



CITY OF PORTLAND

CONTRACT FOR SERVICES for Financial and Federal Compliance Audits of the City of Portland and Reporting Entities Beginning FY 2021-22

Contract 30008009

As authorized by City Charter Section 2-506, this Contract is made effective on April 1, 2022 ("Effective Date") by and between the City of Portland ("City"), a municipal corporation of the State of Oregon, acting by and through the City Auditor, and Moss Adams LLP ("Contractor"), a limited liability partnership, 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 March 31, 2025, with the City's option to extend for two additional one-year periods, for a total not to exceed five years. The total not-to-exceed amount under this Contract shall be \$3,507,444 for the duration of the Contract including extensions.

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

For City of Portland:	For Contractor:
Minh Dan Vuong	Keith Simovic, CPA
Performance Auditor/contract manager	Partner
City Auditor's Office	Moss Adams
1221 SW 4 th Avenue, Room 310	805 SW Broadway, Suite 1200
Portland, OR 97204	Portland, OR 97205
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(503) 823-3543	(503) 478-2284

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 \$3,507,444 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

WHEREAS, to further its government operations, the City of Portland desires to receive financial and federal compliance audits for itself and reporting entities beginning with fiscal year 2021-22 (the "Project"); and

WHEREAS, the City issued Request for Proposal (RFP) 00001763 for these services; and

WHEREAS, Contractor, in its Proposal dated December 1, 2021 and submitted in response to the City's RFP represented that it has the knowledge, experience, and expertise in these services; 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, 2/22) 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. Acceptance Criteria are set forth in Section B.5 of the Contract.

“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 or Task Order. 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” (04/2020) means an exceptional, unforeseeable 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 3.12 to fill Key Positions.

“Key Position” (11/18) means a job position critical to the success of the Project as identified in Section 3.12 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 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
5. Exhibit B, Statement of Work
6. Exhibit C, City RFP 00001763
7. Exhibit D, Contractor's Proposal
8. Exhibit E - Sample Documents: E-1 Change Order, E-2 Task Order, E-3 Sample Invoice, E-4 Independence Memorandum
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.
- 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, 1/22) 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 exercising options, 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 or Task Order 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 Diversity Requirements. (10/21) The City values, supports, and nurtures diversity, and encourages any firm contracting with the City to do the same. The Contractor shall submit to the City an Annual Diversity in Workforce Report (ADWR), made part of this Contract by reference. This report shall list in numeric and percentage terms the racial and gender diversity for each of the following four categories of personnel: (1) partners in the firm, (2) senior managers and managers in the firm, (3) senior auditors and staff auditors and specialists of the firm, and (4) the project team assigned to this Contract. The report shall use the racial and ethnic categories established by the Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for record-keeping and reporting required under the Executive Order 11246. The OFCCP ethnicity groups are currently Whites; Blacks; Hispanics; Asian/Pacific Islanders; and American Indians/Alaskan Natives. The Contractor shall certify that the information contained in the ADWR is complete and accurate. (Also refer to Section B.3.7)

The Contractor shall continue its outreach when recruiting to ensure that all its job postings reach external agencies/organizations that represent females, minorities, veterans, and persons with disabilities.

- 3.7 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Exhibit A: Contractor's Price.
- 3.7.1 Payment shall be issued 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. Refer to sample invoice in Exhibit E.
- 3.7.2 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.
- 3.8 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 require that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.
- 3.9 Records and Audits (06/19)
- 3.9.1 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.

- 3.9.2 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.
- 3.9.3 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.
- 3.9.4 Access to Workpapers. (01/22) Contractor shall make available for inspection, at any time within six years from the date of final payment, all work papers, documents, or other materials produced by the Contractor in connection with this Contract, to authorized representatives of bona fide "peer review" firms, the City's cognizant federal audit agency, an authorized successor contractor (upon execution of appropriate authorization and access letters), and the State of Oregon, Secretary of State, Division of Audits.
- 3.10 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.
- 3.11 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.
- 3.12 Personnel.
- 3.12.1 Key Positions and Personnel. (09/17) The Parties have identified Key Positions and Key Personnel as set forth in the table below, along with the approximate percentage of their time to be allocated to the City's Projects:

Key Position	City financial audit	City IT review	Single Audit	Prosper Portland financial audit	Prosper Portland IT review	FPDR financial audit	Mt. Hood financial audit
Partner	McCleary-Moore 20%		McCleary-Moore 10%	McCleary-Moore 15%		McCleary-Moore 10%	McCleary-Moore 10%
Concurring Review Partner	Tish 10%		Tish 5%	Tish 5%		Tish 5%	Tish 5%
Senior Project Manager	Simovic 40%	Annen 20%	Simovic 20%	Simovic 30%	Annen 20%	Simovic 20%	Simovic 20%
Managers	Hale 75%			Brownson 40%		Pease 40%	Rowlands 30%
Specialists		Kalimanis 90%, IT Senior			Kalimanis 90%, IT Senior		

Keith Simovic shall be the main point of contact for communications with City’s Contract Manager.

3.12.2 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 contract manager. 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 3.12.4.

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.

(10/21) Upon City Contract Manager’s request, Contractor shall rotate individual Key Personnel.

(10/21) Upon City Contract Manager’s request, Contractor shall immediately remove specific Personnel from the City’s and reporting entities’ audits.

3.12.3 Junior Personnel. (10/21) Contractor’s personnel at the “Senior Auditor” or “Staff Auditor” level are not considered Key Personnel. Contractor shall assign Senior Auditors or Staff Auditors such that at least half of them have more than one year of experience in municipal government auditing or Single Audit. Contractor shall be responsible for training its Senior Auditors and Staff

Auditors about the City and its reporting entities' audit, processes, and background. City will not train Contractor's personnel.

- 3.12.4 Security Requirements for Personnel. (09/17, 2/22) Contractor shall conduct a criminal history/records check of all employees that will have access to City information, systems, or payments and ensure ongoing security requirements for personnel are maintained, and require the same of subcontractors. Pre-employment background checks are acceptable for this purpose. Contractor warrants it has completed such criminal history/records checks for employees assigned to the City's project. The City reserves the right to perform background checks upon Contractor and Subcontractor staff who are assigned to the work covered by this Contract.
- 3.13 Termination. (06/19, 01/22) The following conditions apply to termination of this Contract. The City, on written notice to Contractor, may terminate this Contract for convenience at any time for any reason in the City's sole discretion with immediate effect. 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 any early 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. No other costs or loss of anticipated profits shall be paid.
- 3.14 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.15 Material Breach. (09/17, 01/22) 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 fifteen (15) Calendar Days of the notice, then the Party giving the notice shall have the option to terminate this Contract by giving a written notice of termination. If the City terminates, the City is entitled to all remedies available at law or equity. In addition, Contractor shall pay the City all damages, costs, and sums incurred by the City as a result of the breach. If Contractor justifiably terminates, Contractor's only remedy is payment for work prior to the termination; no other costs or loss of anticipated profits shall be paid. If City's termination was wrongful, the termination shall automatically convert to one for convenience and Contractor shall be paid as if the Contract was terminated under Section 3.13.
- 3.16 City impediment. (1/22) Contractor may terminate this Contract for cause related to any City actions that impede Contractor's ability to perform, according to applicable auditing standards, services under this Contract upon thirty (30) days advance notice to the City, and after allowing City an opportunity to dispute or correct the impeding actions as provided by Section 3.15 above.

- 3.17 Force Majeure. (09/17) Either Party may terminate this Contract due to a Force Majeure event as set forth in Section 5.13, Force Majeure.
- 3.18 Loss of license. (10/21, 1/22) The City may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit, or certificate that Contractor must hold to provide services under this Contract. This includes failure to pass an external peer review in accordance with Government Auditing Standards. This also includes loss of the municipal auditor license with the Oregon Board of Accountancy.
- 3.19 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.
- 3.20 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 5.8, 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.
- 3.21 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.
- 3.22 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.
- 3.23 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.

- 3.24 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.
- 3.25 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.
- 3.26 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.
- 3.27 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.

(2/22) Use of Moss Adams Name. The City may, without prior written permission from Moss Adams, reference or release Moss Adams' name and audit report in written public communications, press releases, and other publicly available reports in the normal course of providing information to the public.

