present; and
    - ii. Position the fresh air intake in a clean air zone away from all combustion sources (i.e. vehicle exhaust).
    - iii. Retest Air



## EXHIBIT 1

10. Electric: The Entrant must ensure that only double insulated electric tools or tools on a ground fault circuit interrupter system are used and all portable lights and tools are explosion proof where a gas pocket/ potential flammable atmosphere may exist.

### HOT WORK PROCEDURE

Hot Work: Work involving: electric or gas welding; cutting; grinding, heating; soldering; brazing; or similar flame and spark producing operations.

Anytime "Hot Work" is being performed in a confined space; the Bureau of Environmental Services Wastewater Group's Hot Work Permit Policy, or approved contractor policy, shall be utilized and implemented in addition to the Confined Space Entry Permit.

1. The permit is to ensure that the proper planning and precautions are taken prior to work being performed.
2. A management representative or designee (Lead), and the Entry Supervisor shall approve Hot Work, as specified in the Hot Work Policy (Appendix F).
3. The Entry Supervisor and/or Attendant shall fulfill the duties of the Designated Fire Watch as specified in the Hot Work Policy.
4. The Entry Supervisor shall obtain and complete the "Hot Work" permit on the job site and make sure the required signatures have been obtained.
5. The Entry Supervisor shall identify special fire hazards and implement precautions to control those hazards.
6. The Entry Supervisor and crew shall ensure that the Confined Space has been adequately purged and specify methods for flushing and ventilating the space as needed.
7. Compressed gas cylinders will not be allowed inside the Confined Space. Turn valves off when gases are not in use.
8. The Entry Supervisor and crew shall ensure that isolation controls are in place (lockout, blanking, etc.).
9. Continuous atmospheric monitoring shall occur before and during entry to ensure acceptable environmental conditions.
10. The Entry Supervisor shall ensure that personal protective equipment is used (respiratory protection, eye protection, body protection, etc.).
11. The Entry Supervisor shall fulfill the duties of the Process Area Operator as described in the Hot Work Policy for areas where there is no clearly defined Process Area Operator.
12. Upon completion of Hot Work, the Designated Fire Watch shall forward the Hot Work Permit to: Records/B310.

## CONFINED-SPACE ENTRY POLICY

Revised By: Paul Schuberg Date: 12/18/18  
Paul Schuberg, Bureau Safety and Risk Officer

Reviewed By: Mike Reiner Date: 12/18/18  
Mike Reiner, Bureau Risk Services Manager

Approved By: Michael Jordan Date: 1/9/18  
Michael Jordan, Director



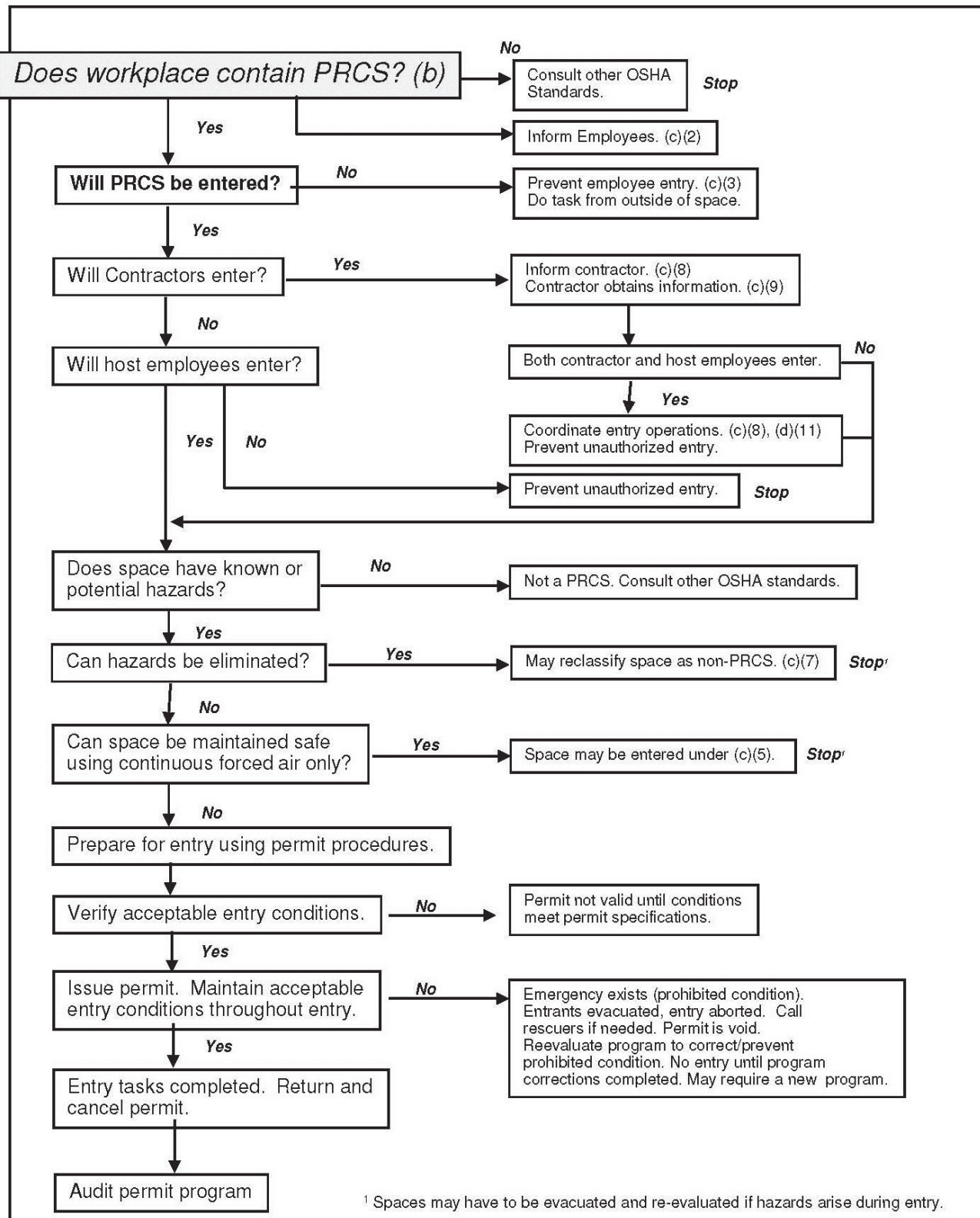
# **BES Confined Space Entry Standard Training Agenda**

1. Goals / Objectives of Class
2. The CSE “Killer”
3. Basic Fundamentals Video: “Confined Space Safety”
4. BES Confined Spaces
  - Overview
  - Fatal Confined Spaces
  - BES Policy & Procedures
  - Completion of Entry Permit
  - Roles and responsibilities of Entry Supervisors, Attendants, and Entrants
  - Identifying and Evaluating Hazards
  - Methods of Eliminating and/or Controlling Hazards
  - Hygiene Practices
  - Readiness
5. Instrument, PPE & Equipment Review
6. Questions/ Discussion
7. Field Rescue and Entry Practice on Site
8. Final Written Exam to Correct & Review

**EXHIBIT 1**  
**GAS METER CHART**

	Oxygen	Methane	Hydrogen Sulfide	Carbon Monoxide
<b>Meter Reading</b>	<b>% O<sub>2</sub></b>	<b>LEL CH<sub>4</sub></b>	<b>ppm H<sub>2</sub>S</b>	<b>ppm CO</b>
Safe Level	Normal = 20.9% Minimum = 19.5% Maximum = 23.5%	< 10% of LEL	< 10 ppm	< 35 ppm
Hazard / Health Effects	16% - fast breathing, drowsiness, nausea 12% - unconscious 6% - death	Explosive	<u>50 ppm</u> – eye irritation, headache, fatigue <u>100 ppm</u> – deadens sense of smell in 3 min.; coughing, burning eyes & respiratory tract. <u>500 ppm</u> – respiratory disturbances in 2-15 min.; strong irritation of eyes; dizziness, collapse <u>1000 ppm</u> - immediate unconsciousness after 1 breath, death in 3-5 minutes	<u>50 ppm</u> – increases risk of heart attack esp. in people working hard <u>500-1000 ppm</u> – Headache, rapid breathing, nausea, weakness, dizziness, mental confusion <u>4000 ppm</u> - coma

## A quick reference to the Permit-Required Confined Space Standard



**BUREAU OF ENVIRONMENTAL SERVICES  
 CONFINED SPACE ENTRY AUTHORIZATION  
*THIS IS NOT A CONFINED SPACE PERMIT***

Date \_\_\_\_\_ Authorization Allowed From \_\_\_\_\_ to \_\_\_\_\_ Project # \_\_\_\_\_

Authorized Bureau Representative \_\_\_\_\_

General Contractor or Company Making CSE \_\_\_\_\_ Company Representative \_\_\_\_\_

Space Location \_\_\_\_\_

Brief Description of Work \_\_\_\_\_

\_\_\_\_\_

Special coordination required for any locations? \_\_\_\_\_ If yes, note below and state if Outage Requests are needed.

