



# CONTRACT AUTHORIZATION & SIGNATURE REQUEST

This is to notify you that **Contract** HD-IGA-E-15420-2023 **Amendment** n/a is ready for your signature.

**STEP 1:** Please print and sign the following pages, exhibits, and/or attachments from your contract:

- Contract or amendment Signature Page
- Exhibit 3 –Independent Contractor (Complete section A **AND** B if it applies)
- Exhibit 4 – Workers’ Compensation Exemption Certificate
- Exhibit 5 – Equal Employment Opportunity Certification Statement
- Exhibit 7 – Criminal History Records Check Certificate
- ARRA EEO
- Other:

**STEP 2:** Return the following documents to the County:

- A **complete copy** of your contract or amendment (you may choose to resend the same PDF file that was emailed to you)
- Copies of your signed signature pages, exhibits, and attachments, as identified in Step 1 above.

Return the documents by one of the following methods:

Scan and email the Contract to: [centralcontracts@multco.us](mailto:centralcontracts@multco.us)

**OR**

Return the Contract to the following address by mail or hand delivery

Multnomah County Purchasing  
ATTN: Contracts  
501 SE Hawthorne Blvd., Suite 125  
Portland, Or 97214

**STEP 3:** No work can begin and no payments can be made until Multnomah County has received and executed the Contract or Amendment. You will be notified when your Contract or Amendment has been executed. If you have questions regarding Steps 1 or 2, please contact us at:

Donna DuBois 503-988-9287 [donna.dubois@multco.us](mailto:donna.dubois@multco.us)

If you have any questions regarding Contract language or Amendment changes, please call your Department Representative at:

Name and Phone: Alena Morgan; (503) 988-9854

Email: [Alena.Morgan@multco.us](mailto:Alena.Morgan@multco.us)

## Intergovernmental Agreement

Multnomah County Contract # HD-IGA-E-15420-2023

The Parties to this Intergovernmental Agreement (“Agreement”) dated June 1, 2023 are Multnomah County (“County”) and the City of Portland (“City”), acting by and through the Portland City Office of Emergency MGMT (“Portland Bureau of Emergency Management” or “PBEM”).

### I. Contacts and Project Managers

For PBEM	For County
Name: Mike Phillips	Name: Brendon Haggerty
Title: Disaster Response Planner	Title: Healthy Homes and Communities Manager
Street address: 9911 SE Bush St.	Street address: 847 NE 19 <sup>th</sup> Ave
City, State, Zip: Portland, OR 97266	City, State, Zip: Portland, OR 97232
email: Michael.phillips@portlandoregon.gov	email: Brendon.haggerty@multco.us
Copy to: Procurement Services	
1120 SW 5 <sup>th</sup> Ave.,	
Portland, OR, 97204	

### II. Purpose

The purpose of this Agreement is for the City and County to jointly lead and fund a project to monitor indoor temperatures. Data from this project may inform the development of policies and plans related to severe weather.

Under this Agreement, the County shall reimburse the City for the cost of contractual services incurred by the City for temperature monitoring. The contract for temperature monitoring services is attachment A.

### III. Attachments

This Agreement has one attachment, Attachment A, which is Contract Number 30008094, “Home Forward Temperature Assessment.”

### IV. Agreed

- Term:** This Agreement is effective upon execution through June 30, 2024. This Agreement may be renewed by mutual consent of the City and County.
- Consideration:** The maximum payment under this agreement is \$60,000.
- Responsibilities of the County:**
  - County staff shall attend monthly check-in meetings with the City during the project performance period.
  - County shall reimburse the City for contractual services procured under Attachment A up to the maximum amount of \$60,000.
- Responsibilities of PBEM:**

- a. City staff shall attend monthly check-in meetings with County during the period of performance.
  - b. City shall bill the County for reimbursement for contractual services procured under Attachment A up to \$60,000.
5. **Payment terms:** The maximum that the County is obligated to reimburse the City under this Agreement is \$60,000. The City shall bill all invoices to “Multnomah County” and include the following information:
  - a. Invoice number and invoice date
  - b. City name and address
  - c. Multnomah County contract number
  - d. Copy of the invoice(s) for contractual services received by the City in conformance with Attachment A
  - e. Receipt for payment of the invoice(s)
  - f. Total invoice amount.

The City shall send invoices to the County to: HDAP@multco.us.