The City may, without prior written permission from Moss Adams, reference Moss Adams' name and role as auditor in documents offering securities, and the City may, without prior permission from Moss Adams, reference or release Moss Adams' audit report in documents offering securities, provided that in either event the City include the following disclaimer language:

"The City's financial statements as of June 30, 20XX [and 20XY,] and for the year[s] ended June 30, 20XX [and 20XY], [included herein as [Appendix X],] have been audited by Moss Adams LLP, independent auditors [, as stated in its report appearing herein]. The audited financial statements of the City are public documents. The City has not requested that Moss Adams LLP provide consent for inclusion of its name [or audit report] in this Official Statement [, and Moss Adams LLP has not been engaged to perform, and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report]. Moss Adams LLP also has not performed any procedures relating to this Official Statement."

Except as provided above, in connection with any fundraising or financing activity (including without limitation bond offerings), the City shall not associate Moss Adams with any particular position on or endorsement of City activities or finances without Moss Adams' prior written permission, at Moss Adams' sole discretion. City agrees to provide draft offering materials relating to the fundraising or financing activity with adequate time for Moss Adams' review. If Moss Adams permits the use its name, the City agrees that Moss Adams will be included on each distribution of draft offering materials and will receive a copy of the final official statement or prospectus.

- 3.28 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.
- 3.29 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.
- 3.30 COVID-19 Requirements. (11.18.21, 1/22) The Parties acknowledge and agree that this Contract will be executed and performed during the COVID-19 pandemic. While Oregon is under a declaration of emergency associated with the COVID-19 pandemic, Contractor shall, in the performance of the Services, comply with all applicable requirements and guidance issued by federal, state, and local authorities pertaining to COVID-19 (including but not limited to CDC, OSHA, Oregon's Governor, Oregon Health Authority, and Multnomah County Health Department). The applicable guidance and requirements include, but are not limited to, those pertaining to Oregon phased reopening and sector activities, reduction in gathering sizes appropriate to the type of location and activity, complying with and implementing health protocols, maintaining social distancing, and wearing face coverings. Contractor is solely responsible for implementing its safety plan and protocols and addressing any COVID-19 related claims pertaining to its activities and provision of Services under this Contract.

As of January 3, 2022, the City of Portland requires proof of COVID-19 vaccination for anybody performing in-person work for at least 15 minutes at the City's indoor facilities. Contractor must attest that any of its personnel who are on site at the City's indoor facilities are fully vaccinated for COVID-19 or have a medical or religious exception verified by their employer. This requirement and details may change. Additional information is available on the Procurement Services website:
www.portland.gov/omf/brfs/procurement/vendor-vaccine-requirement.

- 3.31 **Access to City Facilities.** (11.18.21) Contractor agrees that Contractor's physical or remote access to City facilities shall be subject to the security interests and health controls necessary to protect public property, City employees, and the public. The City shall not be liable for any delays necessary in granting Contractor access to any portion of the facilities or systems.

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 Auditee's Confidential Information. (08/19, 1/22) Contractor shall treat as confidential any 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 (including information provided by Prosper Portland or Mt. Hood Cable Regulatory Commission). Contractor shall use 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 Confidential Information. Contractor shall (1) limit disclosure of the Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the Confidential Information in connection with the City Project and who have agreed in writing to or are otherwise bound by confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the 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) upon the City's request return originals or destroy all copies of 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. Notwithstanding the foregoing, or anything in this Contract to the contrary, Contractor may retain Confidential Information to the extent incorporated into its working papers supporting its professional services. Contractor shall maintain confidentiality of such information until the working papers are destroyed in accordance with its document retention policies.
- 4.4.3 Contractor's Release of Information. (10/21) If the Contractor reviews documents that are exempt from disclosure under the Oregon Public Records Act, the Contractor shall not disclose such records to any third party without written City approval. In the event of an external peer review of the firm, conducted in accordance with auditing standards, the Contractor shall not disclose records to the reviewing party unless the reviewing party agrees to or is otherwise

bound by nondisclosure of exempt City records. Contractor shall be fully liable for any unauthorized disclosure and shall indemnify, defend, and hold harmless the City for any and all claims, losses, damages, and costs (including reasonable attorney fees) resulting from such disclosure.

- 4.4.4 Scope. (09/17) This Contract shall apply to all 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.
- 4.4.5 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of 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 seek 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.
- 4.4.6 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.
- 4.4.7 Information security. (10/21) Contractor shall provide prompt notification to the City's Contract Manager of any security breach that affects City, Prosper Portland, or Mt. Hood Cable Regulatory Commission systems or Confidential Information. Contractor shall provide notification to the City's Contract Manager of any incident relating to System integrity that resulted in the unauthorized disclosure of Confidential Information. Contractor shall maintain controls based on ISO 27000 Series as defined in SOC2 Type 1 report.
- 4.4.8 Confidentiality agreements. (10/21) Contractor personnel shall sign confidentiality agreements when requested by City on a form acceptable to the City.

SECTION 5 **CONTRACTOR PERFORMANCE, 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 applicable 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 Contract 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. The City Auditor's Administrative Rule 2.02 covers certain employees of the City Auditor's Office as well as contractors providing services to the City Auditor's Office. Contractor warrants its compliance with terms and conditions HR 2.02 and ARA 2.02 as further described at: www.portlandoregon.gov/citycode/27929, www.portlandoregon.gov/auditor/article/665822.
- 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 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 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 Contract.

At minimum, Contractor shall do the following:

Contractor shall document each ADA request for modification to the Products or Services and Contractor's fulfillment of the request. If Contractor determines that it is unable to promptly fulfill the request for modification under the ADA, Contractor will contact the City contract manager within the same business day, proving reasons why Contractor is unable to fulfill the request for modification and to identify alternate accessibility options that Contractor can perform.

Within twenty (20) Business Days after receipt, City and Contractor shall advise the other Party in writing, and provide the other Party with copies (as applicable) of any notices alleging violation of or noncompliance with the ADA relating to the Agreement, or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to the Agreement or the programs, Products, Services or activities that Contractor is undertaking 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.

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 payment is made prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.

- 5.6 No implied indemnity. (2/22) For avoidance of doubt, breach of any of the foregoing warranties shall not entitle any party to any form of implied or equitable indemnification, and any right thereto is hereby irrevocably waived and disclaimed by each of the parties.
- 5.7 No Third Party to Benefit. (09/17, 1/22, 2/22) This Contract is entered into for the benefit of the City and Contractor. All services shall be solely for the City's informational purposes and internal use, and this contract creates no privity between Contractor and any person or party other than the City ("third party"). None of Contractor's services are intended for the express or implied benefit of any third party, and no third party is entitled to rely on the services Contractor provides to the City. 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. Notwithstanding the foregoing, the Statement of Work attached as Exhibit B contemplates financial statement auditing services to be provided to Prosper Portland and Mt. Hood Cable Regulatory Commission, which are separate entities from the City, but whose information will be included in the City's financial statement audit under the City's auditing authority related to these two entities. Services to be provided directly to Prosper Portland and Mt. Hood Cable Regulatory Commission will be the subject of separate engagement agreements. Nothing in this Section 5.7, is intended to limit Prosper Portland's or Mt. Hood Cable Regulatory Commission's access to financial audit reports related to their independent financial statements.
- 5.8 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.
- 5.9 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.

- 5.10 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.
- 5.11 Subcontractors. (10/19) (1/22) Contractor does not anticipate using any subcontractors. 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.

- 5.12 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

- 5.13 Force Majeure. (01/19)
- 5.13.1 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.
- 5.13.2 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.

- 5.13.3 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.
- 5.13.4 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.

- 5.14 Ownership of Property. (2/22) The Client shall own all final reports and other completed deliverables created under this Contract and delivered to the Client, excluding any Contractor Material (defined below) contained or embodied therein (“Work Product”). However, the Client may not alter or amend any Work Product issued under Contractor’s name. Contractor may retain a copy of Work Product for archival purposes.

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.

Contractor shall own: (i) its working papers and any engagement documentation; and (ii) any general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, materials, or other intellectual property which may have been discovered, created, received, or developed by Contractor either prior to or as a result of providing services under the Contract (collectively, “Contractor Materials”).