\_\_\_\_\_

\_\_\_\_\_

**CHECKLIST OF SAFEGUARDS AND NOTIFICATIONS:** (Check ☐ those that are applicable.)

**POTENTIAL HAZARDS FOR THIS LOCATION**

- ☐ Active sewer with the potential for biohazards  
☐ Toxic atmosphere (low oxygen, flammable gases, hydrogen sulfate, and carbon monoxide)  
☐ Flooding due to wet weather  
☐ Flooding due to operation of pump station  
☐ Industrial Area where hazardous waste may be present  
☐ Potential for Release of Hazardous Energy  
☐ Electrical Hazards ☐ Mechanical Hazards  
☐ Hot Work ☐ Structural Hazards

Other Hazards/Exposures

- ☐ Falls ☐ \_\_\_\_\_  
☐ Traffic ☐ \_\_\_\_\_  
☐ \_\_\_\_\_ ☐ \_\_\_\_\_

**SAFETY PRECAUTIONS/PERSONAL SAFETY**

Procedures

- ☐ Atmospheric Tests  
☐ Ventilation  
☐ Communication  
☐ Rescue Plan  
☐ Traffic Control  
☐ Pedestrian Safety  
☐ Outage Request

Personal Safety Equipment

- ☐ Lighting  
☐ Eye Protection  
☐ Hearing Protection  
☐ Protective Clothing  
☐ Respirator

Energy Isolation

- ☐ Tag and Lockout  
☐ Lines/Valves Blocked  
☐ Public Access

Electrical Safety

- ☐ Explosion Proof  
☐ Sparkless Tools  
☐ Welding Protection

Fire Safety

- ☐ Hot Work Permit Needed  
☐ Extinguisher Available  
☐ Fire Hose Laid Out

Other Precautions

- ☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_

**NOTE:** There may be additional hazards not covered by this checklist, including those hazards created by the tasks your employees will be performing. This document is advisory only. The companies performing entries or having subcontractors perform entries shall be responsible for the safety of their employees and must comply with OR-OSHA Confined Space Entry Rules.

NOTES \_\_\_\_\_

\_\_\_\_\_

Signatures \_\_\_\_\_

(BES Representative)

(Company Representative)

**Electronic Distribution: Company Performing Entry, Project File, BES Safety Rep, and to the following as applicable:**  
**Columbia Boulevard Wastewater Treatment Plant: Operations Supervisors**  
**Tryon Creek Wastewater Treatment Plant: Plant Manager**  
**Pump Station: PUMA Supervisor**  
**Collections System: Maintenance Engineer**

BUREAU OF ENVIRONMENTAL SERVICES

**CONFINED SPACE ENTRY PERMIT**

Entry Notifications:

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

☐ Operations ☐ Maintenance ☐ Contractor ☐ Other

Time: \_\_\_\_\_ am / pm

Description of Work Area and Work to be Performed

Work Group/Division \_\_\_\_\_

**POTENTIAL HAZARDS FOR THIS ENTRY**

- |  |   |  |                                |
|--|---|--|--------------------------------|
| <input type="checkbox"/> Biohazard                   | <input type="checkbox"/> Engulfment         | <input type="checkbox"/> Industrial Area | <u>Other Hazards/Exposures</u> |
| <input type="checkbox"/> Toxic (H <sub>2</sub> S,CO) | <input type="checkbox"/> Stored Energy      | <input type="checkbox"/> Falls           | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Corrosive/Chemicals         | <input type="checkbox"/> Electrical Hazards | <input type="checkbox"/> Noise           | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Flammable (LEL)             | <input type="checkbox"/> Mechanical Hazards | <input type="checkbox"/> Traffic         | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Radioactive                 | <input type="checkbox"/> Structural Hazards | <input type="checkbox"/> Hot Work        | <input type="checkbox"/> _____ |

**SAFETY PRECAUTIONS/PERSONAL SAFETY**

Procedures

Personal Safety Equip.

Energy Isolation

Fire Safety

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> Emergency Rescue Plan | <input type="checkbox"/> Hard Hat              | <input type="checkbox"/> Tag and Lockout    | <input type="checkbox"/> Fire Hose Laid Out             |
| <input type="checkbox"/> Communication         | <input type="checkbox"/> Eye Protection        | <input type="checkbox"/> Blanking/Bleeding  | <input type="checkbox"/> Extinguisher Available         |
| <input type="checkbox"/> Entry Coordination    | <input type="checkbox"/> Hearing Protection    | <input type="checkbox"/> Disconnecting      |   |
| <input type="checkbox"/> Attendant             | <input type="checkbox"/> Foot Protection       | <input type="checkbox"/> Pumping            | <u>Other Precautions</u>                                |
| <input type="checkbox"/> Permit Posted         | <input type="checkbox"/> Hand Protection       |   | <input type="checkbox"/> Traffic Control                |
| <input type="checkbox"/> Atmosphere Tests      | <input type="checkbox"/> Protective Clothing   | <u>Electrical Safety</u>                    | <input type="checkbox"/> Public Access                  |
| <input type="checkbox"/> Ventilation           | <input type="checkbox"/> Respirator            | <input type="checkbox"/> Explosion Proof    | <input type="checkbox"/> Barricades/Cones               |
| <input type="checkbox"/> Traffic Control       | Type: _____                                    | <input type="checkbox"/> Sparkless Tools    | <input type="checkbox"/> Opening Guarded                |
| <input type="checkbox"/> Pedestrian Safety     | <input type="checkbox"/> Fall Protection/Block | <input type="checkbox"/> Welding Protection | <input type="checkbox"/> Radio/Cellular Phone available |
| <input type="checkbox"/> Training              | <input type="checkbox"/> Tripod                | <input type="checkbox"/> G.F.C.I.           |   |
| <input type="checkbox"/> CPR/First Aid         | <input type="checkbox"/> Harness/Lifeline      |   |   |
| <input type="checkbox"/> Hot Work              |  |   |   |

**CONFINED SPACE ATMOSPHERE ANALYSIS**

METER #: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_ CHECK FOR ANY ALARM: \_\_\_\_\_



# EXHIBIT 1

PARAMETER		TEST LOCATIONS				EXPOSURE		METER Alarm Pts.	ALARMS YES/NO
		Sniff	Top	Middle	Bottom	Dose	Peak		
Oxygen	(%)	_____	_____	_____	_____	_____	_____	± 19.5%	_____
Explosivity	(LEL)	_____	_____	_____	_____	_____	_____	≥ LEL	_____
Carbon Monoxide	(%)	_____	_____	_____	_____	_____	_____	≥ 35 %	_____
Hydrogen Sulfide	(%)	_____	_____	_____	_____	_____	_____	≥ 10 %	_____

**ENTRY SUPERVISOR:** (Print) Name/Title\_\_\_\_\_Date\_\_\_\_\_

**ENTRANTS:** Name(s)\_\_\_\_\_

**ATTENDANTS:** Name(s)\_\_\_\_\_

**ENTRY SUPERVISOR**

SIGNATURE:\_\_\_

## EMERGENCY NOTIFICATION:

☐ Call 911

☐ Division Mgr. Ph.#\_\_\_\_\_

☐ Source Control Duty Officer Ph.# 823-7180

**COPIES:** *White:* Post at job site *Yellow:* Submit to Daily Lead *Pink:* Submit to Records/B310

## Pre-Entry Checklist

Date &amp; Time of Entry:

Location of Entry:

	Y	N	N/A
<b>Critical Question:</b> Does space contain or has the potential to contain a hazardous atmosphere, engulfment, or restrictive internal configuration that could trap an entrant or any other recognized serious safety or health hazard? If <u>YES</u> , this is a <b>Permit Required Confined Space with No exceptions</b> .			
1. Has the gas monitor been calibrated within the last 30 days?			
2. Did you fresh air calibrate the monitor prior to conducting atmospheric tests?			
3. When monitored, was the atmosphere acceptable (no alarms given)? Please note levels. _____ O <sub>2</sub> Level _____ LEL Level _____ H <sub>2</sub> S Level _____ CO Level			
4. Will the atmosphere be continuously monitored while space is occupied?			
5. Is there sufficient mechanical ventilation to keep the atmospheric conditions safe?			
6. Could the atmosphere change based on the nature of the work being conducted in the space (hot work, painting, coatings, etc.)?			
7. Are openings adequately guarded against accidental falls into the space?			
8. Are there barriers around the opening to prevent unauthorized entry?			
9. Have all energy sources been locked and tagged?			
10. Are pumps, valves, and lines disconnected, bled, or blocked?			
11. Have Attendants/Entrants/Entry Supervisor been trained and understand their duties/responsibilities?			
12. Is the appropriate safety equipment being used? (PPE, lighting, safety block, etc.)			
13. Have communication procedures been reviewed and understood by everyone?			
14. Have rescue procedures been reviewed and understood by everyone?			
15. Are adequate traffic control measures being taken?			
16. Is access/egress into the confined space <b>less</b> than 20 ft. in height?			
17. Has a review of the history for the confined space revealed a potential for sudden changes that could lead to sudden unexpected hazardous conditions?			
18. Can all the identified hazards be controlled?			