6. **Termination:** This Agreement may be terminated by either Party with 30 days written notice to the other Party.
7. **Insurance:** Each Party shall each be responsible for providing workers’ compensation insurance for its employees as required by law. Neither Party shall be required to provide or show proof of any other insurance coverage.
8. **Adherence to law:** Each Party shall comply with all federal, state, and local laws and ordinances applicable to the Agreement.
9. **Non-discrimination:** Each Party shall comply with all requirements of federal and state civil rights and rehabilitation statutes and local non-discrimination ordinances.
10. **Access to records:** Each Party shall have access to the books, documents and other records of the other which are related to the Agreement for the purpose of examination, copying and audit, unless otherwise limited by law.
11. **Indemnification:** Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall indemnify, defend and hold harmless PBEM from and against all liability, loss and costs arising out of or resulting from the acts of County, its officers, employees and agents in the performance of the Contract. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, PBEM shall indemnify, defend and hold harmless County from and against all liability, loss and costs arising out of or resulting from the acts of PBEM, its officers, employees and agents in the performance of the Contract.
12. **ORS 190 – Cooperation of government units:** This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement does not constitute an authorization by a public body under ORS 190.010 or 190.110 for a Party to perform one or more inherent governmental responsibilities of or for the other Party.
13. **This is the entire agreement:** This Agreement constitutes the entire intergovernmental agreement between the Parties. This Agreement may be modified or amended only by the written agreement of the Parties.

**Intergovernmental Agreement**

Multnomah County Contract # HD-IGA-E-15420-2023

**PBEM Signature**

Signature: \_\_\_\_\_

Title: Director

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

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

City approval as to form:

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**County Signature**

Signature: *Emilie Schulhoff for Jessica Vega Pederson*

Title: Chair

Name: Jessica Vega Pederson

Date: 5/24/2023

County approval as to form:

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**CITY OF PORTLAND**  
**CONTRACT FOR SERVICES**  
**for**  
**HOME FORWARD TEMPERATURE ASSESSMENT**



**Contract Number: 30008094**

As authorized by [PCC 5.68](#), this Contract is made effective on February 1, 2022 (“Effective Date”) by and between the City of Portland (“City”), a municipal corporation of the State of Oregon, and CAPA Strategies (“Contractor”), an LLC corporation of the State of Oregon, 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 April 23, 2023, with the City’s option to extend for an additional 1 year, for a total not to exceed 2 years. The total not-to-exceed amount under this Contract shall be \$109,250.00.

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

For City of Portland:	For Contractor:
Name: Jonna Papaefthimiou	Name: Dana Hellman
Title: Chief Resilience Officer	Title: Program Manager
Address: 9911 SE Bush Street	Address: 107 SE Washington St
City, State: Portland, OR 97266	City, State: Portland, OR 97214
e-mail: <a href="mailto:Jonna.papaefthimiou@portlandoregon.gov">Jonna.papaefthimiou@portlandoregon.gov</a>	e-mail: <a href="mailto:dh@capastrategies.com">dh@capastrategies.com</a>
Copy to: Mike Phillips	
Finance Analyst – Portland Bureau of Emergency Management	
<a href="mailto:michael.phillips@portlandoregon.gov">michael.phillips@portlandoregon.gov</a>	

Scope and Consideration (09/19)

- (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 \$109,250.00 for accomplishment of the Project.
- (c) Payments shall be made to Contractor according to the schedule identified in [Exhibit A, Scope of Work](#).

WHEREAS, to further its government operations, the City of Portland is seeking project management for a project to monitor indoor temperatures in residential buildings (the “Project”).

THE PARTIES HEREBY AGREE AS FOLLOWS:

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

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

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

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

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

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

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

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

“Business Day” (11/18) means a 24-hour day, excluding weekends and City holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Calendar Day” (11/18) means a 24-hour day, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

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

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

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

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

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

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

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

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

“Force Majeure Event” (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.

“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.

“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.



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

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

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

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

## **SECTION 2 ORDER OF PRECEDENCE**

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

1. Amendments
2. Master Terms and Conditions
3. Exhibit A, Scope of Work

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

**3.1** Term. (09/17) This Contract shall begin on the Effective Date and end upon the expiration date set forth on page one of this Contract unless terminated or extended under the applicable Contract provisions.

**3.2** Point of Contact. (09/17) Contractor shall be the sole point of contact for the City with regard to this Contract and the System.

**3.2.1** Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five 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 30 Calendar Days.

