

# AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES

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

## SHORT TITLE OF WORK PROJECT: Construction Management, Inspection and Project Support Personnel

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and CMTS, Inc., hereafter called Contractor. The City's Project Manager for this contract Sue Williams.

### Effective Date and Duration

This contract shall become effective on January 1, 2002 (or on the date at which every party has signed this contract, whichever is later.) This contract shall expire, unless otherwise terminated or extended, on December 31, 2002. At the sole discretion of the Project Manager this agreement may be extended on an annual basis through December 31, 2004.

### Statement of Work

- (a) The statement of work is contained in EXHIBIT A attached hereto and by this reference made a part hereof.
- (b) The delivery schedule for the work is identified in EXHIBIT A.

### Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$2,000,000 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in EXHIBIT A.

Terms and conditions listed on pages 2 - 4.

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### CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE

Name (please print): \_\_\_\_\_

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

Social Security #: \_\_\_\_\_

Federal Tax ID #: \_\_\_\_\_ State Tax ID #: \_\_\_\_\_ Business License # \_\_\_\_\_

Citizenship: Nonresident alien ☐ Yes ☐ No

Business Designation (check one): ☐ Individual ☐ Sole Proprietorship ☐ Partnership ☐ Corporation

☐ Limited Liability Co (LLC) ☐ Estate/Trust ☐ Public Service Corp. ☐ Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject you to 20 percent backup withholding.

I, the undersigned, agree to perform work outlined in this contract in accordance to the terms and conditions (listed on pages 2-4 and made part of this contract by reference) and the statement of work made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

Approved by the Contractor: \_\_\_\_\_  
Signature/Title \_\_\_\_\_ Date \_\_\_\_\_

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### CITY OF PORTLAND SIGNATURES

Approved by Mayor or Commissioner: \_\_\_\_\_  
Elected Official or Delegate \_\_\_\_\_ Date \_\_\_\_\_

Approved by Bureau Director: \_\_\_\_\_  
Bureau Director \_\_\_\_\_ Date \_\_\_\_\_

Approved by City Auditor: \_\_\_\_\_  
City Auditor \_\_\_\_\_ Date \_\_\_\_\_

Approved as to form  
by City Attorney: \_\_\_\_\_  
(Rev.07/00) Office of City Attorney \_\_\_\_\_ Date \_\_\_\_\_

**CITY OF PORTLAND**  
**STANDARD CONTRACT PROVISIONS FOR**  
**PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)**

**1. Access to Records**

The Contractor shall maintain, and the City of Portland ("City") and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

**2. Audits**

(a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City. **If an audit discloses that payments to the Contractor were short in an amount to which the Contractor was entitled, then the City shall pay the amount of the shortage to the Contractor.**

(c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.

**3. Effective Date and Duration**

The passage of the contract expiration date (as recorded on reverse side) shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

**4. Funds**

The City certifies that sufficient funds are available and authorized for expenditure to finance the cost of this contract.

**5. Early Termination of Agreement**

(a) The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

(b) The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(c) Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

**6. Payment on Early Termination**

(a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Agreement** hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.

(b) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.

(c) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.

(d) In the event of early termination all of the Contractor's work product will become and remain property of the City.

**7. Remedies**

(a) In the event of termination under subsection 5(c), **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess.

(b) The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

(c) In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 5(c), **Early Termination of Agreement** and section 6(b), **Payment on Early Termination** hereof.

**8. Subcontracts and Assignment**

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

**9. Compliance with Applicable Law**

In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations. Contractor shall complete Exhibit B, Independent Contractor/Workers' Compensation Insurance Questionnaire, which is attached hereto and by this reference made a part hereof.

**9a. Indemnity - Claims for Other than Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement. However, Contractor is not required to defend, save, and hold harmless the City of Portland, its officers, agents and employees for claims arising from actions taken by contract personnel while acting pursuant to the supervision and direction of a designated City supervisor.

**9b. Indemnity - Claims for Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this agreement. . However, Contractor is not required to defend, save, and hold harmless the City of Portland, its officers, agents and employees for claims arising from actions taken by contract personnel while acting pursuant to the supervision and direction of a designated City supervisor.