**NOTE: If you checked any shaded area of the checklist or yes to "critical question" at top, the space is automatically Permit-Required.**

☐ **Non-Permit**      **Print Name:** \_\_\_\_\_

☐ **Permit-Required**      **Signature:** \_\_\_\_\_

(Entry Supervisor)

**PERMIT-REQUIRED: Complete Entry Permit as outlined in Procedures**

**NON-PERMIT: Post Checklist at Job site. If entering space without an Attendant contact your supervisor prior to entry and inform them when you should be out of the space. When entry is complete, contact your supervisor and forward checklist to Admin, Front Office at B310**

## EXHIBIT 1

### Appendix F – Example of Multiple copy Form – Do not use

PERMIT#: \_\_\_\_\_

#### HOT WORK

TO BE USED WHEN ANY FIRE, SPARK, OR FLAME PRODUCING OPERATION IS  
BEING PERFORMED

#### Important Note about Confined Space Entry:

Any time Hot Work is being performed in a confined space the Bureau of Environmental

Department Issuing the

Location of

Nature of Job Being

Special

Type of Hot Work to be Performed: (Welding/Cutting/Open

#### CHECKLIST OF SPECIAL REQUIREMENTS

- |  |   |
|--|---|
| <input type="checkbox"/> Fire Watch(s) present with adequate Fire extinguisher equipment ready for immediate use.  | <input type="checkbox"/> Objects to be welded do not transmit heat to unobserved combustibles.                      |
| <input type="checkbox"/> All equipment being worked on has been adequately locked out, isolated, purged, and atmosphere tested as needed.                                      | <input type="checkbox"/> Area has been inspected and all combustibles within 35 feet have been moved or shielded.   |
| <input type="checkbox"/> Hot Work Notice Tag has been posted at the site where work will be performed.   | <input type="checkbox"/> Equipment is in good working condition and proper personal safety equipment is being used. |
| <input type="checkbox"/> If welding on walls, partitions, ceilings, they have been inspected, and all combustible coverings or building materials have been moved or shielded. | <input type="checkbox"/> Fire Watch will remain at the site for at least ½ hour after Hot work is complete          |
|  | <input type="checkbox"/> Confined Space Permit has been obtained and additional precautions have been taken.        |

Date/Time Started: \_\_\_\_\_ Fire Watch(s): \_\_\_\_\_

Persons Performing Hot Work: \_\_\_\_\_

\_\_\_\_\_

Original (White) – Manager

Duplicate Copy (Yellow) – Process Area Operator

EXHIBIT 2: DIGESTER COMPLEX OVERVIEW





EXHIBIT 3: CBWTP OVERVIEW



## **Exhibit D, Contractor's Proposal**

Bid to Provide  
Digester Cleaning, Hauling and Disposal Services  
RFP NO.00001441

to the

CITY OF PORTLAND

Submitted on  
July 7, 2020







July 7, 2020

City of Portland  
Jin Huang, Procurement Services  
1120 SW Fifth Avenue, Room 1050  
Portland, OR 97204

**Re: RFP NO.00001441**  
**Digester Cleaning, Hauling and Disposal Services**

Ms. Jin Huang:

Synagro West, LLC (Synagro) is pleased to respond to the City of Portland's Request for Proposal for the Digester Cleaning, Hauling and Disposal Services with our enclosed proposal. We do not wish to redact any of our information. The following individuals will be Synagro's key contact and project manager for the City:

John Pugliaresi, Sr. Area Sales Manager  
(650) 333-0729 mobile; (916) 853-2065 fax  
jpugliaresi@synagro.com

Ronald Brandon, Operations Manager  
(916) 201-4847 mobile; (916) 853-2065 fax  
rbrandon@synagro.com

Synagro's West Coast operations are managed through our regional office located at 3110 Gold Canal Drive, Suite E, Rancho Cordova, CA 95670.

Having been in business for over 40 years, Synagro is one of the largest biosolids management companies in the country with over 650 municipal and industrial customers and operations in 33 states. We provide ongoing biosolids management services to numerous water and wastewater treatment plants throughout the West Coast and have the personnel and resources in place to successfully perform this program for the City of Portland.

Synagro appreciates this opportunity. Should you have any questions regarding our submittal, please contact Mr. Pugliaresi at the phone number or e-mail listed above. Thank you.

Warm regards,

Emil Kneis  
Sales Support Manager





## 6.b PROJECT TEAM

The project team will consist of 1 lead operator and 3 to 4 operators reporting to the lead operator. The lead operator will report to the project manager. The lead operator and other operators will be on the project on a full-time basis. The project manager will be there a substantial portion of the time.

**Project Manager – Ronald Brandon** Ron has extensive experience in project management both in the biosolids industry and in prior endeavors. Ron has been with Synagro for nearly 3 years. In that time Ron has successfully managed more than 2 dozen projects, including the Portland digester cleaning in 2018 and 2019.

In addition, Synagro will assign the following personnel to support the project:

**Senior Technical Services Manager – Simranpreet Kaur** Since joining Synagro in 2016, Simranpreet (Simi) Kaur has been managing land-based inventory throughout California to meet operational requirements and provide strategic growth for Synagro's biosolids land application business by developing cost-efficient solutions for our customers. She facilitates compliance with all regulatory and permit conditions including frequent monitoring and reporting and provides technical information and presentations to farmers, regulatory agencies, municipal clients and the general public.

During Simi's time at Synagro she has been instrumental in permitting ~600 acres in Solano County for land application of biosolids. She also increased capacity by improving PAN rates for crops at Silva Ranch by ~50% and at Solano by 25%. Simi also supported the preparation of a Conditional Use Permit (CUP) and Report of Waste Discharge (RWD) for Silva Ranch.

Prior to joining Synagro Simi was a Graduate Research Assistant at the University of Nebraska where she planned and conducted field and greenhouse research experiments across various locations in Nebraska including preparing protocols for field layout, mixing and spraying pesticides, data collection, analysis and interpretation. She developed Integrated Pest Management techniques to control glyphosate-resistant Giant Ragweed (*Ambrosia Trifida*) throughout the growing season. Simi's published five research papers during this time in renowned agricultural journals.

Simi holds an MS in Agronomy from the University of Nebraska-Lincoln and a BS in Crop Science from the Punjab Agricultural University in Punjab, India.

**Lee Vernon, West Area Director** – Mr. Vernon has been with Synagro for approximately 5 years. Lee ran a large dewatering operation at the City of Philadelphia, PA wastewater treatment plant that is operated by Synagro. Lee assumed responsibility for the West Area operations in February of 2020. Lee's role will be to support Ron Brandon the project manager as Ron is his direct report.





**John Pugliaresi, Senior Area Sales Manager** - Mr. Pugliaresi has a combined 30 years' experience in the environmental management field with NorCal Solid Waste Systems, USA Waste Services,

Waste Management and Synagro Technologies. His areas of expertise include finance/accounting, operations management and sales. As part of his duties with Synagro, Mr. Pugliaresi has prepared applications for changes in refuse collection and disposal rates for the City and County of San Francisco and implemented operations performance-monitoring programs. Mr. Pugliaresi is responsible for the development of operations and maintenance for all Synagro projects throughout the West Region of the United States.

Mr. Pugliaresi has a Bachelor of Science Degree in Accounting and received his Certified Public Accountant certification in 1982. His extensive experience in finance has enhanced his ability in operational planning and management.

**Frank Foster, Region Safety Officer** - Mr. Foster is the EHS&T Manager for Synagro's Services Division. His responsibilities include the promotion of safety initiatives and training, regulatory compliance with OSHA, DOT, EPA, and the oversight of the Division's injury and accident prevention program. Mr. Foster travels to various operating areas of the company to perform internal safety-review audits and ensures compliant follow-up. Prior to joining Synagro in 2005, Mr. Foster held several safety manager positions for Allied Waste and BFI. He brings with him 20+ years of environmental, health and safety experience in a variety of capacities. Mr. Foster has received extensive training in all areas relating to the Environment, Health, Safety & Transportation field throughout his work experiences and has attended multiple outsources courses, seminars, and professional meetings. He is a member of the American Society of Safety Engineers and the National Safety Council.