### 3.3 Changes to Contract.

3.3.1 Amendment of the Contract. (06/19) Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for Amendment of this Contract as described in this section are not satisfied in full, then such Amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect. The City reserves the right to make administrative changes to the Contract unilaterally, such as extending option years and increasing compensation. An administrative change means a written Contract change that does not affect the substantive rights of the Parties.

3.3.2 Change Orders to a Statement of Work. (12/18) The City and Contractor can agree to make changes, at any time to a Statement of Work in the form of a Change Order. Contractor agrees to timely alter the delivery of Products or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall execute an Amendment to the Contract, and if the amount of such adjustment is not calculable as a function of hours or tasks, the Parties shall negotiate in good faith a modified amount.

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

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

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

measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures.

- 3.5 City Reporting Requirements.** (12/18) The City is required to track certain types of contract data for reporting purposes. Items which the City must report on may include, but are not limited to, Subcontractor utilization, Minority, Women, Emerging Small Business, Service-Disabled Veteran Business Enterprise (D/M/W/ESB/SDVBE) participation and Subcontractor/Supplier Payment. The City will enforce all diversity in workforce and D/M/W/ESB/SDVBE subcontracting commitments made by Contractor.
- 3.6 Payment.** (09/17) Payment(s) shall be in accordance with the payment schedule set forth in Exhibit A, Scope of Work.
- 3.6.1 Payment shall be issued by the City net 30 Calendar Days from receipt of a complete and acceptable invoice from Contractor. Contractor invoices must contain Contractor's name and address; invoice number; date of invoice; Contract number and date; description of Products and/or Services; quantity, unit price, (where appropriate), and total amount; City-required reporting, if any, and the title and phone number of the person to whom payment is to be sent. The City may stipulate how line items are entered on an invoice to ensure compatibility with the City's accounting and financial systems and to facilitate payment to Contractor.
- 3.6.2 The City makes payments via electronic fund transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, Contractor shall execute the City's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment Authorization Agreement will authorize the City to deposit payment directly into specified Contractor accounts with specified financial institutions. All payments shall be made in United States currency.
- 3.7 Payment of Taxes/Contractor Shall Withhold.** (09/17) Contractor shall, at its own expense, timely (a) pay all salaries, wages, and other compensation to its employees; (b) withhold, collect, and pay all applicable federal, state, and local income taxes (domestic or foreign), FICA, Medicare, unemployment insurance and any other taxes or charges in connection with its employees; and (c) provide and pay for workers compensation insurance and any statutory or fringe benefits to employees. Contractor shall be solely responsible for all such obligations for its employees. Contractor shall also ensure that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.
- 3.8 Records and Audits** (06/19)
- 3.8.1 Records Retention. (06/19) Contractor shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Contractor agrees to maintain and retain and retain all financial records, supporting documents, statistical records and all other

records pertinent to this Contract during the term of this Contract and for a minimum of six years after the expiration or termination date of this Contract or until the resolution of all audit questions or claims, whichever is longer.

- 3.8.2 City Audits. (06/19) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Products or Services at any time in the course of the Contract and during the records retention period listed above. Audits shall be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States Government Accountability Office.
- 3.8.3 Access to Records. (06/19) The City may examine, audit and copy Contractor's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.
- 3.9 Overpayment. (09/17) If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.
- 3.10 Independent Contractor. (09/17) Contractor is independent of the City and, accordingly, this Contract is not entered into as a joint venture, partnership, or agency between the Parties. No employment or agency relationship is or is intended to be created between the City and any individual representing Contractor. Employees of Contractor and any authorized Subcontractors shall perform their work under this Contract under Contractor's sole control.
- 3.11 Termination. (06/19) The following conditions apply to termination of this Contract. The City, on 30 Calendar Days' written notice to Contractor, may terminate this Contract for any reason in the City's sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all Deliverables Accepted or Services performed and Accepted through the effective date of the termination. In the event of termination all of Contractor's Work Product to date shall be delivered to the City, and it will become and remain property of the City.
- 3.12 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.13 Material Breach. (09/17) Either Party may terminate this Contract in the event of a Material Breach of this Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within 30

Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.

- 3.14 Force Majeure.** (09/17) Either Party may terminate this Contract due to a Force Majeure event as set forth in [Section 5.12, Force Majeure.](#)
- 3.15 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 60 Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.
- 3.16 Void Assignment.** (09/17) In the event that Contractor assigns its obligations under this Contract to a third party in a manner other than as set forth in Section 5.7, Assignment, the City shall have the option to terminate this Contract without any notice or cure period or further obligation to Contractor or the assignee, and promptly receive a refund for fees paid for Products delivered and/or Services performed by the third party.
- 3.17 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.
- 3.18 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.
- 3.19 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.
- 3.20 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.