The City shall have a non-exclusive, non-transferable license to use Contractor Materials for its own internal use and only for the purposes for which they are delivered to the extent they form part of a Deliverable.

Notwithstanding anything to the contrary in this Contract, Contractor and its personnel are free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of this Contract so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information of the City.

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 Personal Injury and Property Damage Indemnity. (1/22) Contractor shall indemnify, defend and hold harmless the City of Portland, its officers, agents, and employees, from all third party claims, demands, suits, and actions for all losses, damages, liabilities, costs and expenses (including all attorneys' fees and costs), resulting from bodily injury (including death), damage to real property, and damage to tangible personal property to the extent caused by the intentional misconduct, or reckless or negligent actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract. This duty shall survive the expiration or termination of this Contract.
- 6.1.2 Infringement Indemnity. (08/19, 2/22) Contractor shall indemnify, defend, and hold harmless the City, its directors, officers, employees, and agents from and against any and all third party action specifically alleging that any Deliverables provided by Contractor infringe a United States patent, copyright, trademark or other proprietary right of such third party ("Infringement Claim") including any 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.
- 6.1.3 Contractor shall indemnify, defend, and hold harmless the City against any taxes, premiums, and assessments (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.
- 6.1.4 Indemnification Procedure. (1/22) In order to seek or receive indemnification hereunder: (i) the City shall promptly notify Moss Adams in writing of any claim of which it is aware for which indemnification may be available ("Claim"); (ii) Contractor shall have the sole control of the defense of any such Claim and of all negotiations for its settlement or compromise; and (iii) the City shall cooperate reasonably with Contractor in the defense, settlement, or compromise of such Claim. Notwithstanding the foregoing, the City may retain counsel at its own expense to monitor the defense, provided that such counsel does not interfere with the defense of any Claim. Without the City's prior written consent, Contractor will not consent to the entry of any judgment or enter into any settlement that (a) would require the City to make any payment, (b) contains any admission of guilt or wrongdoing by the City, (c) would impose any equitable remedy upon the City, (d) purports to release any claims belonging to the City, or (e) does not include an unconditional release of the City from all liability with respect to Claims that are the subject matter of such proceeding.

- 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. Any limits may be met in combination with umbrella coverage.
- 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 warrants it does not currently own vehicles. Contractor's insurance must cover damages or injuries arising out Contractor's use of any hired and non-owned vehicles. If Contractor owns vehicles in the future, Contractor's insurance must also cover damages or injuries arising out of Contractor's use of any owned 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.

- 6.2.4.4 Professional Liability. (08/19) Contractor shall acquire insurance to cover damages caused by negligent acts, errors or omissions related to the professional Services, and performance of duties and responsibilities of the Contractor under this Contract in an amount not less than \$1 million per occurrence and aggregate of \$3 million for all claims per occurrence. In lieu of an occurrence-based policy, Contractor may have claims-made policy in an amount not less than \$1,000,000 per claim and \$3,000,000 annual aggregate, if the Contractor acquires an extended reporting period or tail coverage for not less than three (3) years following the termination or expiration of the Contract.
- 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. This provision does not apply to the City's payment obligations to 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 Keith Simovic 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 City Auditor on behalf of the City and Amanda McCleary-Moore or Keith Simovic 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 or permitted by law.
- 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

- 7.1 Error Correction. (1/22) Contractor shall promptly perform such additional services as may be necessary to correct errors in the services required by this Contract without undue delays and without additional cost.

- 7.2 Right to Perform Review and Acceptance. (10/19) Prior to Acceptance of Services or Deliverables, the City shall have the right to review and inspect Deliverable(s) to ensure they meet Acceptance Criteria, as may be further defined in Exhibit B - Statement of Work. Acceptance review may occur in one or more phases, depending on the Deliverables in the Statement of Work.
- 7.3 Procedure and Timetable. (10/19) Unless otherwise specified,
- 7.3.1 The City shall commence review of a Deliverable for Acceptance within a reasonable amount of time after receipt of a Deliverable.
- 7.3.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation in order to facilitate Acceptance review.
- 7.3.3 City will make all reasonable efforts to complete its Acceptance review within the time period specified within the Project schedule.
- 7.4 Failure of Acceptance. (10/19) The City will notify Contractor if a Deliverable or a portion of a Deliverable fails to pass an Acceptance review 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 review. If the Deliverable or portion of the Deliverable fails to pass the second Acceptance review, 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 re-review ; (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 7.4.1 and 7.4.2.
- 7.4.1 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 Defect(s). If Defect(s) are corrected by the listed date(s) the City agrees to commence further Acceptance review of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance review, the City will issue an Acceptance Certificate.
- 7.4.2 If a Deliverable fails a second or subsequent Acceptance review (or in the event of a single Acceptance review, the Acceptance) in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.
- 7.5 City Acceptance of Failure. (05/19) If the City elects to accept a Deliverable or any combination 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 that the Parties mutually determine represents the loss of use or functionality.

- 7.6 Revocation of Acceptance. (01/19) 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 Defect within a reasonable period of time, but the Defect 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 Defect, and the Acceptance was reasonably induced by Contractor's assurances or by the difficulty of discovery of the Defect 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.
- 7.7 Termination Based on Failure of Acceptance. (10/19) If the Deliverables or Services fail to pass the Final Acceptance review(s), the City may terminate this Contract. Contractor shall refund all costs paid for the Deliverables 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.
- 7.8 No Waiver. (05/19) Acceptance shall not relieve Contractor from its responsibility under any warranty. Payment for Deliverables, or any portion thereof, does not constitute Acceptance nor does it constitute a waiver of any warranty applicable to the City.

SECTION 8 TRAVEL

Reimbursement. (10/21) Contractor shall not be reimbursed for travel, lodging, meals and incidental expenses, or personal entertainment.

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.

Contract Number: 30008009

Contract Title: Financial and Federal Compliance Audits of the City of Portland and Reporting Entities beginning FY 2021-22

CONTRACTOR

Authorized Signature

Date

Keith Simovic, Partner
Printed Name and Title

Contract Number: 30008009

Contract Title: Financial and Federal Compliance Audits of the City of Portland and Reporting Entities beginning FY 2021-22

CITY OF PORTLAND

By: _____
City Auditor Date

Approved as to Form:

By: _____
City Attorney's Office Date

CONTRACT EXHIBIT A CONTRACTOR’S PRICE

A.1 Project and Year Not-to-Exceed Amounts

Contractor shall not charge more than the amounts set forth below for each project and audit year. The actual amount to be paid may be less than these not-to-exceed amount.

	Audit of FY 2021-22	Audit of FY 2022-23	Audit of FY 2023-24	Option for Audit of FY 2024-25	Option for Audit of FY 2025-26
City audit	\$355,000	\$362,000	\$369,000	\$376,000	\$383,000
Prosper Portland audit	\$126,000	\$128,500	\$131,000	\$133,500	\$136,000
Fire and Police Disability and Retirement audit	\$31,000	\$31,500	\$32,000	\$32,500	\$33,000
Mount Hood Cable Regulatory Commission audit	\$15,000	\$15,300	\$15,600	Option \$15,900	Option \$16,200
Single Audit (6 major programs)	\$107,000	\$109,000	\$111,000	\$113,000	\$115,000
Training, technical assistance	Included in amounts above	Included in amounts above	Included in amounts above	Included in amounts above	Included in amounts above
Subtotal	\$634,000	\$646,300	\$658,600	\$670,900	\$683,200
Non-Audit services	\$22,000	\$22,440	\$22,880	\$23,320	\$23,804
Estimate for optional Special Studies over 5 years	\$100,000				
Total	\$756,000	\$668,740	\$681,480	\$694,220	\$707,004
					5-year total: \$3,507,444
Approximate annual percent change	n/a	2%	2%	2%	2%
Option per additional major program in Single Audit	\$17,800	\$18,100	\$18,500	\$18,800	\$19,100

A.2 Progress Payments

The Contractor is entitled to receive progress payments for its work pursuant to the Contract as provided in more detail below. Contractor will be paid based on invoices for work performed and accepted until the “not to exceed” amount is reached for each audit for each year based on Contractor’s rate per hour by experience level times hours actually worked. Thereafter, Contractor must complete work based on the Contract without additional compensation unless there is an agreed change to the scope of work.