**9c. Indemnity - Standard of Care**

If Contractor's services involve engineering or consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

**10. Insurance**

Exhibit C is hereby referenced and made a part of this contract.

**11. Ownership of Work Product**

All work products of the Contractor which result from this contract are the exclusive property of the City.

**12. Nondiscrimination**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

**13. Successors in Interest**

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

**14. Severability**

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

**15. Waiver**

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

**16. Errors**

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

**17. Governing Law**

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

**18. Amendments**

(a) The City and the Contractor may amend this Agreement at any time only by written amendment executed by the City and the Contractor. Unless otherwise provided, if the original contract required an ordinance, any amendment that increases the amount of compensation payable to the Contractor must be approved by ordinance of the City Council. If the original contract did not require an ordinance, the commissioner-in-charge may approve an amendment increasing the amount of compensation, provided the total contract price does not exceed the formal bid threshold amount set annually by the City Auditor. The Project Manager may agree to and execute any other amendment on behalf of the City.

(b) Any change in the Scope of Contractor Services shall be deemed an amendment subject to subsection (a).

**19. Business License**

The Contractor shall obtain a City of Portland business license as required by PCC 7.02.030 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement.

**20. Prohibited Interest**

(a) No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement.

**21. Payment to Vendors and Subcontractors**

The Contractor shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. The Contractor shall not take or fail to take any action in a manner that causes the City or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

**Merger Clause**

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE, SHALL BE EFFECTIVE ONLY IN SPECIFIC INSTANCES AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

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**OPTIONAL PROVISIONS** (selected by City Project Manager)

**22. Arbitration: / ☒ / Not Applicable / ☐ / Applicable (consult with City Attorney's Office before finalizing as applicable)**

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Agreement for undisputed portions of work.

**23. Progress Reports: / ☒ / Applicable / ☐ / Not Applicable**

The Contractor shall provide monthly progress reports to the Project Manager. If applicable, Exhibit A should list what information the Contractor must include in monthly progress reports.

**24. Contractor's Personnel: / ☒ / Applicable / ☐ / Not Applicable**

The Contractor shall assign the following personnel to do the work in the capacities designated: If applicable, list selected personnel in Exhibit A.



**25. Status as Temporary Workers / x /Applicable / \_\_\_/Not Applicable**

All personnel supplied to City pursuant to this agreement shall be classified as 'temporary workers' as that term is defined in OAR 436-50-420. This classification is based upon the temporary duration of the work to be performed, as described in the scope of work, and the condition that the personnel are provided to staff a special assignment or project and the personnel will be terminated or assigned to another temporary project upon completion. If Contractor provides both leased workers and workers on a temporary basis, Contractor shall maintain payroll records that show specifically which workers are provided on a temporary basis.

**Accounting Information:**

**Contract Managers *must* complete the following:**

**\*\*Description of work to be performed:** Construction Management, Inspection and Project Support Personnel

Vendor number 24971

GL Fund Number 145 Account 521000 Center Code 14522110 Amount \$2,000,000

PTS:            /            /            Various  
Project Org. TW

Project Manager Sue Williams Phone 503-823-5520

Payment terms Net 30 days unless otherwise indicated.

**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES  
EXHIBIT A**

**Statement of the Work  
and  
Payment Schedule**

**SERVICES TO BE PROVIDED BY THE CONTRACTOR**

The Contractor shall provide services specifically to the Bureau of Environmental Services. The Contractor shall supply the City with qualified personnel throughout the term of this contract. Specific requirements for each type of position are listed below. The City may also request individuals with special skills who will require qualifications in addition to those listed below.

The Contractor will supply the City with qualified personnel who do not require a professional license within two (2) weeks of written notice and personnel who require a professional license within four (4) weeks written notice during the term of this contract. The written notice shall specify the type and approximate duration of service for each position. In the event more than one candidate is provided, the City may interview all proposed candidates and may elect to reject personnel for any reason based on that interview or during the term of the employee's assignment to the City.

