

AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES

CONTRACT NO. _____

SHORT TITLE OF WORK PROJECT: West Burnside / Couch Survey Project

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and H.W. Lochner, Inc., hereafter called Contractor. The City's Project Manager for this contract is Ross Swanson.

Effective Date and Duration

This contract shall become effective on the date at which every party has signed this contract. This contract shall expire, unless otherwise terminated or extended, on Sept 1st, 2009.

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 \$359,507 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): HW Lochner

Address: 2001 Front Street NE, Suite 120

Social Security #: _____

Federal Tax ID #: 36-2338811 State Tax ID #: 1191891-8 Business License # 697777

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 and is in compliance with the Equal Benefits Program as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent 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 City Auditor: _____

City Auditor Date

Approved as to Form
by City Attorney: _____

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.

(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. Order of Precedence

This contract consists of the terms and conditions of this contract, the Request for Proposals (RFP) issued by the City, if any, and the Contractor's proposal in response to the RFP. In the event of any apparent or alleged conflict between these various documents, the following order of precedence shall apply to resolve the conflict: a) this contract's terms and conditions, b) the City's RFP, and c) the Contractor's proposal in response to the RFP.

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 including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the administrative rules. 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. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses arising out of death, or bodily injury to persons, or property damage caused by the negligence of the City.

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. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses caused by the negligence of the City.

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 produced by the Contractor under this contract is the exclusive property of the City. "Work product" shall include but not be 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 Contractor-Architect, and by execution of this contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that work product.

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 I. 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

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Purchasing Agent to be valid. Any amendment that increases the original contract amount by more than 25% must be approved by the City Council to be valid.

19. Business License

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 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. Additionally, the 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.

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.

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. The Contractor shall not change personnel assignments without the prior written consent of the City.

25. Subcontractors: / / Applicable / / Not Applicable

The Contractor shall assign the following subcontractors to perform work in the capacities designated: If applicable, list selected subcontractors in Exhibit A. The Contractor shall not change subcontractor assignments without the prior written consent of the City.

**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES
EXHIBIT A: West Burnside / Couch Survey Project**

**Statement of the Work,
Fee and Payment Schedule**

SCOPE OF WORK

PROJECT DESCRIPTION

The purpose of this work is to collect topographic data along the streets within the project limits. The gathered data will be reduced and used to prepare topographic base mapping upon which the street improvements will be designed.

Note: Due to the length of the project, the amount of detailed information to be gathered and the high traffic volume on W. Burnside St., it is anticipated that most, if not all, of the topographic surveying and mapping will be accomplished utilizing Laser Scanning technology.

PROJECT LIMITS

- Refer to Exhibit A3 map “West Burnside/Couch Couplet - Project Area & Features to Be Surveyed” map. A 1”=200’ scaled copy of this map will be provided to the contractor at the time of notice-to-proceed.

- The length limits of the topographic surveying and mapping are as follows:

NW Couch Street - NW 2nd Avenue to NW Trinity Place

W. Burnside Street - 100 feet east of NW 1st Avenue to NW 24th Place

All cross streets between W. Burnside and NW Couch from NW 2nd Avenue to NW Trinity Place

All streets along the perimeter of the Project Area - Extend survey 40 feet into the streets unless noted otherwise on said accompanying map (that is 40 feet from the near curb of the intersected street within the project area)

- The width limits of the topographic surveying and mapping are as follows:

Along all streets within the project area the survey will extend from building face to building face.

Along open lots within the project area, the survey will extend 10 feet beyond the existing right-of-way lines.

See atypical areas labeled on the accompanying Exhibit A3 map.

WORK ORDER TASKS

TASK 1 – Project Management and Coordination

TASK 1.1: MANAGEMENT / REPORTING / QAQC

TASK 2 - Control Phase

TASK 2.1: UTILITY AND SURVEY RESEARCH

TASK 2.2: CONTROL SURVEY

TASK 3 – Topography Phase

TASK 3.1: TOPOGRAPHIC SURVEY

TASK 3.2: DATA REDUCTIONS AND DELIVERABLES

TASK 4 - Boundary Phase

TASK 4.1: RECORD MONUMENT TIES

TASK 4.2: RIGHT-OF-WAY RESOLUTIONS & COMPILED PROPERTY LINES

TASK 4.3: RECORD OF SURVEY

Each task above is described below and outlines requirements and City responsibilities. This project Work Order will begin on the date the contract is effective.