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

If work is completed before the “not to exceed” amount is reached, the Contractor’s compensation will be based on the Contractor’s invoices submitted for acceptable work performed and approved, including invoices for the final month of audit work and/or audit reporting.

A.3 Single Audit Fee Pro-Ration

If the number of major programs in any year is less than the six expected, the Single Audit fee shall be prorated for the actual number of major programs audited.

A.4 Increases in Compensation

If Contractor requests an increase in compensation to meet original due dates after the late delivery of financial statements or audit schedules by Auditees, then City contract manager, auditee project manager, and Contractor may negotiate an increase in compensation. Increases in compensation must be based on verifiable cost increases or loss of revenue from underuse of Contractor personnel. If contractor requests an increase in compensation because of late or inaccurate schedules by auditee, the additional compensation shall be paid by the auditee and not by the City Auditor’s Office.

The prices set forth above include the effect of future accounting and auditing standard changes. The City will not approve additional fees related to such standard changes which were published as final statements, exposure drafts, or preliminary views at the time proposals were due.

A.5 Hourly Rates

For Non-Audit Services and Special Studies, Contractor shall charge hourly rates not exceeding:

Work during:	April 2022 – March 2023	April 2023 – March 2024	April 2024 – March 2025	April 2025 – March 2026	April 2026 – March 2027
Partner	\$500	\$510	\$520	\$530	\$541
Senior Manager	\$370	\$377	\$385	\$393	\$400
Manager	\$270	\$275	\$281	\$287	\$292
Senior Auditor, Senior IT Auditor	\$215	\$219	\$224	\$228	\$233
Staff Auditor, IT Auditor	\$185	\$189	\$192	\$196	\$200
Annual Percentage change	N/A	2%	2%	2%	2%

A.6 Invoicing

On or before the 15th day of each month, the Contractor shall submit to the City’s Contract Manager an invoice or invoices for work performed by the Contractor during the preceding month. There will be separate invoices for each of the following audits: financial audit of the City’s ACFR, Single Audit, non-audit services for City, Prosper Portland, Fire and Police Disability and Retirement Funds, Mt. Hood Cable Regulatory Commission, and each Special Study.

CONTRACT EXHIBIT B

STATEMENT OF WORK

B.1 SUMMARY

Contractor shall provide the following Services:

Annual audits of FY 2021-22, FY 2022-23, and FY 2023-24 and related professional services. The City has the option to extend the contract for audits of FY 2024-25 and FY 2025-26. If the City exercises these extension options, the Mount Hood Cable Regulatory Commission audit may or may not be included at the discretion of Mt. Hood's Board of Commissioners. The Contractor is responsible for planning and performing the audits to obtain reasonable assurance about whether the financial statements and audited materials are free of material misstatements.

B.2 SCOPE OF WORK

Contractor shall provide the following Services:

B.2.1 Financial Statement Audits

Conduct annual audits of the financial statements of the following entities:

- City of Portland
- Prosper Portland
- Fire and Police Disability and Retirement Funds
- Mount Hood Cable Regulatory Commission

The objective of these financial audits is to express an opinion or disclaimer of an opinion on the fairness of presentation of the basic financial statements for each fiscal year in conformity with the appropriate basis of accounting.

These financial audits shall be in accordance with:

- Government Auditing Standards issued by the Comptroller General of the United States, as required by City Charter Sections 2-504 and 2-505
- Minimum Standards for Audits of Oregon Municipal Corporations ("Oregon Minimum Standards")
- Generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants, as required by Oregon Minimum Standards
- City Code 3.05.070 which requires the audit be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers

B.2.2 IT Review

As part of the annual financial audits, the Contractor shall perform information technology reviews of the City and of Prosper Portland to obtain an understanding of the key accounting systems and network infrastructure which produced the Auditees' financial statements. The Contractor shall make written reports of observations, including possible findings, business process improvements, and any related recommendations. The City and Prosper Portland may invoke their privilege under state law to exempt such reports from public disclosure.

B.2.3 Federal Compliance Audit, also known as Single Audit

Conduct the annual Single Audit of the City of Portland which includes awards received by or passed through Prosper Portland.

In addition to the financial statement audits set out above, the federal compliance audit has the following objectives:

- Determine whether the City's Schedule of Expenditures of Federal Awards (SEFA) is stated fairly in all material respects in relation to the City's Annual Comprehensive Financial Report as a whole (2 CFR 200.514 (b))
- Determine which federal programs are major programs (2 CFR 200.518)
- Obtain a sufficient understanding of internal control over federal programs and then plan, test, and report on the internal control over major programs' compliance requirements (2 CFR 200.514 (c))
- Determine and express an opinion or disclaim an opinion about whether the City has complied with the requirements (laws, regulations, and the provisions of contracts or grant agreements) relating to major federal programs (2 CFR 200.514 (d))
- Follow up on prior audit findings, to assess the reasonableness of the summary schedule of prior audit findings prepared by the Auditee, and report, as a current year audit finding, when the status of any prior audit finding is materially misrepresented. (2 CFR 200.514 (e))

These federal compliance audits shall be in accordance with:

- Single Audit Act Amendments of 1996 and any subsequent amendments
- Uniform Grant Guidance (UGG) in Title 2 CFR Part 200 Subpart F
- Government Auditing Standards, as required by UGG (2 CFR 200.514 (a))

B.2.4 Procedural Requirements for Financial Audits and Single Audit

1. **Secure document portal:** Contractor must gather financial statements, audit schedules, and supporting documents by means of a secure electronic portal which Contractor must provide and maintain.
2. **Management's Discussion and Analysis and supplementary information:** Contractor will also read Management's Discussion and Analysis and any other required supplementary information included in the financial statements and consider whether such information, including the manner of presentation, is materially consistent with information appearing in the basic financial statements. However, Contractor is not required to provide an opinion on required supplementary information. Contractor also will subject any supplementary information to certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves.
3. **Discuss and Document Adjusting Entries:** Contractor shall first discuss all proposed adjusting entries during the financial statement and federal compliance audits with appropriate Auditee project managers/bureau accounting staff. After that discussion, the Contractor shall provide copies of all proposed adjusting entries, together with copies of supporting schedules and workpapers, to the Accounting Division of the Bureau of Revenue and Financial Services and to the applicable Auditee project managers.

The Accounting Division of the Bureau of Revenue and Financial Services will distribute copies of the proposed adjusting journal entries and supporting documentation to the appropriate bureaus and

Auditees for their review and approval. If material, the City's Accounting Division will also record the approved entries in the appropriate accounting records and ledgers.

Should any proposed adjusting entries relate to Mt. Hood, Mt. Hood's audit project manager will review the proposed adjusting journal entries and supporting documentation, and will approve these adjusting entries as appropriate. The City's Accounting Division will record the approved entries for Mt. Hood in the appropriate accounting records and ledgers.

Should any proposed adjusting entries relate to Prosper Portland, Prosper Portland's Accounting personnel in the Finance and Business Operations Department will distribute copies of the journal entries and supporting documentation to the appropriate finance managers for their review and approval. Prosper Portland's Accounting personnel in the Finance and Business Operations Department will also record the approved entries in the appropriate accounting records and ledgers.

4. **Adjustments or corrections on financial statements:** The Contractor shall return to the Auditee for adjustment or correction any financial statements or audit schedules that are inaccurate, inconsistent, or contain material un-reconciled differences, within one business day of Contractor's determination that the statements or schedules are inaccurate, inconsistent, or contain material un-reconciled differences.

5. **Gather Management Responses:** Contractor shall communicate any findings and recommendations arising from their audit services to the appropriate Auditee managers, and shall gather managements' written responses to the findings and recommendations with the assistance of the City's contract manager and the relevant Auditee project manager(s). Managements' responses will be published with the related auditor reports whenever possible.

Portland City Code requires that City (including Prosper Portland) management respond in writing to any auditor's findings and related recommendations. Therefore, any letters or reports containing any findings or recommendations should be published along with City managers' responses to such findings and recommendations, on the relevant bureau letterhead.