Contractor management shall meet with the City Project Manager at least once per month during the period of this Agreement. The purpose of the meeting shall be to review upcoming personnel requirements, discuss existing staff issues, and resolve potential or current problem areas.

**Personnel**

All personnel proposed by the Contractor are required to have the basic skills required to work in an engineering/construction environment. Skills such as good written and verbal communication, decision making, fundamental knowledge of engineering and construction practices and problem solving are required of all personnel. To be considered qualified in any of the engineering technician/clerical and administrative classifications candidates must have computer skills on PC based systems with additional skills in networked systems desired. The City Project Manager shall be the sole determinant as to whether an individual meets the qualifications.

Upon request the Contractor shall submit documentation of reference checks, interview forms, verification of minimum knowledge, degrees and certifications when appropriate.

Upon request the Contractor shall submit documentation that personnel supplied by the Contract understand that::

- 1) The City may elect to reject personnel for any reason during the term of employee's assignment to the City;
- 2) There is no expectation of continued assignment to the City;
- 3) There is no expectation that assignment to the City will continue for the duration of any given project;
- 4) The Contractor is the sole employer. The City is not the employer, nor is it a joint employer with the Contractor.

Classifications and specific qualifications include:

**Technicians Level I** possess strong math, computer and organizational skills. They are detail oriented and able to read and interpret plans and specifications. An associate degree in a technical field, preferably engineering or construction management, and/or 2 yrs. experience working in an engineering/construction environment is desirable.

**Technicians Level II** possess one of the following:

- ☐ an associate degree in a technical field, preferably engineering or construction technology
- ☐ certification by a nationally recognized agency as an engineering technician
- ☐ 5 years experience in an engineering technician position in the field of wastewater or municipal utilities
- ☐ a combination of formal training and experience as described above

Technicians may support design engineering or construction management activities. Experience using MapInfo may be required for certain positions. Technician qualifications may be modified at the sole discretion of the project manager.

**CADD Technicians** possess good drafting skills demonstrated by a minimum of 5 years of on the job experience (or an associates degree in drafting followed by 3 years experience) in preparing sanitary, storm and stormwater treatment facility construction plans utilizing ACAD Release 12 and/or 13 together with documented training in ACAD Release 14. Minimum skills shall include familiarity with model/paper space X-reference work and menu editing.

**Materials Testing Technicians** are individuals who are listed on a valid Oregon Radioactive Materials License, have ACI and OSHD Concrete QCT certificates, have verifiable related materials testing experience (minimum of 3 years, or BSCE or related field and a minimum of 2 years) and have the minimum knowledge, skills and abilities to perform field concrete sampling and testing, density testing and sampling of asphaltic concrete, base rock, and native and imported trench backfill and other materials testing on City construction projects.

**Construction Managers** are individuals with at least five years of relevant experience as a resident engineer or construction manager. A Bachelor's Degree in engineering or construction management is preferable.

**Construction Inspectors** have five years verifiable construction inspection and/or construction supervision experience on underground pipeline, pump station and/or treatment plant projects and the minimum knowledge skills and abilities require to perform the work satisfactorily.

**Specialty Inspectors** shall meet the minimum qualifications of the Construction Inspector candidates and shall also have the training, experience, and/or license(s) as negotiated by the City and Contractor to perform specialized inspection duties such as electrical, reinforced concrete or other specialty areas.

**Administrative Assistants** are individuals with at least five years of experience in clerical/administrative support, including administering support functions that are done independently with minimal supervision and responsibility for achieving end results. Must be proficient with Microsoft Word and have working knowledge of Access and Excel.

**Clerical Assistants** are individuals with at least two years of experience in clerical/administrative support, performing a variety of general office tasks under the direction of other lead office staff. Must have working knowledge of Microsoft Word.

**Specials** are other specialty classifications that may be requested based upon a specific City requirement for a particular project. Qualifications for these positions will be determined as need arises. In these cases, hourly rates shall be negotiated based upon a multiplier of 1.9.

Construction Managers, Construction Inspectors, Specialty Inspectors and Materials Testing Technicians are considered to be **Field Personnel**. All other listed classifications are considered to be **Office Personnel**. Designation of specialty classifications will be made at the time of request.