TASK 1 – Project Management and Coordination

TASK 1.1: PROJECT MANAGEMENT, REPORTING AND QUALITY ASSURANCE

Task Description: Contractor shall provide the management, coordination, and direction to the project contractor team including all sub-contractors for the duration of the project. Contractor shall monitor and report the project scope, schedule and budget progress to the City Project Manager through the following reports:

1. Contractor shall maintain of a record of coordination activities and decisions made, and provide copies of this documentation to City Project Manager upon completion of project, or as requested during the duration of the project.
2. Contractor shall prepare and provide a project schedule. The schedule should show a preliminary and final submittal dates for deliverables and key decision points. Contractor shall revise project schedule bi-weekly to reflect changes in the project and track progress on work completed and provide this update via e-mail to designated city staff.
3. Contractor shall prepare monthly invoices as described in the “Compensation” portion of this Exhibit.
4. Contractor shall maintain a record of quality assurance checks for all deliverables. Records should track comments and issues found by both the Contractor and City staff identified to provide quality assurance. All issues and comments recorded shall be monitored through resolution.

City to Provide: City shall provide a city staff Project Manager to direct and assist in any issues that may impact scope, schedule and budget items. City shall provide a city technical staff to review and comment on all submittals.

TASK 2 – Control Phase

TASK 2.1: UTILITY AND SURVEY RESEARCH

Task Description: Contractor shall request “utility locates” (field markings and as-built maps) for the utilities within the project that fall within the public right-of-ways through the “one call” utility notification center. Perform survey research for recorded Surveys, Plats, Subdivisions, Assessor’s Maps, road plans, Government Corners etc. within and bounding the project area. As needed, order documents and/or deeds from a title company or Multnomah County deed records.

City to Provide: PDOT Survey shall furnish the location and elevations of nearby City Benchmarks, the location and coordinates for nearby City GPS Control Points and references to Multnomah County GPS points of record. PDOT Survey will also compile a computer drawing containing the City GIS utility information in the project area.

TASK 2.2: CONTROL SURVEY

Task Description: Contractor shall set survey control points throughout the project, run a horizontal traverse or network through the points, reduce/adjust the measured data, compute coordinates (northings & eastings) for each point and run differential levels through the points to establish the elevation of each.

The coordinates for this project are to be referenced to the NAD 83/91 coordinate system and the elevations are to be based upon the City of Portland Vertical Datum.

City to Provide: City of Portland vertical benchmark information.

TASK 3 – Topography Phase

TASK 3.1: TOPOGRAPHIC SURVEY

Task Description: Contractor shall perform a topographic survey within the project limits stated above. Topographic features to be surveyed include, but are not limited to:

1. Building faces and door thresholds.
2. Street striping.
3. Surface indications of utilities including MH’s, grates, valves, meters, utility paint markings, etc.
4. Utility poles w/identification numbers, guy anchors and overhead wires that cross streets. (Overhead wires that run along a street are not needed)
5. Street centerlines, ¼ points, bottom face of curbing, top face of curbing, back of sidewalks.
6. Street pavement shots in a dense grid within each intersection
7. Driveways, wheel chair ramps and sign posts.
8. Inverts, pipe sizes and direction of flow for all catch basins/area drains.
9. Inverts and direction of flow for all MH’s. (A Manhole Detail Sketch is to be prepared for each manhole.)
10. Trees 4” in diameter or greater, shrubs and landscaped areas
11. Surface features of sidewalk vaults.

12. Grade break lines, tops of slope, bottom of slopes, ditches, etc.
13. Face of bluff/cliff within the project area at the west end of the project.
14. Sufficient ground and/or pavement shots to develop a DTM (3-D surface) and produce 1-foot contours.

City to Provide: Sample MH Detail Sketches.

TASK 3.2: DATA REDUCTIONS AND DELIVERABLES

Task Description: Contractor shall reduce all survey data gathered and prepare computer drawings containing all line work, topographic features, symbology and points surveyed. Consultant shall also generate a digital terrain model (DTM) of the project and prepare 1-foot contours. The contour lines and the 3-D triangles (TIN or surface) shall be included as part of the final deliverables. The drawings shall be prepared using AutoCAD 2000 or later version software or MicroStation V8 or later software. The layering, line work and symbols of the computer drawings must be easily discernible.

Deliverables: Contractor shall provide the following: An ASCII file containing the coordinates (Point No., N, E, Elev. & Description) of all points surveyed; computer topographic base mapping files; the 3-D TIN/surface; 1" = 50' scale plots of the final base mapping for review; copies of all utility as-built plans compiled; copies of all survey research gathered; copies of all original survey field notes and Manhole Detail Sketches of each manhole within the project limits.