6. **Reporting on any weaknesses or deficiencies and non-compliance identified during audits**
As part of the audits, the Contractor shall consider the Auditee's internal control structure, as required by auditing standards generally accepted in the United States of America and the standards for financial audits contained in Government Auditing Standards, and the Uniform Grant Guidance (UGG). These standards require the Contractor to obtain an understanding of the controls and assess risk as a basis for determining the nature, timing, and extent of auditing procedures necessary for expressing its opinion on the financial statements. Federal regulations also require the Contractor to report on the internal controls over financial reporting and on the Auditee's compliance with appropriate legal provisions, and to report on internal control over compliance for each major federal award program.

Contractor shall discuss with management findings of non-compliance for the Oregon Minimum Standards report, and shall advise the contract manager about the nature of the findings and Contractor's discussions with management before finalizing its findings. Contractor shall share such a potential finding with Auditee management ahead of fully confirming the condition, cause and/or effect of the potential finding, with suitable warnings about the preliminary nature of its communication.

Contractor shall inform the City Auditor, the City contract manager, and Auditees of any fraud, or illegal acts, or significant errors that come to the Contractor's attention during the course of the audits. If the Contractor finds indications of fraud, waste and illegal acts, or questioned costs, during the federal compliance audit, Contractor shall submit a separate written report to the funding agency or federal bureau when it is required by the Single Audit.

Portland City Code requires that City (including Prosper Portland) management respond in writing to any auditor's findings and related recommendations. Therefore, Contractor should gather and publish City managers' responses on the relevant

bureau letterhead to any audit findings and recommendations, along with the published Contractor's letters or reports containing the findings or recommendations. The City's contract manager will assist the Contractor to obtain management's responses.

Reporting Any Significant Deficiency and/or Material Weakness

Contractor shall communicate any potential findings to Contract Manager no matter the eventual conclusion as to the severity of the issue. Contractor shall discuss with Auditee management significant deficiencies and/or material weaknesses in internal controls identified during the audit, and all findings of non-compliance with legal requirements or with federal award requirement required to be reported under applicable professional standards. Contractor shall communicate significant deficiencies, material weaknesses and/or material non-compliance promptly. Contractor shall share such a potential finding with Auditee management ahead of fully confirming the condition, cause and/or effect of the potential finding, with suitable warnings about the preliminary nature of its communication. The City prefers to be informed about such significant deficiencies, material weaknesses and non-compliance as soon as possible.

Additionally, the City's contract manager must be included in all communications and/or meetings between the Contractor and the Auditees' management about possible significant deficiencies or material weaknesses identified during an audit, no matter how these significant deficiencies or material weaknesses are identified.

Contractor shall communicate in writing with those charged with governance, with the City Auditor, and with the Auditees on any material weakness and/or significant deficiency in the design or operation of internal control over financial reporting and/or internal controls over federal compliance that come to its attention during the audit.

Contractor shall meet the requirements of Government Auditing Standards, Generally Accepted Auditing Standards, and the Oregon Minimum Standards by reporting any material weaknesses and significant deficiencies in the following reports:

- Communication to Those Charged with Governance for the City, Prosper Portland, and Mt. Hood Cable Regulatory Commission
- Oregon Minimum Standards report for the City, Prosper Portland and Mt. Hood Cable Regulatory Commission
- Government auditing standards report for the City, Prosper Portland, and Mt. Hood Cable Regulatory Commission.
- Schedule of Findings and Questioned Costs for the Single Audit of the City.

All these reports shall be copied to the City Auditor.

Should any material weakness and/or significant deficiency in the design or operation of internal control over financial reporting come to the Contractor's attention during the audit of FPDR or Mt. Hood financial statements, then Contractor will report these in writing to those charged with governance for the respective Auditee, with a copy to the City Auditor.

If any material weaknesses and significant deficiencies in internal controls in the IT systems used to produce the financial statements are identified during the audit, the Contractor shall include these findings in the written IT review report addressed to the City Auditor and to the relevant IT department. The Contractor shall provide a separate report if any such serious IT internal control weaknesses are found for both the City and Prosper Portland. The City will invoke its privileges under ORS 192.345 to exempt such reports from public disclosure. Contractor may be required by UGG to include any IT-related significant deficiencies or material weaknesses in the schedule of findings and questioned costs, which is not exempt from public exposure. Contractor shall make its best efforts to avoid undermining the security of the Auditees' IT systems when writing up any such findings.

B.2.5 Training

Provide 8 continuing professional education (CPE) hours of training to Auditees' staff. The CPE credits must be of a type that is accepted and approved by the Oregon Board of Accountancy.

The Contractor shall issue CPE certificates to attendees, track the number of CPE credits provided during each year, and the number of people provided with this CPE, and shall provide this data to the contract manager

within two weeks of each training date. Training may be requested by one of the Auditee project managers or by the City's contract manager.

Whenever an Auditee project manager requests training from the Contractor, Contractor shall invite the other Auditee project managers to send staff to this training, and shall inform the contract manager. The person requesting this training will schedule the requested CPE at times that are convenient for people from across the City and its reporting entities whenever possible. The City's contract manager and the Auditees' project managers will make reasonable efforts to agree upon a schedule of training courses with the Contractor at the start of each contract year.

This service shall not be billed separately, but can be included in the Contractor's price for the financial audits.

B.2.6 Technical Assistance

As part of the routine activities directly related to performance of the audits under this Contract, the Contractor shall provide advice or assistance to the Auditees throughout each contract year, at the request of the Auditees. Such advice and assistance shall include but not be limited to the following:

1. Assistance to the City and Prosper Portland in maintaining their Government Finance Officers Association (GFOA) Certificates of Achievement for Excellence in Financial Reporting. This assistance will include the Contractor's consideration during their ACFR reviews of the comments received by the City and Prosper Portland from the GFOA for the prior year's Certificate of Achievement.
2. Responding to Auditees' questions on accounting, reporting, or internal control as part of the audit.
3. Providing advice to the City and reporting entities on accounting matters as an ancillary part of the overall audit.
4. Providing to the City and reporting entities information that is readily available to the Contractor, such as best practices, when the Auditee requests this or when the Contractor feels such information will be in the best interests of the Auditee. This readily available information will include any benchmarking studies used by the Contractor during the audits' analytical review procedures, or in reporting audit results to illustrate any audit findings or best practices recommendations.

When providing these technical assistance services, the Contractor shall take care not to impair their independence, as described in Government Auditing Standards.

This service shall not be billed separately, but can be included in the Contractor's price for the financial audits.

B.2.7 Non-Audit Services

Provide limited non-audit services upon request, up to 36 hours in any contract year for the City, Prosper Portland, and Fire and Police Disability and Retirement combined, plus up to 8 hours in any year to Mt. Hood.

The Contractor shall provide limited technical advice or assistance throughout each contract year, at the request of the Auditees' project managers. Any requested advice or assistance will be of a type which the Government Auditing Standards considers to be non-audit services. Such advice and assistance shall include but not be limited to the following:

1. Consultation and assistance as necessary and requested by the Auditees about their adoption of appropriate accounting standards.
2. Provide Auditees with counsel and advice on reformatting financial statements to reflect any future GASB pronouncements and other applicable regulations.
3. Provide Auditees with assistance in research on accounting and financial reporting treatments when requested.

Each Non-Audit Service shall be defined in a Task Order.

1. The bureau receiving Contractor's services under the Task Order, the names and contact information for the bureau's Project Manager, and any additional bureau responsibilities under the Task Order.
2. The scope of work to be provided by Contractor, including but not limited to the deliverables, reporting requirements, and all applicable deadlines and delivery dates.
3. Contractor's Key Personnel and their maximum hours
4. The sum the City will pay for the services to be provided under the Task Order, including a "not to exceed" amount if applicable. The sum to be paid to Contractor under any individual Task Order will vary depending upon the amount of work for that particular project. The Parties will use the hourly rates provided by this Contract.
5. Task Orders shall be signed by City and Contractor. The City Auditor or their designee is authorized to execute Task Orders on City's behalf. A Task Order must be approved by City before Contractor begins work on services that are outside the scope of work set forth in the Contract.

When providing non-audit services, the Contractor shall take care not to impair its independence, as described in in AICPA generally accepted auditing standards and Government Auditing Standards, regarding its ability to perform the financial statement audits or the federal compliance audit. The City and its reporting entities will provide the Contractor with the appropriate assurance that the Auditee's management assumes all management responsibilities for any non-audit services performed, and accepts responsibility for the results of the non-audit services. It is the Contractor's responsibility to obtain these appropriate assurances.