☐ The Contractor shall assign, at no cost to the City, a Project Manager/Coordinator to manage the day to day operations of providing contract personnel to the City. The Project Manager/Coordinator will be available daily.

☐

☐ While on assignment to the City daily work activities for contract personnel shall be directed by a designated City supervisor. The contractor shall be responsible for addressing all job performance and/or personnel issues for contract personnel.

☐

☐ Training

☐

☐ The Contractor is responsible for supplying all contract personnel basic training as required for the position. The Contractor shall be responsible for keeping personnel supplied to the Bureau current with their training requirements, specifically safety training certificates, and the Contractor shall supply the Bureau documentation of the safety training.

The Contractor shall provide for and require its new inspectors to attend, a three-day training session to familiarize them with items such as City standards and specifications, report forms and formats, administrative procedures, safety regulations, emergency procedures, and City policies. The project manager/coordinator will provide intensive on-the-job training and guidance to new personnel for the first two (2) weeks.

**Construction Managers** shall have the following training prior to working for the Bureau:

- ☐ 10-hr OSHA Compliance for Construction Safety
- ☐ Confined Space Entry Hazard Recognition and Evaluation (refresher every 5 years)
- ☐ Excavation/Trench Hazard Recognition and Evaluation (refresher every 5 years)
- ☐ First Aid/CPR (current certification required)
- ☐ Limited training needed to familiarize personnel with the City's contract specifications and inspection requirements
- ☐ Software - Microsoft Word, Excel, and Project
- ☐ Erosion Control

**Construction Inspectors** shall have the following training prior to working for the Bureau:

- ☐ Traffic Control (refresher every 5 years)
- ☐ 10-hr OSHA Compliance for Construction Safety
- ☐ Confined Space Entry Hazard Recognition and Evaluation (refresher every 5 years)
- ☐ Excavation/Trench Hazard Recognition and Evaluation (refresher every 5 years)
- ☐ First Aid/CPR (current certification required)
- ☐ Limited training needed to familiarize personnel with the City's contract specifications and inspection requirements
- ☐ Erosion Control

**Materials Testing Technicians** shall have the following training prior to working for the Bureau:

- ☐ Excavation/Trench Hazard Recognition and Evaluation (refresher every 5 years)
- ☐ Radiation safety and the use of nuclear soil gauges
- ☐ ACI concrete field testing technician, Grade 1 with ODOT supplement

**Technical support personnel** shall have the following training prior to working for the Bureau:

- ☐ Software - Microsoft Word, Excel, and Access
- ☐ Limited training needed to familiarize personnel with the City's contract specifications and inspection requirements
- ☐ Specific training as applicable for the position, i.e. CADD
- ☐ Construction Site Safety

**Administrative support personnel** shall have the following training prior to working for the Bureau:

Software - Microsoft Word, Excel, and Access

In cases where training has been scheduled, but cannot occur before the City's required start date, the Contractor may request a waiver on the condition the training is provided as scheduled and does not conflict with regulations and/or create a safety hazard.

The City will pay for additional training required at the City's discretion during the term of an employee's assignment to the City and the time spent in training.

#### Equipment

The Contractor shall provide field personnel with vehicles, cellular phones, pagers, protective clothing (safety shoes and/or boots made of leather construction, coverall, green reflective vests), hardhats, safety glasses, hearing protection, hand protection, and safety equipment for automobiles (fire extinguisher, flares, first aid kits, etc.). The vehicles provided will be mid-size automobiles, pick-ups, or vans in good serviceable condition. Any inoculations pertaining to working in or around live sewage will be provided by the Contractor.

The Contractor shall also supply Inspectors with cameras (with timestamp function) and standard inspection supplies as described on the attached list, and Materials Testing Technicians with a Troxler or CPN nuclear soil gauge in good working order, less than five years old

The Contractor shall also provide office personnel with safety equipment and vehicles necessary for field work.