## 6.c SERVICE AREA/PROVIDER

- a. List similar projects performed within the last five (5) years, which best characterize capabilities, work quality and cost control

Orange County Sanitation District, Fountain Valley and Huntington Beach, CA  
Digester Cleaning at Both Wastewater Treatment Plants from 2017-2019  
Contact: Shabbir Basrai, P.E. Principal Engineer (714)425-9314  
Project Description: Clean 5 to 8 digesters per year continuously from November 2017 through December 2019  
Project Value; \$2.5 million per year

City of Stockton, CA  
Digester #4 Cleaning 2016 (957 dry tons), Digester #5 Cleaning 2019 (1,800 dry tons)  
Contact: Ali Gharegozloo, P.E. Principal Engineer (209) 937-8787  
Project Description: Clean digesters, dewater contents, beneficial end use of dewatered solids  
Project Value: \$800,000 per digester

East Bay Municipal Utility District, Oakland, CA  
Digester #2 Cleaning 2017 (approx. 500 dry tons)  
Contact: Rebecca Overacre, Principal Engineer (510)287-1251  
Project Description: Clean digester, dewater contents, disposal, and/or beneficial end use of dewatered solids  
Project Value: \$520,000

Cushman Contracting, General Contractor for the City of San Buenaventura (Ventura), CA  
Contact: Kris Ahrens (805) 575-7223  
Clean 3 digesters, clean and video 12" sludge transfer line as part of a capital improvement project – 2019-2020  
Project value: \$877,500.

Cushman Contracting, General Contractor for the City of Thousand Oaks CA  
Contact: Kris Ahrens (805) 575-7223 Clean one digester, dewater, transport and dispose of dewatered contents - 2018  
Project Value: \$318,000

West County Wastewater District – Richmond, CA  
Contact: Aaron Winer, Chief Plant Operator (510)385-6482  
Clean one digester, dewater, transport and dispose of dewatered contents – 2020  
Clean one flow equalization basin, dewater contents, transport and dispose of dewatered contents – 2020  
Emergency dewatering of combined raw primary and secondary waste activated sludge – current  
Project Value: \$600,000





City of Santa Cruz, CA

Contact Name: Anne Hogan, P.E. Principal Engineer (831)420-5425

Multiple digester cleanings from 2012 through 2017, transport and dispose of dewatered contents  
Project Value; Ranging from \$300,000 to \$700,000 per event depending on number and size of digesters

City of Roseville, CA

Contact Name: Bryan Buchanan, P.E. Chief Plant Operator (916)746-1812

Clean one digester, dewater, transport, and dispose of contents

Project Value: \$387,000

- b. List similar projects with other government agencies

In addition to the referenced projects above, the Synagro West Region has provided digester cleaning services to the following cities and agencies

San Francisco, CA, City and County of, 5 digesters from 2010 through 2015

Delta Diablo Sanitation District, Antioch, CA 1 digester 2018

Union Sanitation District, Union City, CA multiple digesters between 2002 and 2018

Grass Valley, CA, two digesters 2014

Escondido, CA, 4 digesters 2013

Inland Empire Utilities Agency, Ontario, CA multiple digesters between 2003 and 2018

Eureka, CA 2 digesters 2013

Arcata, CA, 1 digester 2014

Novato Sanitary District, 2 digesters 2012

Richmond, CA, 2 digesters, 2012 and 2013

Yucaipa Valley Water District, 2 digesters, 2015

Burlingame, CA 1 digester 2019

Portland, OR 3 digesters 2018-2019

- c. Describe your internal procedures and/or policies associated or related to work quality and cost control

Synagro, as the largest biosolids management company in North America, employs the following policies and programs to ensure the integrity of its work quality and cost control:

**Safety** – Synagro has a very robust safety program to protect its nearly 800 employees that continuously service its more than 600 customers. Safety is priority one at Synagro. There can be no work quality or cost control without employee safety. Synagro's safety program highlights include:

- **Stop Work Authority** – All employees have the right to stop a project or a workflow if they feel that there is an unsafe condition or if they are being asked to do something that is unsafe. The issue is reported up the Synagro reporting chain of command and work may not restart until the issue is resolved to the satisfaction of the Region Safety Manager.
- **Written Covid-19 Protocol** (can be provided upon request) – All employees are educated in the protocols associated with protecting themselves, their co-workers, and our clients through review and





training in proper Covid protocols. Each employee is provided the protocol in writing and is provided with all necessary Covid PPE.

- Project Specific Hazardous Assessment Plan (HAZAP) and Job Safety Analysis (JSA)
- Annual safety days – Operations are shut down for region wide safety training and reviews
- Quarterly safety training mandated for all employees – This training is tailored to and required of all employees.
- Weekly safety tailgate meetings on all project sites
- Full time Corporate Safety Director
- Full time Region Safety Managers
- Reporting of “safety saves” and “near misses” which are then reported back through the company’s e mail system
- After action review of any safety issue through issuance of a “Synagro Safety Alert” detailing the incident and the recommendations to avoid injury and promote employee safety
- Strict enforcement of company’s zero tolerance policy as it relates to alcohol and controlled substances
- **Bilingual Resources** – All safety related materials are available in English and Spanish.

#### Quality of work:

Synagro employs several best management practices to ensure it provides its clients the highest level of service in the industry. These practices include:

- **Written grant of authority** that clearly defines each individual’s ability to contractually bind the company. This ensures that contractual commitments are clearly understood and agreements to transact business on behalf of the company are duly authorized.
- **Defined project development process** that lays out a step by step process for preparing Synagro’s response to an Invitation to Bid or Request for Proposal. It promotes the collaboration of the Sales, Cost Estimation, Operations and Technical Services teams as they build the response to the IFB or RFP. The normal procedure is for Synagro to thoroughly investigate the project site, collect samples if necessary, agree on the understanding of the project scope and then develop a set of means and methods (work plan) to meet the project objectives. Once the proposal and proposed pricing are agreed upon by the above teams, it is reviewed and approved by the company leadership in accordance with the **Grant of Authority** above.
- **Project kick-off and transition to operations** – Once a project is awarded to Synagro, an internal Project kick-off is conducted in which the project is transitioned from sales to operations. This includes proper accounting set up, assignment of personnel, confirmation of customer expectations, means of measurement and payment, preparation of all submittals and any other aspect of the project that is significant.
- **Customer Pre-Construction meeting** – Synagro meets with the client prior to mobilizing to ensure a clear understanding of the work to be performed, review of any submittal requirements, periodic meeting schedule and any other steps to confirm there is a clear understanding of expectations and obligations of all the parties.
- **Real Time Project Monitoring** – Synagro project managers have field management tools that provide real time data with project progress vs. budget and schedule expectations. This allows them to address deviations quickly and implement corrective actions if necessary. The primary factors tracked by the project manager include throughput, percent solids, labor







and major operating expenses. This system is backed up through Synagro's recent addition of 'Netsuite' that tracks all contract aspects, including accounting at the project level.

- **Regulatory Compliance**

Biosolids/residuals management programs are subject to a myriad of different environmental, health, safety and transportation (EHS&T) regulatory requirements at the federal, state, and local levels. Regulatory requirements associated with biosolids/residuals management have increased and become more complex over time. A strong compliance program is essential to ensure that regulatory requirements are adhered to and to build and maintain public confidence and acceptance of these programs.

To achieve compliance with regulatory requirements, Synagro has implemented a compliance assurance program referred to as PACT. The PACT program has four key elements - Prevention, Assessment, Corrective Action, and Training. Each of these elements is described below along with the programs Synagro has established under each of the elements.

d. Describe your management and organizational capabilities

Projects that are of the nature of the digester cleaning contemplated by this RFP are managed by the West Region of Synagro through the Washington, Oregon, California Area Director (Lee Vernon). Lee will assign a project manager to the project who has direct responsibility for project delivery. In this case, Ronald Brandon has been designated as project manager. As mentioned previously, Ron has extensive experience at the Portland WWTP having managed two digester cleanings between December 2018 and April 2019.

Ron reports directly to Lee Vernon, the WA, OR CA Area Director. Lee's group, which consists of 3 project managers, 4 lead operators and 12 operators, perform most of the digester and lagoon cleaning in the West Region of Synagro. Synagro is capable of effectively running multiple projects with the existing staff. In addition, Synagro can draw on resources from other regions in the company for staffing and equipment if necessary.