The Contractor shall track the hours of non-audit services provided during each year, and shall communicate this data to the contract manager by means of the monthly invoices. The contract manager will share this information with the Auditees through the audit cycle, so they do not exceed the allotted hours. In the event that the Auditees exceed the allotted hours in any year, the Contractor must cease to provide non-audit services unless and until a Change Order or Contract amendment increases the hours for these services and the related compensation.

B.2.8 Special Studies

Provide Special Studies for the City separate from the services described above when requested by the City, such as risk assessments, financial audits, performance audits, compliance audits, fraud audits, IT audits, attestations, or agreed-upon procedures with objectives, scope, methodology, personnel, and price to be negotiated in the future between City and Contractor. When a City bureau identifies a specific need for such services, it may call on Contractor, or procure another contractor. Contractor can decline to provide the Special Study after the City requested it.

Each Special Study shall be defined in a Task Order. For Special Studies, the Task Order shall set forth:

1. The auditee bureau receiving Contractor's services under the Task Order, the names and contact information for the Auditee's Project Manager, and any additional Auditee responsibilities under the Task Order.
2. The scope of work to be provided by Contractor, including but not limited to the deliverables, reporting requirements, and all applicable deadlines and delivery dates.
3. Contractor's Key Personnel
4. The sum the City will pay for the services to be provided under the Task Order, including a "not to exceed" amount if applicable. The sum to be paid to Contractor under any individual Task Order will vary depending upon the amount of work for that particular project. Auditee and Contractor can agree to billing using the hourly rates provided by this Contract, or a fixed price.
5. Task Orders shall be signed by City and Contractor. The City Auditor or their designee is authorized to execute Task Orders on City's behalf. A Task Order must be approved by City before Contractor begins work on services that are outside the scope of work set forth in the Contract.

Any change to the scope of work must be agreed upon by City and Contractor, in writing, as a Change Order. All other terms and conditions of the Contract shall apply to Task Orders. In the event of a conflict between the Contract and a Task Order, the Contract shall prevail.

When providing Special Studies, the Contractor shall take care not to impair its independence, as described in AICPA generally accepted auditing standards and Government Auditing Standards, regarding its ability to perform the financial statement audits or the federal compliance audit.

Contractor shall notify the City's contract manager when it is asked to perform by any City agency or its component units, and it intends to propose on or contract for, Special Studies, regardless of whether it is under this or a separate contract. Such notifications shall be in writing and include the name of the requesting bureau or office, the nature, the scope of the work requested.

The Contractor must obtain the City Auditor's contract manager's consent in writing before undertaking such other work for any City agency or its component units.

Any Special Studies or assistance not encompassed by this Contract shall be negotiated separately by the Contractor with the requesting City bureau.

B.3 TASKS AND DELIVERABLES AND PROJECT SCHEDULE

B.3.1 Schedule for audit of FY22

Unless directed otherwise by the City or reporting entities, the Contractor will perform the work according to the following schedule:

Contractor shall make good-faith efforts to schedule staff in such a way to work around temporary delays in receipt of certain audit schedules, to minimize risks of delay for reports and other deliverables. Contractor shall be responsible for informing Contract Manager of any potential situations that could delay delivery dates.

Fieldwork schedule:

City	Single Audit	Prosper Portland	FPDR	Mt. Hood
June to July: Two weeks of interim fieldwork		May to June: One week of interim fieldwork		
May to July: One week for information systems review		May to July: One week for information systems review		
Begin no later than last week of August: One to five weeks of final fieldwork, depending on team size. Final week off-site to allow Auditees to prepare the ACFR.	Last week of September and early October: Three weeks of fieldwork after determination of major programs	Last week of August and first week of September: Final fieldwork	September: One week of on-site audit fieldwork One or two days to wrap up fieldwork later	September and October: One week of interim and final fieldwork October: Up to one week to wrap up fieldwork

B.3.2 Deliverables

Deliverables and schedule for the audit of FY 2021-22 shall include:

Deliverable	City	Single Audit	Prosper Portland	FPDR	Mt. Hood
Pre-Audit Conference <ul style="list-style-type: none"> • Agenda and meeting notes • Engagement letter • Independence memorandum • Confidentiality agreements if any • Peer review report • Diversity report 	April 15, 2022				
Provided-by-Client lists	Earliest date feasible				
Notification of start of interim fieldwork	No later than July 2022		No later than June 2022		
Preliminary determination of Single Audit major program		August 12, 2022			
Report on IT review	Aug 26, 2022		Aug 19, 2022		
Notification of start of (final) fieldwork	No later than last week of August 2022	No later than last week of September 2022	No later than last week of August 2022	September 2022	September 2022
Progress meeting agendas and notes [Auditee intends to provide draft financial statements to contractor]	Every Friday during interim fieldwork, final fieldwork, and October				
	Sept 22, 2022		Sept 26, 2022	Sept 29, 2022	Nov 7, 2022
Review comments by staff on draft financial statements	7 business days after = Oct 3, 2022		7 business days after = Oct 5, 2022	7 business days after = Oct 10, 2022	9 business days after = Nov 21, 2022
Final determination of Single Audit major programs		Oct 3, 2022			
Review comments by partner on draft financial statements	5 business days after = Oct 10		Same as staff comments = Oct 5, 2022	5 business days after = Oct 17, 2022	Same as staff comments = Nov 21, 2022
Review comments by concurring review partner	7 business days after = Oct 19		7 business days after = Oct 14, 2022	5 business days after = Oct 24, 2022. At least 3 business days	Dec 1, 2022

				before audit opinion											
Audit Opinion	Oct 28, 2022 noon Pacific Time	Nov 15, 2022	Oct 25, 2022	Oct 27, 2022	Dec 9, 2022										
Communications to those charged with governance	Draft same day as opinion Final 30 days after opinion		Final same day as opinion												
Management Recommendation letters	Drafts 30 days after opinion Final 45 days after opinion														
Reports on any material weakness or significant deficiency in internal control over financial reporting, if necessary, as required by the applicable audit regulations and standards	Refer to Procedural Requirement 6														
Agendas and meeting notes for post-audit meetings with auditees: <ul style="list-style-type: none"> Review audit results with accounting staff and bureau staff Presentations to City Council, Prosper Portland Board of Commissioners, FPDR Board of Trustees, Mt. Hood Cable Regulatory Commission, and other governing bodies/committees Feedback and improvement discussion regarding audit process 	After issuance of draft communication to those charged with governance or management letter, when requested by auditee <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%; text-align: center;">No later than 90 days after opinion</td> <td style="width:25%;"></td> <td style="width:25%; text-align: center;">No later than 90 days after opinion</td> <td style="width:25%; text-align: center;">No later than 30 days after opinion</td> <td style="width:25%; text-align: center;">No later than 90 days after opinion</td> </tr> <tr> <td colspan="5" style="text-align: center;">January 2023</td> </tr> </table>					No later than 90 days after opinion		No later than 90 days after opinion	No later than 30 days after opinion	No later than 90 days after opinion	January 2023				
No later than 90 days after opinion		No later than 90 days after opinion	No later than 30 days after opinion	No later than 90 days after opinion											
January 2023															
Training	On a schedule agreed to with Contract manager, but no later than April 2023														
Technical assistance	As requested by Auditee project managers														
Non-Audit Services	As requested by Auditee project managers														
Special studies	To be negotiated														
Monthly subconsultant payment and utilization reporting electronically with invoice (refer to Section 3.5 and 5.11)	15 th of each month														

B.3.3 Extensions

The City’s contract manager and Contractor can mutually agree to extend due dates. The intent is to accommodate scope changes, delays in federal guidance, or force majeure. Delays will not be approved for Contractor underestimating time or Contractor personnel capacity/scheduling issues. If due dates are extended because of late delivery of financial statements or audit schedules by Auditees, the extension shall be no more than twice the number of business days of the late delivery.

B.3.4 Independence Memorandum

Annually at kick-off of the audit, Contractor shall submit a signed memorandum certifying their auditor independence in accordance with Government Auditing Standards and City Code, on a form acceptable to the City Contract Manager. City may also require Contractor’s certification of compliance with Byrd Anti-Lobbying Amendment provisions (2 CFR 200 Appendix II (I)).