#### Inspector Training Program

The contractor shall provide Inspector Training Program services including, but not limited to:

- ☐ Developing an Inspector Training Program in close collaboration and coordination with the BES.
- ☐ Recruiting, screening and training of personnel to participate in the program.
- ☐ Conducting training in a manner consistent with the approved program that produces measurable incremental and final established results, i.e. the successful matriculation of selected trainees through on-the-job training and course work through each phase (Qualified Inspector-in-Training, Qualified Intern Inspector,) of the program.

During the training period the contractor shall provide the Inspector-in-Training/Intern Inspectors classroom training in construction procedures, terminology, materials, CPR, First Aid, and latest technology advances. The contractor shall provide each Inspector-in-Training/Intern Inspector with standard equipment and supplies as described under Equipment. The Contractor shall provide services as identified in a mutually agreed upon "Inspector Training Program Manual". At a minimum the services shall include:

CMTS Team will conduct classes for:

1. Specifications
2. Contracts
3. Inspections (Civil)
4. Construction Management
5. Scheduling
6. Cost Estimating
7. Progress Payments
8. Punch-list Items
9. Close-out
10. Reading and Interpreting Construction Plans/blueprints
11. Drafting Classes/update Plans to Reflect As-Built Conditions.

CMTS will arrange for safety and traffic control classes to:

1. Familiarize the Trainees with Safety Practices
2. Maintain a Safe Working Environment
3. Handle Different Traffic Situations
4. Provide 10-Hour OSHA
5. Handle Confined Space Entry
6. Handle Excavation/Trench Safety
7. Teach First Aid/CPR and Erosion Control

CMTS will conduct classes on how to maintain effective working relationships with:

1. Construction Personnel
2. Contractors
3. Foremen
4. Crews
5. Public and Government Representatives

CMTS will arrange for computer classes on:

1. Microsoft Project
2. Microsoft Word
3. Microsoft Excel
4. Microsoft Access
5. Microsoft Power Point

CMTS will arrange for classes on Test Procedures for:

1. Concrete
2. Structural Steel (Rebar)
3. Pipe
4. Manholes
5. Soils
6. Asphalt

#### SERVICES TO BE PROVIDED BY THE CITY

To assist the Contractor in carrying out its obligations hereunder, the City shall endeavor to provide the Contractor with a minimum two (2) weeks notice of personnel needs for positions not requiring a professional license and four (4) weeks for positions requiring a professional license. The City shall specify the type and term of service of each position needed. Notice may be provided via fax, email or phone (followed up with notice in writing).

It is expressly understood that this is not an exclusive agreement for providing construction management, inspection, and project support personnel and other services to the City. The City expects to have other such contract services. Additionally the City expects personnel requirements to vary during the course of this agreement and may request that the Contractor remove personnel as needed.

The City will provide field personnel with film, photo developing, Standard Specifications, Inspectors Manuals and any other specialized equipment not provided for above.

The City agrees to provide gas detector equipment for Contractor employee use. Contractor releases the City from claims of any nature relative to condition of such equipment or training of Contractor employee use of equipment. Contractor shall, at his sole expense, take whatever steps he deems appropriate to ascertain condition of said equipment and Contractor training in its use. All equipment will remain the property of the City.

The City will provide office personnel with office space, equipment, and basic office supplies. Additionally, at the City's discretion, the City may provide vehicles for office personnel to perform site visitations and minor field work.

The City will direct and supervise the daily work activities of contract personnel while on assignment to the City. All job performance and/or personnel issues, including failure to perform activities as directed by the City, shall be the responsibility of the contractor, and shall be referred thereto for action.

#### Inspector Training Program

The City shall provide the services as identified in a mutually agreed upon "Inspector Training Program Manual". At a minimum



the services shall include:

- ☐ Developing an Inspector Training Program in close collaboration and coordination with the Contractor
- ☐ On the job training experience

Provision of City facilities to conduct classroom training

#### COMPENSATION

The City shall pay the Contractor for services performed under this Agreement after the effective date. The payment shall be full compensation for services rendered. Payment shall not exceed \$2,000,000 for the initial term of this Agreement, through December 31, 2002. Services shall be billed on an hourly basis for work performed based on the attached compensation schedule.