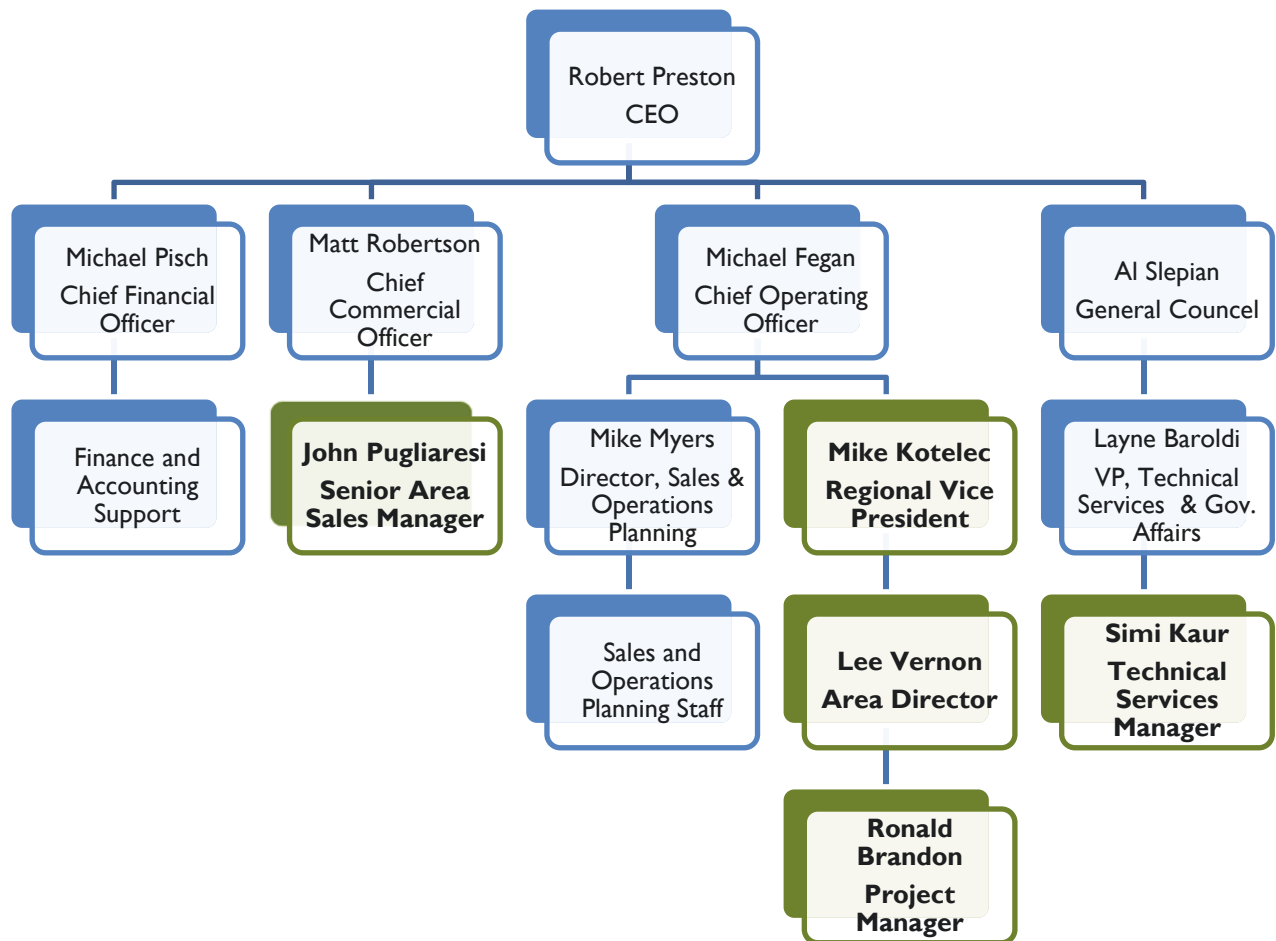
Synagro also has a dedicated technical services team. This team is responsible for maintaining environmental compliance on all projects performed by Synagro. This includes permitting and monitoring of land application programs and profiling of material for landfill disposal. Simranpreet Kaur is the Senior Technical Services Manager assigned to this project.







A company organization chart is included below, with the individuals with Portland digester project responsibility highlighted.





### Overall biosolids management capabilities

Synagro's core business purpose is focused on the management of municipal biosolids, including project development, operations, and biosolids product recycling. This focus has resulted in Synagro being North America's leading provider of high-quality, cost-effective biosolids management and beneficial use services. We have been successfully meeting the biosolids management needs of hundreds of generators for more than 39 years. Synagro's experience in all areas of biosolids management is unparalleled.

Synagro annually manages over 12 million tons of biosolids and other organic by-products for more than 650 generators (including 600 municipal clients). Synagro employs a team of over 850 professional engineers, soil scientists, agronomists, construction managers, financial managers, and the largest, most diverse operational staff in the industry. Our team is dedicated to working with our clients to find the right solution to their organic residuals management challenges. Synagro, and its various subsidiaries, have been at the forefront of the environmental movement to safely process and beneficially market organic residual materials.

Synagro offers virtually all commercially viable processing options and product marketing channels for biosolids and organic residuals including heat drying and pelletization, incineration, composting, alkaline stabilization, digestion, dewatering, land application, and more. This ability to offer the complete range of biosolids options is unique to Synagro and allows us to develop projects that fit a municipality's unique needs. In addition, this breadth of experience provides us with an in-depth understanding of biosolids that other companies simply do not possess.

As the industry leader in providing various forms of project delivery options, we have extensive experience developing and managing biosolids facility design-build-own-operate (DBOO) projects. We currently operate nine heat-drying facilities, three thermal processing facilities, four composting facilities, over a dozen alkaline stabilization facilities, and approximately 70 permanent and mobile dewatering facilities.

Synagro has industry-leading biosolids processing facility development and operating experience, as evidenced with over 100 collective years of successfully operating drying/pelletizing and composting facilities. Synagro has more experience in operating dryer facilities than any other company. Synagro's extensive operational experience helps us to continually improve on the planning, design, construction and operation of successful biosolids drying and pelletization systems. Currently, Synagro operates municipal biosolids dryers at nine municipalities including Philadelphia, PA, Baltimore, MD (2), Sacramento, CA, Honolulu, HI, Pinellas County, FL, Stamford, CT, Hagerstown, MD, and Camden County, NJ. Each of these drying facilities was delivered on time and within budget. In short, Synagro has more specialized expertise developing and managing large biosolids treatment facilities than any other company in North America. We have \$1 billion in committed long-term contract revenues at our 16 operating biosolids processing facilities. These projects total approximately \$500 million in capital infrastructure value.

Synagro is owned by EQT, a Swedish private equity firm with over \$20 billion in assets under management, and is part of EQT Infrastructure II, a fund with a hard cap of over \$2 billion. This fund is dedicated to creating improved value through investing capital and support resources to





companies like Synagro that provide vital infrastructure services. EQT is a strong, stable, financial partner with a stellar performance history and an emphasis on long-term, sustainable investment.

Synagro provides appropriate biosolids management solutions for municipal and industrial generators. We approach each client individually, applying our knowledge and experience to develop and implement the most practical biosolids management program for that client. Technically advanced and environmentally sound options are available through Synagro for both short and long-term biosolids management.

Synagro reviews each available biosolids management option separately as well as in relation to any other existing or potential options. Economic factors play a critical role in determining which option represents the optimum choice for a facility.

Synagro's philosophy in selecting biosolids management alternatives is consistent with the U.S. EPA's biosolids management policy. We strive to provide for the beneficial use of biosolids while maintaining or improving environmental quality.





## 6.d PROJECT APPROACH AND CAPABILITY

- Describe the tasks and activities, the methodology that will be used to accomplish them, and which team members will work on each task.

Task 1 will be to participate in a meeting with City staff to clarify all aspects of the project, including, but not limited to:

- Preparation, delivery, and approval of submittals
- Lock-out tag out procedures
- Identification of lay down area
- Anticipated schedule and project duration
- Billing, measurement, and payment
- Project acceptance and close-out

Synagro will employ industry standard procedures for the cleaning of the digesters at the City of Portland WWTP. Synagro will mobilize the following equipment:

- Heavy duty 6" hydraulic pump
- Digester access equipment, safety harnesses, etc.
- Two 2.2. meter belt filter presses
- One mix tank
- One bio-bin
- One portable generator – 200-250 kw, depending on proximity of lay down area to power supply
- Conveyors, hose pipes, fittings, and pumps
- Safety trailer and equipment
- Back flow preventer, if required and not provided, dependent on water hook-up

Synagro will remove the digester contents using the hydraulic pump and dilution water if necessary. The slurry removed from the tank will be transferred to the mix tank. The mix tank will provide flow equalization and a consistent percent solids feed to the presses. The sludge will be pumped from the mix tank through an in-line polymer injection system to the presses. The presses will dewater the solids to 20% or more, depending on the concentration of the material in the tank. As the cleaning of each digester progresses the percent cake solids will increase as heavier solids material is being removed from the tank.