B.3.5 Confidentiality Agreement

When requested by City, all Contractor personnel assigned to this Contract shall sign confidentiality agreements on a form acceptable to the City.

B.3.6 Peer Review Report

Contractor shall submit a copy of the most recent report of the external peer review in accordance with Government Auditing Standards, including the peer reviewer's comment letter and firm's response. (Government Auditing Standard 5.79, 5.80, 2 CFR 200.509 (a))

B.3.7 Diversity Report

Annually at kick-off of the audit, Contractor shall submit a copy of the most recent Annual Diversity in Workforce (ADWR) report. This report shall list in numeric and percentage terms the racial and gender diversity for each of the following four categories of personnel: (1) partners in the firm, (2) senior managers and managers in the firm, (3) senior auditors and staff auditors and specialists of the firm, and (4) the project team assigned to this Contract. The report shall use the racial and ethnic categories established by the Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for record-keeping and reporting required under the Executive Order 11246. Contractor shall certify that the information contained in the ADWR is complete and accurate. (Also refer to Section 3.6)

B.3.8 Agenda and meeting notes

Contractor shall provide a written agenda or presentation materials for each meeting noted in the Deliverable Schedule in advance of the meeting. Contractor shall provide written meeting notes after each meeting noted in the Deliverable Schedule. Meeting notes shall identify participants who attended the meeting and who were absent, discussion results, open information requests/questions, and next steps.

Attendance of Contractor's relevant key personnel shall be required for meetings with City Auditor, City Council, Prosper Portland Board of Commissioners, FPDR Board of Trustees, Mount Hood Cable Regulatory Commission, and other governing bodies or committees.

The Contractor shall schedule debrief meetings in which it will provide feedback to the Auditees' accounting staff on the prior year's audit schedules and suggest changes to improve the audit process. This feedback is best done soon after the completion of the audit, so the Contractor will arrange to do this with the Auditee project managers, and inform the City's Contract Manger, in conjunction with the other post-audit meetings for each year's audit.

Unless otherwise indicated, video conferencing and/or audio conferencing shall be maximized in lieu of in-person meetings that would require long-distance travel for any participants

B.3.9 Report on IT reviews

Contractor shall confirm with City Contract Manager the list of recipients for these reports before distribution. As applicable, report pages shall be marked "confidential."

B.3.10 Audit opinions

Audit opinions or disclaimers of opinion shall include: Government Auditing Standards report and Oregon Minimum Standards report. Contractor shall also provide: Summary of Revenues and Expenditures form to be filed with Oregon Secretary of State, Schedule of Findings and Recommendations. Auditees will assemble and print the ACFRs including the auditor's opinion and reports.

When applicable, to meet the Oregon Minimum Standards, the Contractor shall express an "in relation to" opinion (or disclaimer of opinion) on combining and individual fund statements and schedules and on budgetary schedules. The deadline for these "in relation to" opinions shall be the same as the due dates for the related financial audit opinions.

Contractor will review and approve the "Oregon Audits Division Summary of Revenues and Expenditures" forms for the City's ACFR, Prosper Portland's ACFR and Mount Hood Cable Regulatory Commission at the end the annual financial audit. The Contractor will send this form electronically to the respective Auditee project managers, and the Auditee's financial staff will file the required audited financial statements with the State of Oregon.

B.3.11 Single Audit

Single audit reports shall be compiled into one package in the format required (2 CFR 200.512) for upload to the Federal Audit Clearinghouse including:

- Audited SEFA
- Auditor's opinion (or disclaimer of an opinion) about whether the City's SEFA is presented fairly in all material respects in relation to the City's ACFR taken as a whole
- Report on compliance with requirements (including laws, regulations, contracts and awards) that could have a direct and material effect on each major program, and on the City's internal control over compliance
- A schedule of findings and questioned costs, as applicable, with the Auditee's management responses to the findings and recommendations
- City and/or Prosper Portland management responses to any findings in the schedule of findings and questioned costs, as required by UGG, to be included in the Single Audit report package filed with the federal government
- Duplicate copy of the Government Auditing Standards report published in the City's ACFR on the internal controls over financial reporting and their tests of compliance with applicable laws and regulation

Contractor shall certify the UGG electronic data collection form (2 CFR 200.514 (f)) for the Federal Audit Clearinghouse 30 days after the Single Audit report or by March 31, whichever occurs first. Contractor shall forward the Federal Audit Clearinghouse's confirmation of the auditor's certification to City contract manager and Auditee project manager.

B.3.12 Communication to those charged with governance

Contractor shall submit reports as required by Statement on Auditing Standards No. 114 and any successor statements, to communicate to "those charged with governance" for each of the City, Prosper Portland, and Mount Hood Cable Regulatory Commission. These communications shall be in writing and drafts should be discussed during the audit progress meetings.

B.3.13 Management Recommendation letters

Contractor shall submit three Management Recommendation letters to the City Auditor and the Auditee's management: One for the City, Single Audit, and FPDR; one for Prosper Portland; and one for Mt. Hood. The due dates for the City-Single Audit-FPDR management letter are calculated from the latest delivery among the City audit opinion, Single audit opinion, and FPDR audit opinion. The Management Recommendation Letter shall address neither significant deficiencies nor material weaknesses; instead, they shall communicate less serious internal control deficiencies, recommendations for improvement that may lead to increased effectiveness and efficiency, or other matters to be brought to the attention of management. The letters shall include any findings, observations, opinions, comments, or recommendations relating to internal control, accounting systems, data processing, compliance with laws, rules and regulations or any other matters that come to the attention of the independent auditor during the course of the audit. The letters shall present recommendations to promote "best practices" in these matters. The letters shall also include information about new accounting standards, auditing standards and regulations applicable to future years. Contractor shall report any significant deficiencies or material weaknesses separately, as required by Government Auditing Standards and applicable standards.

Management recommendations shall not be construed as special or additional studies. They should result from procedures associated with the study of internal control systems and procedures and the audit of the financial statements.

Contractor shall work with City Auditor's contract manager and Auditee project managers to prepare working drafts and discuss potential findings and recommendations with Auditee management.

The Management Recommendation Letter for the City should be addressed to the management of the Office of Management and Finance and any other City bureau with a recommendation, and should be copied to the City Auditor.

The Management Recommendation letter for Prosper Portland should be addressed to its Board of Commissioners and Audit Committee and Executive Director, and copied to the City Auditor.

Auditee management will respond in writing to recommendations made by Contractor in these letters through their Commissioner in charge to the City Auditor and Contractor, within a time specified by the City Auditor. The written responses will be appended to the Management Recommendation Letter by the contract manager for distribution to the Auditees and the addressees of the Management Recommendation Letter.

B.3.14 Schedule for audit of FY23 and later

For subsequent fiscal years covered by this Contract, the schedule shall be the same calendar day of the stated month as for the audit of FY22, except if any due date falls on a weekend or holiday, the due date shall be the workday immediately preceding the weekend or holiday. If federal or state laws require an earlier publication date for the ACFR, the schedule shall be revised accordingly.

Report Distribution

The City's contract manager will be the primary point of contact for the Contractor's report distribution (except for the audit opinions for the ACFRs, which will go directly to the Auditees' accounting departments

for inclusion in the financial statements to be published). The contract manager will receive copies of all other reports and written deliverables specified in this Contract, and will advise on the addressees when questions arise, and will assist with report distribution.

B.4 PROJECT MANAGEMENT

B.4.1 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 every Friday during interim fieldwork, final fieldwork, and October 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.

B.4.2 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.