- 3.21 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.
- 3.22 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.
- 3.23 Packaging.** (09/17) All packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, readily recyclable in local recycling programs, is made from recycled materials, and/or is collected by Contractor for reuse/recycling.
- 3.24 News Releases and Public Announcements.** (09/17) Contractor shall not use the City seal or other representations of the City in its external advertising, marketing, website, or other promotional efforts, nor shall Contractor issue any news release or public announcements pertaining to this Contract or the Project without the express written approval of the City. Such approval may be withheld in the City’s sole discretion. Contractor shall not use the City seal without specific written permission from the City Auditor.
- 3.25 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.
- 3.26 Survival.** (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination or expiration shall survive the termination or expiration of this Contract and shall, to the extent

applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Contractor and the City.

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

- 4.1 Governing Law and Jurisdiction.** (09/17) This Contract shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. Any litigation between the City and Contractor arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 4.2 Public Records Request.** (09/17) Contractor acknowledges that the City of Portland is subject to the Oregon Public Records Act and Federal law. Third persons may claim that the Confidential Information Contractor submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Contractor is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Contractor requests and meets an exemption from disclosure consistent with federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.
- 4.3 Public Records.** (09/17) The City will retain one copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.
- 4.4 Confidentiality.**
- 4.4.1 Contractor's Confidential Information.** (08/19) During the term of this Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark Confidential Information CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked, or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Confidential Information. Subject to Section 4.2, the City shall: (1) limit disclosure of Contractor Confidential Information to those directors, employees, contractors and agents of the City who need to know the Contractor Confidential Information in connection with the City Project and who have been informed of confidentiality obligations at least as strict as

those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Contractor Confidential Information, at least to the same degree of care as the City employs with respect to protecting its own proprietary and confidential information.

- 4.4.2 City's Confidential Information. (08/19) Contractor shall treat as confidential any City Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard or observed; or to which Contractor has had access. Contractor shall use City Confidential Information exclusively for the City's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the City, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the City Confidential Information in connection with the City Project and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use the Intellectual Property Rights of the City without the City's prior written consent.
- 4.4.3 Scope. (09/17) This Contract shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. Contractor's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- 4.4.4 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of City Confidential Information will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain injunctive relief prohibiting the breach, in addition to any other appropriate legal or equitable relief. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of Contract terms related to Confidential Information or Intellectual Property Rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- 4.4.5 Discovery of Documents. (06/19) In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.



## SECTION 5 CONTRACTOR PERFORMANCE AND WARRANTIES

### 5.1 General Warranties. (09/17) Contractor makes the following warranties:

- 5.1.1 Capacity. (09/17) Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.
- 5.1.2 Authority to Conduct Business. (08/19) Contractor warrants it is lawfully organized and constituted and duly authorized to operate and do business in all places where it shall be required to do business under this Contract, and that it has obtained or will obtain all necessary licenses and permits required in connection with this Contract.
- 5.1.3 Disclosure of Litigation. (09/17) Contractor warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract. Contractor further warrants that it will immediately notify the City in writing if, during the Term of this Contract, Contractor becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-judicial forum that involves Contractor or any Subcontractor and that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract.
- 5.1.4 Conflict of Interest. (09/17) Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- 5.1.5 Compliance with Applicable Law. (09/17) Contractor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is currently in compliance with all tax laws.
- 5.1.6 Public Contracts. (09/17) Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A and 279B require every public contract to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 5.1.7 Compliance with Civil Rights Act. (09/17) Contractor warrants it is in compliance with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>
- 5.1.8 Respectful Workplace Behavior. (09/17) The City is committed to a respectful work environment, free of harassment, discrimination and retaliation and other inappropriate conduct. Every individual has a right to work in a professional atmosphere where all

individuals are treated with respect and dignity. The City's HR Rule 2.02 covers all employees of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Contractor warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>

**5.2 Grant Funding.** (02/18). This Contract is currently not using grant funding. However, in the event that City acquires or uses grant funding to pay for any portion of this Contract, the City and Contractor agree to Amend the Contract to include the federally required terms and conditions. General grant terms may be found at <http://www.portlandoregon.gov/bibs/article/455735> .