The polymer system will supply a metered dosage of diluted polymer to facilitate flocculation of the solids. As the material reacts with the polymer, it will be pumped to the belt presses where the liquid sludge will travel across the gravity sections of the presses and eventually to the pressure roller sections. As this point the pressure roller section will squeeze out the water that has released from the solids. The water will return to the filtrate pan where it will be pumped back to the plant headworks through a drain designated by plant staff.

Dewatered solids will be conveyed into a 'bio-bin' which is a debris box like container with its own discharge conveyance system. This bin can hold up to 30 yards of material, allowing the presses to generate material when there is no truck under the conveyors. When a truck and trailer arrive, it will





be parked under the bio-bin discharge conveyor where it will be loaded. The truck will move forward several times as it is being loaded.

Loaded trailers will be tarped and transported to a sanitary landfill by Taylor Transport, Synagro's designated subcontract transporter. Each load will be accompanied by a Synagro cake ticket that will include the following:

- Synagro cake ticket number
- Date
- Truck and trailer number
- Destination

This cake ticket will be matched up with the landfill weight certificate that will include the gross, tare and net weight of the load. This information will be entered into Synagro's e-ticket system. Once percent solids are received back from the City's laboratory, they will be entered into the e ticket system and the basis for billing will be created.

Synagro will provide a monthly billing that is supported by the e-ticket report and weight certificate/cake ticket copies.

- The time frame estimated to complete each digester.

Initial mobilization is expected to take 3 days. This includes equipment delivery, set up and testing. The time required to clean each digester will depend on the volume in each tank. A tank with 266.5 dry tons (1/10<sup>th</sup> of the total bid volume) is expected to take 7-10 operating days.

Mobilization between tanks will take one day or less.

Full demobilization will take 2-3 days.





## 6.e CORPORATE RESPONSIBILITY

**All Proposers shall address the following in their proposals:**

### **(1) Oregon State Certification**

Please indicate in your response if your firm is currently certified in the State of Oregon as an MBE, WBE, or an ESB.

Synagro-WWT, Inc. is not Certified as an MBE, WBE, or an ESB.

### **(2) Minority, Women, and Emerging Small Business Contracting**

- Please list the total project contract amount including scopes of work on Form 1 (Attachment 3 M/W/ESB Participation Disclosure Form 1).
- Points will be awarded based upon the maximum dollars contracted with State of Oregon certified M/W/ESB subcontractors.

### **(3) Workforce Diversity and Community Involvement**

- Describe your firm's workforce demographics and any measurable steps taken to ensure a diverse internal workforce (e.g., women and people of color).

Synagro has an Equal Employment Opportunity Policy and completes a yearly Affirmative Action Plan.

- How do you approach internal on-the-job training, mentoring, technical training, and/or professional development opportunities for women and people of color?

At Synagro we recognize that much of the success of the Company rests on the skills and commitment of our most valuable resource - our people. Therefore, at every level, training and developing employees is seen as central to the health and growth of our organization.

Training is a tool enabling each of us to sharpen our existing expertise and to gain new skills, which will help us to develop personally and professionally and to contribute to improved productivity, standards and level of client service.

Synagro encourages employees to take the opportunities to develop and increase their effectiveness through on-the-job training, in-house or external specialized courses, college courses, correspondence courses, and professional certification. In certain circumstances you may be required to undertake specialized courses because of the complex nature of the work or specific licensing laws.

In addition to on-the-job training, online training is also available to all employees in order to improve their skill sets. Trainings are found on Syntel (internal intranet) and in UltiPro, our new human capital management system.





- Describe your firm's employee compensation structure, (e.g., living wages, healthcare coverage, employee leaves, dependent care, etc.).

Synagro has a comprehensive compensation framework which includes grades and salary ranges in order to be competitive in the industry and market. This allows for career development and promotional opportunities for all employees. Merit increases are reviewed on an annual basis with an effective date within the first week of April.

We also offer an all-inclusive benefits program which offers Paid Time Off, Paid Holidays, Floating Holidays, Health, Dental & Vision Insurance, HSA & FSA savings plans, Life Insurance, STD/LTD Insurance, dependent car FSA, fully vested 401k plan for all new hires and employees, as well as Pet Insurance, Identity theft protection, Home and Auto insurance, Legal support, and Health Advocacy support.

- Describe your firm's commitment to community service, (e.g., charitable programs, scholarships, economic development)

Synagro strives to make a positive difference in the communities across the country where we operate. The work Synagro does in communities supports a cleaner, greener world. Our Creating Sustainable Communities fact sheet offers more detail about how we work to serve the community.

We provide jobs, environmental stewardship, agricultural incentives and community support. Our community outreach efforts include:

- Donations to food banks and other community-based service organizations
- Compost donations
- Soil analysis of farm fields
- Collaboration with local officials on community issues

#### **(4) Sustainable Business Practices**

- List the top five actions/ongoing practices your firm has implemented to reduce the environmental impacts of your operations (e.g., energy efficiency, use of recycled content or non-toxic products, use of public transit or alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.).
  - Synagro has implemented the use of vegetable grade hydraulic oil in its dredges to protect Wastewater Treatment Pond Systems from the environmental impairment that could occur if conventional hydraulic oil leaked into wastewater treatment ponds. This change was made in 2015.
  - Synagro has expanded its land application capacity in Northern California. This allows us to divert more material from landfill disposal, sequestering carbon and reducing the generation of methane by landfills. This is an ongoing process, with an additional 600 acres (15,000 tons of estimated capacity for landfill diversion,
  - Synagro uses recycled products whenever possible, including, but not limited to, recycled paper. Synagro purchases recycled paper exclusively and has done so since 2016.







- Regarding your top five actions, please reference implementation dates and/or timelines, and any performance metrics or third-party awards/recognition (such as Sustainability at Work).

Sustainability practices are one of Synagro's core values although they are not easily measured.

- Does your firm participate in any third-party sustainability related organizations, networks, or committees? If so, list up to five examples and how long your firm has been an active participant in each.

Water Environment Federation – 20 years

Northwest Biosolids Management Association – 10 years

Central Valley (CA) Clean Water Agencies – Associate member – 7 years

United States Compost Council – approx. 20 years

- Contractor shall be an active participant in the EPA SmartWay Program. – As this program relates to transportation contractors and Synagro does not provide its own transportation, it does not currently participate in the EPA SmartWay Program.
- Diesel vehicles used for hauling biosolids shall be model year 2010 or newer or have retrofit emission control



June 18, 2020

To Whom It May Concern:

Synagro Technologies, Inc. develops and implements annual Affirmative Action Plans pursuant to requirements outlined in Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Vietnam Era Veterans' Readjustment Assistance Act of 1974, all as amended.

This letter confirms that Synagro Technologies, Inc. is in the process of developing federally compliant Affirmative Action Plans (AAPs) for the period of July 1, 2019 through June 30, 2020 for all U.S. based employees. These plans are being completed with for all Synagro Technologies, Inc. subsidiary companies. The AAPs are executed by Angela Dicke, Director, Human Resources. Berkshire is completing all required AAPs on behalf of Synagro Technologies, Inc. for 2019 and has maintained AAPs Synagro Technologies, Inc. for the past 2 years, in accordance with federal law.

If you have any questions or concerns, please feel free to contact me at [rachel.rubino@berkshire-associates.com](mailto:rachel.rubino@berkshire-associates.com) or contact Synagro Technologies, Inc. directly at 443-489-9019.

Sincerely,

Rachel Rubino  
Managing Consultant

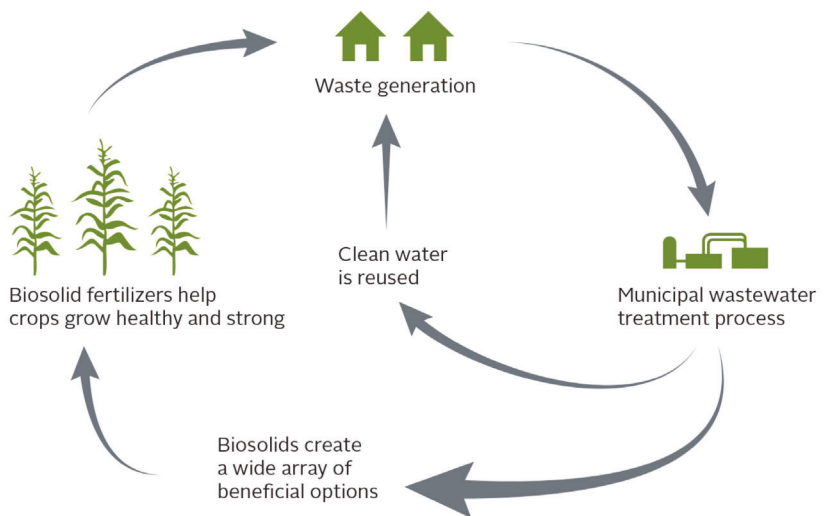


## Biosolids Recycling Facts

Biosolids recycling is an integral link between sustainable soils, communities and economies. When organic materials such as biosolids are recycled into products of value, everyone benefits. A wide range of options are available to local governments to decrease, reuse, recycle, and compost organic materials. Communities that have implemented only some of these programs may find that adding organic recycling programs that pay off large dividends quickly for greater landfill waste diversion.