The first ninety (90) days of an employee's assignment to the City will be billed at the introductory rate. Upon completion of the initial 90-day introductory period the employee may be billed at the regular rate, providing the City has agreed that all introductory training has been completed and the employee can perform the work as expected.

On the effective date of this contract, each current contract employee shall be considered as having completed the introductory period if his/her assignment period exceeds ninety (90) days. If the assignment period is under ninety (90) days, his/her date of assignment shall mark the start of the introductory period. Hours shall be billed accordingly.

In the event a contract employee quits for the purpose of accepting appointment to a City position, and the City requests a replacement, the replacement shall be billed at the same rate as the previous employee.

Overtime rates shall be charged at 1.3 times regular time rates. Overtime shall be charged for work over 40 hours in a work week. A work week shall be defined as Thursday through the following Wednesday. Non-billable hours such as vacation, holidays or sick leave will not count in the total hours worked.

If construction is delayed due to inclement weather or other causes field personnel may be sent home by the City and the Contractor shall charge the City for actual time on the job. The same shall apply to office personnel in the event City offices are closed.

Rates may be increased on July 1 of each year to reflect increases in the Contractor's cost of services. Hourly rates may be adjusted to an amount not to exceed the average inflation rate for the Portland Metropolitan Area, as determined from the US Department of Labor statistics, and certified by the City of Portland Auditor in January of each year. Other than the impact of inflation as described above, compensation may not be increased.

If an employee takes time off for a scheduled vacation, short-term illness (less than one week), or long term illness (over one week), emergency backup services shall be provided by the Contractor upon request by the City. Contractor shall notify City at least three weeks prior to scheduled vacation.

Emergency backup services are defined as services requested by the City between the time of notice and delivery of an acceptable employee. For emergency backup services the Contractor shall be paid the regular hourly rate for the appropriate classification.

The Project Manager/Coordinator must be available as needed to serve the City. Thus, he/she shall not be assigned to on-the-job services for more than one (1) day. Continual duration emergency inspection services shall be provided to the City from other Contractor staff or from approved inspection pool

#### BILLING AND PAYMENT PROCEDURES

The Contractor shall be paid on a four-week period on the basis of invoices submitted for services provided during the invoice period. The invoice period start and end dates must coincide with the start and end dates of payroll periods. The Contractor shall adopt the City's bi-weekly payroll periods during the term of the contract.

The invoice must include the Center Code, Project Number, and Type of Work Code to be provided by the City. The invoice shall include an itemization of regular, overtime, and non-billable hours for each employee who provided services during the invoice period and a summary of charges. The City will provide a recommended format for both parts of the invoice.

Within 30 days after receipt of the invoice, provided the Project Manager has certified the payment as due, the City shall pay the amount certified to the Contractor. The Project Manager's certification of a payment as due, however, shall not prevent the Project Manager from later determining that the certification was in error.

#### PROGRESS REPORTS

The Contractor shall submit monthly progress reports that include any personnel actions occurring during the previous month, pending actions, issues, HUB participation/activities, and a listing of current employees by classification.

#### CONTRACTOR'S PERSONNEL

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

As described in the Proposal Construction Management, Inspection and Project Support Personnel dated June 20, 2001.

The Contractor shall not change these personnel assignments without the written consent of the Project Manager, which consent shall not be unreasonably withheld.

#### INSPECTOR TRAINING PROGRAM SCHEDULE

Contractor will perform the services in accordance with the schedule outlined in the "Inspector Training Program Manual" to be mutually agreed upon. The Program Manual shall be completed no later than January 31, 2002. The Contractor shall be prepared to begin recruitment efforts by February 15, 2002.