**5.3 Compliance with Non-Discrimination Laws and Regulations.**

5.3.1 Nondiscrimination. (06/19) Pursuant to all City, State, and federal non-discrimination and civil rights laws, Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, including limited English proficiency, sex, sexual orientation, gender identity, age, religion or non-religion, disability, marital status, family status, or source of income, including in employment practices, the selection and retention of subcontractors, including procurements of materials and leases of equipment.

5.3.2 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. (06/19) In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.

5.3.3 Sanctions for Noncompliance. (09/17) In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or any state or federal agency may determine to be appropriate, including, but not limited to withholding of payments to Contractor under this Contract until Contractor complies, and/or cancellation, termination, or suspension of this Contract, in whole or in part.

5.3.4 ADA Compliance. (07/18) Contractor shall comply with the Americans With Disabilities Act (ADA), including any duty the ADA may impose on City or Contractor as a result of the Products, Services or activities requested to be provided for City under this Agreement.

At minimum, Contractor shall do the following:

Contractor shall provide virtual written reports to the public that are compatible with screen reader software.

5.3.5 Required Reporting. (05/19) If any person or class of persons files a complaint with Contractor alleging discrimination under Title VI of the Civil Rights Act of 1964 (race, color, or national origin, including limited English proficiency), Contractor will notify the City of Portland of the complaint and cooperate with any investigation related to the complaint. Notifications shall be sent to Title VI Program Manager, 421 SW 6th Ave, Suite 500, Portland, Oregon 97204, or [title6complaints@portlandoregon.gov](mailto:title6complaints@portlandoregon.gov).

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

5.4.1 No Third-Party Conflict or Infringement. (01/19) As of the Effective Date, Contractor warrants the execution and performance of this Contract, shall not contravene the terms of any contracts with third parties or any third-party Intellectual Property Right; and, as of the Effective Date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision. Contractor agrees to promptly notify the City, in writing, if during the Term of the Contract, a potential third-party conflict or infringement of third-party Intellectual Property Rights arises.

5.4.2 No Encumbrances. (08/19) All Deliverables provided by Contractor under this Contract shall be transferred to the City free and clear of any and all restrictions of transfer or distribution and free and clear of any and all liens, claims, security interests, liabilities and encumbrances of any kind.

5.4.3 Conformance with Specifications. (01/19) Contractor warrants that the Deliverables and Services shall operate in conformance with the Specifications.

5.4.4 Compliance with Law. (10/19) Contractor warrants that the Deliverables conform to all requirements of applicable law, including all applicable health, safety, privacy, data security and environmental laws and regulations.

5.4.5 Industry Standards. (10/19) Contractor warrants that the Services performed under this Contract will meet the standards of skill and diligence normally employed by persons performing the same or similar services.

5.4.6 Substitution or Modification of Products at No Charge. (03/19) In the event that Contractor substitutes or modifies the Deliverables, Contractor shall ensure that the new or modified Deliverables shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Deliverables and shall not result in additional cost to the City.

5.5 No Waiver of Warranties or Representation. (10/19) Performance of Services shall not be construed to represent Acceptance nor relieve Contractor from its responsibility under any

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

- 5.6** No Third Party to Benefit. (09/17) This Contract is entered into for the benefit of the City and Contractor. Except as set forth herein, nothing in this Contract shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a Party to this Contract to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Contract.
- 5.7** Assignment. (08/19) Neither Party shall assign, transfer, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld. For purposes of this Section, the acquisition, merger, consolidation or change in control of Contractor or any assignment by operation of law shall be considered an assignment of this Contract that requires the City's prior written consent. Notwithstanding the foregoing: (a) in the event that the City's business needs change or the City enters into an agreement with a provider for outsourcing services, Contractor agrees that the City shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the City's business, including an outsourcing provider, upon written notice to the other Party, and (b) Contractor may, without the City's consent, but upon prior written notice to the City, assign its right to payment under this Contract or grant a security interest in such payment to any third party without requiring that the third party be liable for the obligations of Contractor under this Contract. Any attempted assignment or delegation in violation of this Section shall be void.
- 5.8** Notice of Change in Financial Condition. (09/17) Contractor must maintain a financial condition commensurate with the requirements of this Contract. If, during the term of this Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Contract, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Contract.
- 5.9** Notice of Change in Ownership. (09/17) If, during the term of this Contract, Contractor experiences a change in ownership or control, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in ownership or control is sufficient grounds for terminating this Contract.
- 5.10** Subcontractors. (10/19) Contractor shall not subcontract any work under this Contract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors, including any Affiliates, at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City

reserves the right to review any agreements between Contractor and its Subcontractors for Services authorized under this Contract.