B.4.3 Project Managers

The City may change City’s Project Manager from time to time upon written notice to Contractor. The City’s Project Managers will be:

	Name	Contact information
Contract administration	Minh Dan Vuong Contract manager Audit Services Division City Auditor’s Office	minhdan.vuong@portlandoregon.gov 503-823-3543
City of Portland	Ronald Vaught Controller Accounting Division Bureau of Revenue and Financial Services	ronald.vaught@portlandoregon.gov 503-823-2790
Federal compliance	Sheila Black-Craig Financial Analyst III Grants Management Division Bureau of Revenue and Financial Services	sheila.black-craig@portlandoregon.gov 503-823-6863
Prosper Portland	Adam Lane Chief Financial Officer	lanea@prosperportland.us 503-823-4993
Fire and Police Disability and Retirement Fund	Stacy Jones Deputy Director	stacy.jones@portlandoregon.gov 503-865-6488
Mount Hood Cable Regulatory Commission	Michael Wong Finance Manager, Mt. Hood Cable Regulatory Commission Financial Analyst III, Office for Community Technology	michael.i.wong@portlandoregon.gov 503-823-5304

City's audit schedules	Ashley Tuttle Financial Reporting Supervisor Accounting Division Bureau of Revenue and Financial Services	ashley.tuttle@portlandoregon.gov 503-823-4240
City debt	Matthew Gierach Debt Manager Debt Management Division Bureau of Revenue and Financial Services	matthew.gierach@portlandoregon.gov 503-823-6822
City revenue	Thomas Lannom Deputy Chief Financial Officer Director, Revenue Division Bureau of Revenue and Financial Services	thomas.lannom@portlandoregon.gov 503-823-5154
City utilities	Remani Mathew Manager Finance & Support Services-Accounting Water Bureau	remani.mathew@portlandoregon.gov 503-823-7634

B.5 Acceptance Criteria

1. Written deliverables are complete and delivered to the correct recipients, and – as applicable – they cover the correct time period and include signatures
2. Peer review report: Contractor must have passed peer review
3. Audit Opinions and associated reports are complete and include a statement of compliance with professional standards and applicable laws
4. Communications to those charged with governance and Management Recommendation letters are complete and include a reference to professional standards

CONTRACT EXHIBIT C

CITY RFP 00001763

CONTRACT EXHIBIT D

CONTRACTOR'S PROPOSAL

CONTRACT EXHIBIT E

SAMPLE FORMS

E.1 CHANGE ORDER

City Auditor's letter head

CHANGE ORDER No. _____

Contractor Moss Adams LLP
Contract No. 30008009
Contract Date April 1, 2022
Project Title Financial and Federal Compliance Audits of the City of Portland and Reporting Entities Beginning FY 2021-22

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. **Some extensions don't require Contractor signature.**
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. Some price increases don't require Contractor signature.**
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.

[If applicable, for increases in compensation because of late or inaccurate audit schedules by auditee:]
I understand and agree that the additional compensation defined in this Change Order will be payable from my Fund/Bureau's FY 20__ - __ budget appropriation.

AUDITEE BUREAU: _____

_____ Date

In witness hereof, the parties have duly executed this Change Order as of the date written below.

CONTRACTOR

CITY OF PORTLAND

_____ Date

_____ Date

City Auditor's contract manager

E.2 TASK ORDER

City Auditor's letter head

TASK ORDER Number _____

Task Order Title, e.g., PBOT Fixing Our Streets Review for FY 2021-22

Contractor Moss Adams LLP
Contract No. 30008009
Contract Date April 1, 2022
Project Title Financial and Federal Compliance Audits of the City of Portland and Reporting Entities Beginning FY 2021-22

Contract 30008009 by and between Moss Adams LLP (Contractor) and the City of Portland (City), a municipal corporation of the State of Oregon, by and through its duly authorized representatives, authorized the Contractor to provide additional audit services through separate Task Orders.

AUDITEE

The Auditee bureau receiving Contractor's services under this Task Order is _____. Auditee's project manager is _____ [name, title]. Auditee's responsibilities under this Task Order are _____. City Auditor's contract manager is **Minh Dan Vuong, Performance Auditor II**.

SCOPE OF WORK

This Task Order shall require the Contractor to perform **non-audit services/agreed upon procedures** for the **Portland Bureau of Transportation's Fixing Our Streets program for Fiscal Year 2021-22**, according to the **engagement letter** attached as Exhibit A.

CONTRACTOR'S KEY PERSONNEL

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

Name 1, role on project, Key Personnel per Section 3.12.1 and 2, maximum hours for non-audit services

Name 2, role on project

SCHEDULE AND DELIVERABLES

Contractor shall begin work on _____. List intermediate milestones if applicable. Contractor shall provide final reports to the Auditee by _____.

COMPENSATION

The maximum compensation relating to these services shall not exceed \$ _____. **[if not using a fixed price:]** The hourly rates shall be as indicated in the Contract. **[For special studies:** Any estimate of the hours necessary to perform the work is not binding on the City. Contractor remains responsible for completing the work if the hours estimate proves to be incorrect.] Exceeding the number of estimated hours of work does not impose any liability on the City for additional payment. Invoices shall be sent to the City Auditor's contract manager monthly.

All provisions of the original Contract shall remain in full force and effect.

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

I understand and agree that the compensation for services defined in this Task Order will be payable from my Fund/Bureau's FY 20__-__ budget appropriation.

AUDITEE

Authorized Signature Date

Printed Name

Title

In witness hereof, the parties have duly executed this Task Order as of the date written below.

CONTRACTOR

Authorized Signature Date

Printed Name

Title

CITY OF PORTLAND

Authorized Signature Date

Printed Name

City Auditor's contract manager

Title

E.3 Sample Invoice

Contractor's letter head

City of Portland, City Auditor's Office
 Minh Dan Vuong
 1221 SW 4th Ave., Room 310
 Portland, OR 97204
 By email: minhdan.vuong@portlandoregon.gov
 Contract 30008009, Task Order ## if applicable

remove/edit text in red

INVOICE No.: _____
BILLING AND PROGRESS REPORT
 Billing Period Ended Prior Month 30, 2022
 for the audit of the
Auditee's FY 2021-2022 Financial Statements

Issue separate invoices for:

- City's ACFR audit (showing the IT review as separate line)
- Single Audit
- City non-audit services
- Prosper Portland (showing IT review and non-audit services as separate line)
- Fire and Police Disability and Retirement Funds (showing non-audit services as separate line)
- Mt. Hood Cable Regulatory Commission (showing non-audit services as separate line)
- Each special study

Project billed	Previously billed	Current billing	Total billings to date	Contract fee "not to exceed"	Contract amount remaining
City ACFR	\$8,910	\$17,810	\$26,720	\$301,000	\$274,280
City IT review	\$10,044	\$1,700	\$11,744	\$18,000	\$6,256
Non-audit services	\$0	\$0	\$0	\$xxx	\$xxx
		\$19,500 This invoice total			

Hours worked	Previously worked	Current period	Total hours to date	Contract hours	Contract hours remaining
City ACFR	55	84	139	1,490	1,351
City IT review	62	5	67	84	17

Progress based on hours	Planning and interim fieldwork	Final fieldwork	Review of financial statements	Delivery of opinion, reports, and exit meetings
City ACFR	10%	0%	0%	0%
City IT review	100%	100%	N/A	10%

Summary of Tasks Performed and Services Provided:

For example:

Mary and James agreed on the PBC list with Auditee Bureau of Revenue and Financial Services. We received documentation for the Cash & Investments, Revenue – A/R, and Budget transaction cycles. Patricia and Robert reviewed the transaction cycle documentation and conducted walk-through of internal controls on Capital Assets transaction cycle. Jennifer and John completed fieldwork on IT review.

Hours Worked during Billing Period by Team Member:

Name	Title	Contract Hourly Rate	Hours worked	Total
Mary		\$200	2	\$400
James				
Patricia				
Robert				
Jennifer	IT manager			
John	IT auditor			
Total			###	\$\$

E.4 Independence Memorandum

TO: City of Portland - Audit Services Division

FROM: [Contractor's Firm Name]

SUBJECT: Consultant's Representation of Auditor Independence

Our firm has reviewed the independence requirements and guidance in sections 3.17 through 3.108 of Government Auditing Standards, 2018 Revision.

Our firm has reviewed the independence requirement in Portland City Code 3.05.070: An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers.

We have read and understand these independence requirements and, with this letter, profess we know of nothing that would impair our independence and impartiality on the project we are performing for the City of Portland, Prosper Portland, Fire and Police Disability and Retirement Funds, and Mount Hood Cable Regulatory Commission. Our staff and firm and subcontractors are free from personal and organizational impairments that might limit our ability to be objective and fair on the project.

We will take care not to impair our independence during the duration of the period for which we are contracted. We will notify you immediately if we are no longer able to meet these independence requirements.

Authorized Signature Date

Printed Name

Title

[ASD Manual July 2019, form G, adapted mdv]