CITY OF PORTLAND  
BUREAU OF ENVIRONMENTAL SERVICES

Agreements for Construction Management, Inspection and Project Support Personnel

STANDARD INSPECTION SUPPLIES  
CONTRACTOR PROVIDED

In addition to the supplies and equipment for field personnel listed in the agreement for services Inspection personnel shall be provided with the following:

City map  
AC Thermometer  
Mason Line, 100'  
Hammer, Claw, Rip  
Hammer, 3 lb.  
Hand Held Stop Sign  
Hand Cleaner  
Flashlight, 3-cell  
Torpedo Level  
Crayon, Lumber Yellow  
Tape Meas., 50' Cloth/Reel  
Manhole Hook  
Clipboard, Legal  
Shovel, #2 (round point)  
2' Carpenter Level  
Mirror, Sewer

**EXHIBIT B**  
**INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT**

**SECTION A**

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

Signature \_\_\_\_\_ Date \_\_\_\_\_ Entity \_\_\_\_\_

If entity does not have Workers' Compensation Insurance, City Project Manager and Contractor complete the remainder of this form.
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**SECTION B**

**ORS 670.600 Independent contractor; standards.** As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

\_\_\_\_\_  
Project Manager Signature

\_\_\_\_\_  
Date

**SECTION C**

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:

\_\_\_\_\_ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;

\_\_\_\_\_ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;

\_\_\_\_\_ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;

\_\_\_\_\_ D. Labor or services are performed only pursuant to written contracts;

\_\_\_\_\_ E. Labor or services are performed for two or more different persons within a period of one year; or

\_\_\_\_\_ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date





## EXHIBIT C

INSURANCE (The Project Manager must answer and initial 2, 3, and 4 below).

During the term of this contract Contractor shall maintain in force at its own expense, each insurance noted below:

1. Workers Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

2. ☒ Required and attached or Waived by City Attorney : \_\_\_\_\_

General Liability insurance with a combined single limit of not less than \$500,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Portland, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract:

3. ☒ Required and attached or Waived by City Attorney : \_\_\_\_\_

Automobile Liability insurance with a combined single limit of not less than \$500,000 each occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or nonowned vehicles, as applicable:

4. \_\_\_\_\_ Required and attached or Waived by City Attorney : ☒ \_\_\_\_\_

Professional Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.

5. On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
6. Certificates of insurance. As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time contractor returns signed contracts. The certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause that provides that the insurance shall not terminate or be cancelled without 30 days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

## PTE CONTRACT WORKSHEET

### I. CONTRACT INFORMATION

### “PTE WORKSHEET”

<b>RFP NO.</b>	<b>Bureau: BES</b>	<b>Project Manager: Sue Williams</b>	<b>Phone No: 823-5520</b>	<b>Award Date:</b>
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Project Name: Construction Management, Inspection and Project Support Personnel				Bid Estimate: Not to Exceed \$3,725,000			
Briefly describe contract services: Supply contract personnel as needed.							
Total RFPs Distributed: 40				Total RFPs Received: 5			
MBEs: 10	WBEs: 2	ESBs: 1	Non-certified: 27	MBEs: 1	WBEs:	ESBs:	Non-certified: 4

### I. SOLICITATION INFORMATION

	<b>Firm Selected</b>	<b>Firm No 2</b>	<b>Firm No 3</b>	<b>Firm No 4</b>
Firm Name	CMTS Inc.	Tetra Tech/CMI		
Address	3207 SW 1 <sup>st</sup> Ave., Ste. 225	8800 SE Sunnyside Rd., Ste 116-S		
Phone	503-242-1388	503-652-3900		
Owner				
Quote Amt				
EEO certification				
M/W/ESB Certification				
Contract Amount	Not to exc \$2,000,000	Not to exc \$1,725,000		

### II. NOTE: Attach multiple pages as needed to include information on all proposals, bids or quotes received

A Request for Proposals was published and a selection process conducted in accordance with PCC 5.68

### III. OTHER INFORMATION

If you did not contact any MBE, WBE or ESB firms, briefly state why:

B. If you have awarded other contracts to the same firm within the last 12 months, please list: Date: \_\_\_\_\_ Amount: \$\_\_\_\_\_ Briefly describe contract services: \_\_\_\_\_

List names and affiliation of selection committee used to choose your contractor.

Neil Choate	BES Construction Svcs.	Harvey Lockett	BES Business Opportunity
Scott Clement	BES Construction Svcs.	Jeff Goodling	Trimet
Ted Luyben	BES Construction Svcs.		

**AUTHORIZING SIGNATURE OF COMMISSIONER OR BUREAU DIRECTOR**

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