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

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

[Section 4.4, Confidentiality](#)

[Section 5.3, Compliance with Non-Discrimination Laws and Regulations](#)

[Section 6.1, Hold Harmless and Indemnification](#)

[Section 6.2, Insurance](#)

**5.12 Force Majeure.** (01/19)

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

5.12.2 COVID-19 Requirements. 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 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, Governor Brown, 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 and implementing health protocols, maintaining social distancing, and wearing face coverings. Contractor shall have a satisfactory safety plan and protocols addressing COVID-19 precautions related to Contractor's activities under this Contract. Contractor shall monitor for updated guidance and requirements and update its plan and protocols accordingly. Contractor shall provide a copy of Contractor's safety plan and protocols to City upon City's request. 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. Contractor agrees to notify the City if any Contractor employees with COVID-19 symptoms have been in contact with City employees and cooperate with the City in contact tracing.

- 5.12.3 If the period of nonperformance exceeds 15 Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract or any Statement of Work.
- 5.12.4 If the period of nonperformance due to a Force Majeure Event does not exceed 15 Calendar Days, such nonperformance shall automatically extend the Project schedule for a period equal to the duration of such events. Any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.
- 5.12.5 If the period of nonperformance due to Force Majeure Event is longer than 15 Calendar Days, the Parties shall negotiate options for mitigation of the Force Majeure Event.

**5.13 Ownership of Property.** (06/19) All work product produced by the Contractor under this Contract is the exclusive property of the City. "Work Product" includes, but is not limited to: research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form. The Contractor and the City intend that such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," the Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this Contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that Work Product.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets, and other proprietary rights of Contractor are and will remain the exclusive property of Contractor. Contractor hereby grants to the City a non-exclusive, perpetual, irrevocable license, with the right to sublicense, to disclose, copy, distribute, display, perform, prepare derivative works of and otherwise exploit any pre-existing Intellectual Property Rights incorporated into the Work Product(s).

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

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

6.1.1 Contractor shall indemnify, defend and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, and actions for all losses, damages, liabilities, costs and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract.

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

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

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

6.2.1 Insurance Certificate. (08/19) As evidence of the required insurance coverage, Contractor shall provide compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as certificate holder. Contractor shall maintain continuous, uninterrupted coverage for the Term of this Contract and to provide insurance certificates demonstrating the required coverage for the Term of this Contract. Contractor's failure to maintain insurance as required by this Contract constitutes a Material Breach of this Contract. Contractor must notify the City in writing 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 \$1 million per occurrence for damage to property or personal injury arising from Contractor’s work under this Contract.

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

6.2.4.2 Automobile Liability. (08/19) Contractor shall acquire automobile liability insurance to cover bodily injury and property damage in an amount not less than \$2 million for each accident. Contractor’s insurance must cover damages or injuries arising out Contractor’s use of any vehicle.

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

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

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

6.2.4.4 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 years following the termination or expiration of the Contract.

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

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 10 Business Days following such failure, whichever is sooner, and Contractor identifies the specific failure in that notification. The City's failure to meet obligations must be described in terms of how it has affected the Project schedule or a specific performance requirement of Contractor.

6.3.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in Project timetable, the standards of performance under this Contract, or the Contract price, if Contractor knew of that problem and failed to provide notification to the City as set forth above or to include it in the applicable status report to the City's project manager.

6.3.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's notification should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the City's Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the Project in an unimpeded fashion.

6.4 Dispute Resolution. (09/17) Contractor shall cooperate with the City to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:

6.4.1 Any dispute between the City and Contractor shall be resolved, if possible by the Project Manager or their designee on behalf of the City and Donna Hellman 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 Business Days after notice of such dispute is given by either

Party to the other, the matter shall be submitted to Jonna Papaefthimiou behalf of the City and Dana Hellman on behalf of Contractor for resolution, if possible.

6.4.3 Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.

6.4.4 Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.

6.4.5 Unless ordered by the City to suspend performance of all or any portion of Contractor's Services, Contractor shall proceed with the performance of such Services without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute while having the right to withhold payments that are in dispute.