As part of the circle of life, every community of any size must process the sewage and wastewaters generated by its population and recycling biosolids for added benefit to agriculture and horticulture makes sense. Created during the past 30 years, the biosolids process has resulted in the rapid and remarkable cleansing and restoration of America's rivers and streams.

Land application of biosolids costs less than half of the next available alternative (usually using landfills). The savings realized by municipalities are passed on to communities in the form of reduced taxes along with lower sewer and water bills. More than \$2 billion is spent annually treating and managing approximately 5.3 million dry metric tons of biosolids from publicly-owned wastewater treatment plants in the United States. Because land application is considerably less costly than the next available option, significant savings are realized and passed on to consumer's directly through reduced utility bills and even indirectly through lower prices of products which must cover utility costs.



Farmers can save up to \$150 per acre by using biosolids to amend their soils over chemically produced fertilizers. This translates into thousands of dollars per year depending on the amount of land utilized. This support of local farmers allows them to produce crops more affordably, which keep the prices at the grocery store down.

Rich in plant nutrients, most recycled biosolids are land applied on farms and forests as fertilizers and soil conditioners. Smaller quantities are sold as fertilizer and compost through home and garden centers and landscaping services. Studies have shown that biosolids are safe to recycle and beneficial for soils and the environment.

## Safe & Beneficial

**Biosolids** are nutrient-rich materials created through multiple processes and scientifically-advanced treatment of sewage sludge generated by thousands of municipal water treatment plants all across the country. Biosolids are created when residue is processed according to specific national safety standards. They can then be safely applied to land as a fertilizer and/or soil conditioner to improve and maintain agricultural and forest lands as well as to restore damaged acreage. Since every community of any size must process the sewage and wastewaters generated by its population, recycling biosolids for added benefit to agriculture and horticulture is an environmentally-responsible alternative to landfills and incineration. The benefits and safety of biosolids for agricultural use are well documented by decades of scientific studies and the practical experience of thousands of farmers.

### Benefits to Farmers:

- Biosolids contain many essential plant nutrients to stimulate plant growth and to improve and maintain productive soils.
- Organic matter in biosolids improves the quality and structure of soil, reduces compaction and increases water-holding capacity - a critical benefit for plants during times of draught.
- Farmers report that biosolids application significantly increases productivity of their land - as much as double in some areas of the country.

## Health & the Environment

Although the land application of biosolids has been used and regulated for decades, the practice has been criticized in recent years because of concerns about possible effects on health and the environment. However, extensive scientific research at major universities and investigations by federal and state agencies have failed to establish any link between biosolids and harmful effects on health or the environment. The current nationwide scientific, regulatory and operational consensus on biosolids can best be summarized as follows:

- The preponderance of scientific evidence and practical experience demonstrate that biosolids are safe for humans and animals.
- Land application of biosolids greatly benefits the agricultural community and the environment by recycling valuable nutrients rather than wasting them in landfills or incineration.
- The agricultural use of biosolids helps preserve rural open space and helps protect waterways by enriching soils and helping vegetation grow more vigorously through reduced soil erosion and stabilization of contaminants that have previously contributed to stream and groundwater pollution.
- Cities and towns that generate biosolids and the farmers and companies that land apply biosolids are responsible members of the environmental protection community.
- Federal, state and local regulations effectively protect the health and safety of the public.

### Helpful Links

[www.synagro.com](http://www.synagro.com)  
[www.epa.gov](http://www.epa.gov)  
[www.nebiosolids.org](http://www.nebiosolids.org)

### What We Do

Founded in 1986, Synagro is the leading green processor of organic by-products in the United States. Working with over 600 cities and governments across the country, Synagro's renewable solutions for communities reduce pesticide and fertilizer use, minimize harmful run-off, and allow communities to meet or exceed environmental regulations, compelling new modes for achieving sustainable balance.

### CONTACT US

800.370.0035  
435 Williams Court, Suite 100  
Baltimore, MD 21220

[pr@synagro.com](mailto:pr@synagro.com)  
[www.synagro.com](http://www.synagro.com)

March 12, 2020

Delegation of Authority

FROM: Matt Robertson, Chief Commercial Officer


TO: Emil Kneis, Sales Support Manager

In consideration of the closing of our corporate office in response to the COVID-19 pandemic and in anticipation of continued disruption in normal company procedures, I, Matt Robertson as Chief Commercial Officer of Synagro Technologies, Inc. and all of its affiliates and subsidiaries, hereby delegate to you, Emil Kneis, authority to sign binding bids and awarded contracts as an officer or as an authorized person. Such authority does not alter our internal approval processes. This delegation of authority is valid from the date of this letter until revoked by me.

  
Matt Robertson

3/12/2020  
Date

**ATTACHMENT 1**  
**REPRESENTATIONS, CERTIFICATIONS, AND ACKNOWLEDGMENTS**  
**DIGESTER CLEANING, HAULING AND DISPOSAL SERVICES**  
*[must be submitted with bid]*

PROPOSAL DATE	July 7, 2020
PROPOSER NAME	Synagro West, LLC
PROPOSER DOING BUSINESS AS	Corporation
PROPOSER ADDRESS	435 Williams Court, Suite 100, Baltimore, MD 21220
AUTHORIZED REPRESENTATIVE NAME	Emil Kneis
AUTHORIZED REPRESENTATIVE TITLE	Sales Support Manager
AUTHORIZED REPRESENTATIVE PHONE	443-489-9012
AUTHORIZED REPRESENTATIVE EMAIL	ekneis@synagro.com
AUTHORIZED REPRESENTATIVE MAILING ADDRESS	435 Williams Court, Suite 100, Baltimore, MD 21220
AUTHORIZED REPRESENTATIVE SIGNATURE	
LOCAL REPRESENTATIVE	John Pugliari
LOCAL REPRESENTATIVE PHONE	650-333-0729
LOCAL REPRESENTATIVE EMAIL	jpugliari@synagro.com
CITY OF PORTLAND BUSINESS LICENSE TAX ACCOUNT #	200387
STATE OF OREGON REGISTRY NUMBER	341523-97
FEDERAL TAXPAYER IDENTIFICATION NUMBER (TIN)	76-0612566
TYPE OF ORGANIZATION	<input type="checkbox"/> Sole proprietorship; <input type="checkbox"/> Partnership; <input checked="" type="checkbox"/> Corporate entity (not tax-exempt); <input type="checkbox"/> Corporate entity (tax-exempt); <input type="checkbox"/> Government entity (Federal, State, or local); <input type="checkbox"/> Other _____.
COMMON PARENT	<input type="checkbox"/> Offeror is not owned or controlled by a common parent: <input checked="" type="checkbox"/> Name and TIN of common parent: Name <u>Synagro-WWT, Inc.</u> TIN <u>52-1130492</u>
RESIDENT PROPOSER	<p>All Proposers must state whether or not they are an Oregon resident Proposer as defined in ORS 279A.120, a resident Proposer is one who has paid unemployment taxes or income taxes in the State during the twelve (12) calendar months immediately preceding bid submission, has a business address in Oregon, and has stated in their bid to be a resident bidder.</p> <input type="checkbox"/> Proposer is a Resident Proposer <input checked="" type="checkbox"/> Proposer is not a Resident Proposer State of Residence <u>California</u>

## ATTACHMENT 2 PRICE SCHEDULE

<b>Description</b>	<b><u>Unit</u></b>	<b><u>Est. Quantity</u></b>	<b><u>Unit Price</u></b>	<b><u>Extended</u></b>
Mobilization	lump sum	Charge for bringing in all their equipment to work site and set-up	\$85,146.75	\$85,146.75
Dry tons removed, dewatered, hauled	dry ton (dT)	2,665 d/T	594.50 \$/dT	\$1,578,397.50
Demobilization	lump sum	Charge for removing all their equipment from work site and clean-up	\$45,848.25	\$45,848.25
Stand by Days	day	10 days	\$6,694.275	\$66,942.75
<b>TOTAL</b>				<b>\$1,776,335.25</b>



**INSTRUCTIONS FOR ATTACHMENT 3  
MWESB PARTICIPATION DISCLOSURE FORM 1**

The City's disclosure program is used to document the utilization of Oregon certified Minority, Women and Emerging Small Businesses (M/W/ESBs) on City projects.