**6.5** Remedies. (09/17) The remedies provided in this Contract are cumulative and may be exercised concurrently or separately. In the event of any Material Breach by Contractor, which Material Breach shall not have been cured as agreed to between the Parties, the City shall have the ability to pursue the City's rights at law or equity. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.

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

**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 or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same agreement.

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

CONTRACTOR



May 20th, 2022

Authorized Signature

Date

Vivek Shandas, Owner

Printed Name and Title

Address: 107 SE Washington Suite 410  
Portland, OR 97214

Phone: 206-334-9697

Email: [vs@capastrategies.com](mailto:vs@capastrategies.com)

Contract Number: 30008094

Contract Title: HOME FORWARD TEMPERATURE ASSESSMENT

CITY OF PORTLAND SIGNATURES

By:   N/A   Date: \_\_\_\_\_  
Bureau Director

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

By:   N/A   Date: \_\_\_\_\_  
Elected Official

Approved:

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

Approved as to Form:

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

## **Exhibit A – Scope of Work**

### **SECTION 1 SUMMARY**

Stage 1 of the study will establish real-time indoor temperature monitoring in at least three residential properties. In Stage 2, up to three additional properties may be added.

Locations will be selected for study in partnership with the property managers, to include buildings with residents that face increased risks from heat, different conditions with respect to building design and location, adequate resident interest, and adequate internet access.

Outreach to Stage 1 building residents and recruitment of study participants (expected n=52) will begin in Spring 2022. Participating individuals will complete a survey to capture their socio-demographic information, experiences with heat, knowledge of heat safety, coping mechanisms, and other relevant behaviors. Subsequently, the project team will place sensors in two units per floor (story) across the properties and take measurements.

Over the summer, up to three additional properties may be added as a Stage 2 of the project. Stage 2 will proceed only with written notice from the City. The decision to proceed will be made if the Stage 1 installations are providing good data and the project team agrees that additional data points would prove valuable.

Temperature and humidity data will be analyzed alongside existing data on internal and external characteristics including, but not limited to, building design, HVAC system, tree cover, and outdoor temperature. At the end of the hot season, findings will be shared with residents, and project partners will conceptualize appropriate tools or resources for use by residents.

A project report with summary findings and recommendations for follow-on actions to improve resident comfort and safety will be produced. The report and all the data will be provided to the building managers and project partners.

## SECTION 2 DESCRIPTION OF SERVICES

Contractor shall provide the following Services

1) Coordinate with the following supporting agencies:

AGENCY	POINT OF CONTACT
Portland Bureau of Emergency Management	Jonna Papaefthimiou
Portland Bureau of Planning & Sustainability	Hector Dominguez Aguirre
Multnomah County Health Department	Brendon Haggerty
Home Forward	Carolina Gomez

- 2) Install equipment to measure temperature in residential units.
- 3) Collect qualitative data from residents about their experience of heat; explore situations with outlier temperature readings.
- 4) At the end of the summer, provide the complete data set and initial conclusions about variables that effect indoor temperatures.

## SECTION 3 TASKS AND DELIVERABLES

The individual Deliverables are described in more detail below:

### 3.1 Task 1: Prepare

- 3.1.1 Deliverable 1: Coordinate with Partners to finalize the scope of the project
- 3.1.2 Deliverable 2: Select a scientifically defensible methodology and data plan
- 3.1.3 Deliverable 3: Understand equipment specifications

### 3.2 Task 2: Engage

- 3.2.1 Deliverable 4: Prepare materials for residential meetings in partnership with project team
- 3.2.2 Deliverable 5: Order sensors and equipment
- 3.2.4 Deliverable 6: Characterize participating buildings for study

### 3.3 Task 3: Survey

- 3.3.1 Deliverable 7: Inform residents of the project and collect information about residents' interests and concerns; sign up study participants
- 3.3.2 Deliverable 8: Follow up with each participating resident to confirm eligibility and discuss specific details

- 3.3.3 Deliverable 9: Provide an informational document for residents who will be hosting sensors
- 3.3.5 Deliverable 10: Design a resident survey
- 3.3.6 Deliverable 11: Distribute the survey to all participating residents (sensor hosts)

### **3.4 Task 4: Measure**

- 3.4.1 Deliverable 12: Calibrate and install sensors.
- 4.4.2 Deliverable 13: Collect data over the summer
- 4.4.3 Deliverable 14: Support building managers to collect qualitative information from residents to supplement sensor readings (text polls); receive and compile data from building managers.
- 4.4.4 Deliverable 14B: Install sensors at three additional buildings, if requested. Complete tasks 3.2.1 forward for the additional buildings.