This Request for Proposal (RFP) requires submission by the Proposer of the City's M/W/ESB Participation Disclosure Form 1. Proposers must disclose the following information with their proposal response:

- 1) Contact information and Employer Identification Number (EIN or FED ID#) for all contract participants
- 2) State of Oregon M/W/ESB designation. **(Verify current certification status with the Office of Minority, Women, and Emerging Small Business at <http://egov.oregon.gov/DCBS/OMWESB/index.shtml>)**
- 3) The proposed scope or category of work that the Proposer and any subcontractors will be performing
- 4) The dollar amount of the Proposer's self-performing work and of all subcontractors' contract(s)
- 5) Percentage of total contract amount allocated to Oregon certified M/W/ESB participation

Report all amounts in United States Dollars (USD). The use of 'TBD', 'N/A', or similar symbols is not acceptable. All requested information must be provided.

If the Proposer will not be using any subcontractors, the Proposer is still required to enter its own information in the appropriate section and to indicate **"NONE"** in the subcontractor section of the accompanying form and submit the form with its proposal.

**FAILURE TO SUBMIT THE City's M/W/ESB PARTICIPATION DISCLOSURE FORM 1 WITH THE PROPOSAL MAY RESULT IN THE PROPOSAL BEING FOUND NON-RESPONSIVE AND REJECTED FROM CONSIDERATION**

**ATTACHMENT 3  
CITY OF PORTLAND  
M/W/ESB PARTICIPATION DISCLOSURE FORM 1**

This Request for Proposal requires submission by the Proposer of the following information and presented on this M/W/ESB PARTICIPATION DISCLOSURE FORM 1. Proposers must disclose the following information:

**Please print all information clearly.**

**Proposer Name:** Synagro West, LLC **Proposer's Total Cost: \$** \$1,776,335.25

**Project Name:** Digester Cleaning, Hauling and Disposal Services **RFP Number:** RFP No. 00001441

**Contact Name:** John Pugliaresi **Phone:** 650-333-0729 **Email:** jpugliaresi@synagro.com

<b>Percentage of total contract amount allocated to Oregon certified M/W/ESB participation</b>	<b>(Proposer &amp; subcontractors added together)</b>	10.7 %
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<b>PROPOSER INFORMATION (Please Print)</b>	<b>M/W/ESB</b>	<b>SCOPE / TYPE OF WORK</b>	<b>SELF- PERFORMING AMOUNT</b>
Firm Legal Name: Synagro West, LLC Email: <a href="mailto:jpugliaresi@synagro.com">jpugliaresi@synagro.com</a> Phone #: 650-333-0729 Fax#: 443-489-9042 <b>FED ID OR EIN # (No SS#):</b> 76-0612566	N/A	Digester Cleaning and Dewatering	\$ 1,586,000.00
<b>SUBCONTRACTOR INFORMATION (Please Print)</b>	<b>M/W/ESB</b>	<b>SCOPE / TYPE OF WORK</b>	<b>SUBCONTRACT AMOUNT</b>
Firm Legal Name: Taylor Transport Email: <a href="mailto:miked@taytransport.com">miked@taytransport.com</a> Phone #: 360-573-5600 Fax#: 360-573-7469 <b>FED ID OR EIN # (No SS#):</b> 91-2110506	WBE	Transportation	\$ 190,000.00
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$
Firm Legal Name: Email: Phone #: Fax#: <b>FED ID OR EIN # (No SS#):</b>			\$

**NOTE:**

- 1) The Proposer and all subcontractors must be listed on this form. Leave M/W/ESB column blank if firm is not confirmed as currently certified through the State of Oregon Office of Minority, Women, and Emerging Small Business: <http://egov.oregon.gov/DCBS/OMWESB/index.shtml>.
- 2) If the Proposer will not be using any subcontractors, please indicate "NONE" in the Subcontractor Information section of this form.
- 3) Do not enter Social Security numbers on this form.

**ATTACHMENT 4**  
**REQUIRED REFERENCES – 0 POINTS**

**INSTRUCTIONS:** Provide a minimum of three (3) current professional references that you have performed digester cleaning for.

**Proposer Name:** Synagro West, LLC

**Project Name:** RFP #00001441 Digester Cleaning, Hauling and Disposal Services

**REFERENCES**

All References will be verified. (Note: Failure to complete information may be cause for proposal rejection).


**Supportive References of Similar Scope:**

1. **Name of Company** City of Stockton  
 Address: 2500 Navy Drive, Stockton, CA 95206  
 Contact Name: Ali Gharegozloo, Project Engineer  
 Contact Phone Number: 209-937-8787 Email: agharegozloo  
 Length of Service: August 2016; clean two digesters, 1.2 million gallons each - 2009 and 2010  
 Description of work performed: Clean digester, dewater contents, transport and disposal of 475,000 gallons
  
2. **Name of Company** East Bay Mud Utility District  
 Address: 375 Eleventh Street, 1st Floor, Oakland, CA 94607  
 Contact Name: Andrew Akelman, Manager of Purchasing  
 Contact Phone Number: 510-287-1251 Email: andrew.akelman@ebmud.com  
 Length of Service: One year  
 Description of work performed: Clean Digester No. 2. Dewater and dispose of all solid material removed from the digester and return the dewatering filtrate to the plant headworks
  
3. **Name of Company** Orange County Sanitation District  
 Address: 10844 Ellis Avenue, Fountain Valley, CA 92708  
 Contact Name: Diedre Bingman, Purchasing Manager  
 Contact Phone Number: 714-593-7456 Email: dbingman@ocsd.com  
 Length of Service: July and November 2016  
 Description of work performed: Clean two digester, dewater contents, transport and disposal, 500,000 to 700,000 gallons each

**[END OF ATTACHMENT 5 – REFERENCES]**

**Exhibit E  
Sample Forms**

**Exhibit E-1: STATUS REPORT**

	<b>BUREAU NAME</b>	<b>Bureau Logo</b>	
<b>Contractor</b>		<b>Project Title</b>	
<b>Contract No.</b>		<b>Report Date</b>	
<b>Contract Date</b>		<b>Submitted by:</b>	

**1. Key Status Indicators:**

Description	No	Yes	Explanation
Has scope changed?			
Will target dates slip?			
Are there resource problems?			
Any other issues?			

**2. Major Activities Completed For Reporting Week (Key Accomplishments):**

Activity	Comment(s)

**3. Major Activities Planned For Reporting Week and Not Completed:**

Activity	Comment(s)

**4. Major Activities Planned For Next Week:**

Activity	Comment(s)


**5. Status of Key Team Deliverables:**

Deliverable	Comment(s)

**6. Major Issues Requiring Immediate Attention:**

Issue	Resolution

**7. Weekly Summary of Performance by Individual**

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

**Exhibit E-2: FINAL ACCEPTANCE CERTIFICATE**  
(08/19)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the City certifies **Final** Acceptance of **(name of Deliverable(s))**, in accordance with Contract No. \_\_\_\_\_. This Certificate of **Final** Acceptance is issued subject to the following exceptions:

- 1.
- 2.
- 3.

Exceptions must be completed by \_\_\_\_\_. If Exceptions are not completed by \_\_\_\_\_, the City may revoke **Final** Acceptance of the Deliverables.

This Certificate of **Final** Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverable(s) described herein.


**CITY OF PORTLAND**

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

### Exhibit E-3: CHANGE ORDER

	<b>BUREAU NAME</b>	<b>LOGO</b>

#### CHANGE ORDER

Contractor		Project Title	
Contract No.		Change Order No.	*SAMPLE*
Contract Date		Change Order Date	

Select	Type	Description and Reason for Change	Modification to:
<input type="checkbox"/>	Time		Project Schedule and/or Contract
<input type="checkbox"/>	Scope or Specifications		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Deliverables		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Price		Statement of Work and/or Contract
<input type="checkbox"/>	Terms and Conditions		Request Amendment to Contract
<input type="checkbox"/>	Other		

1. Additional time is necessary and the Project Schedule for the Statement of Work or a specific Deliverable is hereby extended through **(DATE)** or modified as shown on the attached Project Schedule.
2. Additional work or a change in work or Specifications is necessary. **For example, changes to the Statement of Work, Deliverables and/or the Acceptance.**
3. A price adjustment is necessary for the following Deliverables. These changes will NOT affect the total not-to-exceed value of the Contract. **For example, price changes that show the original price and the modified price.**



4. An Amendment to the Contract is requested for the following reasons. For example, any change to the total value of the Contract, the term or ending date of the Contract, or the Contract terms and conditions requires an Amendment.

The Change Order is subject to the terms and conditions of the above-referenced Contract.

The rest of the Statement of Work shall remain unchanged and in full force and effect.

**CITY OF PORTLAND**

**CONTRACTOR**

---

Authorized Signature

Date

---

Authorized Signature

Date

---

Printed Name

---

Printed Name

---

City Project Manager

Title

---

Title