### **3.5 Task 5: Analyze**

- 3.5.1 Deliverable 15: Analyze the results of Phase 4, including how temperature relates to other internal and external variables.
- 3.5.2 Deliverable 16: Follow up with any outlier housing units to understand unique conditions.
- 3.5.3 Deliverable 17: Produce summary data report

### **3.6 Task 6: Follow-Up**

- 3.6.1 Deliverable 18: Present results at resident workshop(s) hosted by building manager
- 3.6.2 Deliverable 19: Produce a narrative report with data, context, and recommendations.

## **SECTION 4 PROJECT SCHEDULE**

(d) The detailed Project schedule is shown below (see [Exhibit B, Project Schedule](#))  
The Project shall be completed no later than April 23, 2023, with possibility to extend to April 23, 2024.

## **SECTION 5 PROJECT MANAGEMENT**

**5.1 Invoice and Status Reports**

Contractor shall briefly summarize the tasks performed when submitting monthly invoices (Exhibit C) to the City Project Manager. Invoices are due by the fifth business day of the month.

**5.2 Place of Performance**

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

**5.3 Project Managers**

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

Contact Information: Jonna Papaefthimiou, Chief Resilience Officer

Phone: (503) 793-0737

Email: [Jonnap@portlandoregon.gov](mailto:Jonnap@portlandoregon.gov)

The Contractor’s Project Manager will be Dana Hellman.

Contact Information:

Dana Hellman, Program Manager

Phone: (513) 600-3604

Email: [dh@capastrategies.com](mailto:dh@capastrategies.com)

**5.4 Project Pricing**

<b>ITEM</b>	<b>PRICE</b>	<b>3 Additional Buildings</b>
Phase 1: Prepare	\$3,000.00	0
Phase 2: Engage	\$2,250.00	\$3,000.00
Phase 3: Survey	\$3,750.00	\$5,250.00
Phase 4: Measure	\$6,000.00	\$6,000.00
Phase 5: Analyze	\$6,750.00	\$6,750.00
Phase 5: Follow-Up	\$6,750.00	\$6,750.00
Meetings, Communications & Project Management	\$17,500.00	\$7,500.00
<b>Total Consulting Price</b>	<b>\$46,000.00</b>	<b>\$35,250.00</b>

<b>EQUIPMENT</b>		
<b>ITEM</b>	<b>PRICE</b>	<b>Additional sensors at cost up to</b>
Equipment including sensors, internet hot spots, allowance for loss/damage by residents	<b>\$14,000</b>	<b>\$14,000</b>



**TOTAL CONTRACTOR COSTS STAGE 1: \$60,000**

**TOTAL CONTRACTOR COSTS STAGE 2: \$49,250 (additional)**

## Exhibit B – Project Schedule

PHASE	TASK
<b>1. PREPARE</b> 2 months	Coordinate with partners to finalize the scope of the project Select a scientifically defensible methodology and data plan Explore sensor specs
<b>2. ENGAGE</b> 1 month	Determine a threshold for “too hot” Prepare materials for resident outreach Order sensors Characterize participating buildings
<b>3. SURVEY</b> 1 month	Perform outreach to residents, collect information about residents’ interests and concerns; Sign up study participants Follow up with each interested resident to confirm eligibility and discuss specific details Create a short manual for residents who will be hosting sensors Design a resident survey Distribute the survey to all participating residents (sensor hosts)
<b>4. MEASURE</b> 3 months	Calibrate and install sensors Respond when temperature in a unit exceeds “too hot” threshold Volunteers and responders note observations Develop and send text polls (hottest days) Record and summarize poll responses
<b>5. ANALYZE</b> 2 months	Analyze the results of Phase 4, including how temperature relates to other internal and external variables Produce summary data report Follow up with any outlier housing units
<b>6. FOLLOW UP</b> 2 months	Resident workshop(s) Conceptualize tools and resources Produce a narrative report with data, context, recommendations





## STATUS REPORT

### 1. Key Status Indicators:

Brief description of status report:

Is there a need for changes to the Scope of Work?  Yes  No.

Explanation:

Will target dates move?  Yes  No.

Explanation:

Are there resource issues?  Yes  No.

Explanation:

### 2. Issues Requiring Prompt Resolution:

Issue	Proposed Resolution