TASK 4 – Boundary Phase

TASK 4.1: RECORD MONUMENT TIES

Task Description: Contractor shall look for and survey the location of record property, Government Corner, right-of-way and street centerline monuments lying within and adjacent to the project limits.

Deliverables: Copies of record information (surveys) marked with notations as to which monuments were found and surveyed, those looked for and not found and a date associated with each.

TASK 4.2: RIGHT-OF-WAY RESOLUTIONS & COMPILED PROPERTY LINES

Task Description: Contractor shall resolve the location of the public right-of-way lines for the streets within the project limits on accompanying map. Individual property lines shall be compiled from City GIS lines, found monuments and recorded surveys.

Deliverables: A computer drawing containing the resolved right-of-way lines, all found monument points and compiled property lines. A narrative explaining the resolution and compilation of both the right-of-way lines and the property lines. This line work can be referenced to or incorporated into the topographic base map.

City to Provide: City GIS tax lots/parcel lines files.

TASK 4.3: RECORD OF SURVEY

Task Description: Contractor shall prepare and file a Record of Survey with the Multnomah County Surveyor's Office. The Survey will show the resolved R/W lines for the streets that lie within the project limits on accompanying map and all found monuments. Compiled property lines may be shown, but the intent of the Survey is to show the resolved R/W's and the locations of all found monuments.

CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT
HW Lochner – See Exhibit A2 for list of staff and associated work tasks.	Project Management, Utility Research, Utility Invert Survey, Post Processing, Desk Top Surveying, CADD/Mapping, Digital Terrain Modeling, Quality Assurance/Quality Control

SUBCONTRACTORS

The Contractor shall assign the following subcontractors to perform work in the capacities designated:

NAME	ROLE ON PROJECT
Intelisum	Laser Scanning, Post Processing
BlueDot	Utility & survey Research, Control Survey, Topographic Surveying, Boundary Survey
D&H Flagging	Traffic Control

The City will enforce all diversity in workforce and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Contractor in its Proposal. The Contractor shall submit a Monthly Subconsultant Payment and Utilization Report (Exhibit A1 attached hereto) reporting ALL subcontractors employed in the performance of this agreement.

COMPENSATION

Invoicing: Contractor shall prepare monthly invoices. Monthly invoices shall reflect the project schedule and money spent to-date by task heading listed above, budgeted cost for each task, tasks completed and /or percent complete for each task.

Estimated budgeted tasks and staffing for the consultant are shown in 'Exhibit A2 – H.W. Lochner Fee Schedule'.

Contract Total and Contingency: Contract payment is not to exceed \$359,507, with a 5% total project budget contingency of \$17,119.40 included in the not-to-exceed amount. Contractor shall not bill against contingency funds unless directed to by City Project manager. Contingency fund availability requires that a written Scope-Change be submitted by the contractor and approved with a written notice-to-proceed by the City Project manager. A written Scope-Change for contingency funds shall included description of items changed, change in hours by task, identified staff performing tasks, total cost for change and all impacts to schedule.

MONTHLY SUBCONSULTANT PAYMENT AND UTILIZATION REPORT

1. Solicitation No. _____ 2. Contract No. _____ 3. Prime Consultant _____
4. Contract Amount _____ 5. Report Dates: Beginning ___/___/___ Ending Dates ___/___/___ 6. Project Name _____
7. Progress Report No. _____

8 ALL SUBCONSULTANT NAMES APPEARING ON ORIGINAL FIRST-TIER SUBCONSULTANT DISCLOSURE FORM	9 ORIGINAL SUBCONSULTANT AMOUNT (\$)	10 AMENDED SUBCONSULTANT AMOUNT (\$)	11 PAYMENT AMOUNTS AND DATES MADE, FOR MONTH (\$)	12 TOTAL PAYMENTS TO DATE (\$)

SUBCONSULTANTS ADDED AFTER PROJECT AWARD (Must be EEO Certified with the City of Portland)*

13 SUBCONSULTANT NAME (LIST ANY SUBCONSULTANTS NOT LISTED ABOVE)	14 NATURE OF WORK	15 STATUS MBE, WBE OR ESB	16 SUBCONSULTANT AMOUNT	17 PAYMENT AMOUNTS AND DATES MADE, FOR MONTH (\$)	18 TOTAL PAYMENTS TO DATE (\$)

*CHANGES TO CONTRACT: Before replacing, substituting, or adding any subconsultant, please contact the **PTE Compliance Specialist**

Please note: Explanations and additional instructions for completing this report are on the reverse side.

IT IS HEREBY CERTIFIED THAT THE ABOVE LISTED FIRMS HAVE BEEN UTILIZED BY OUR FIRM IN THE AMOUNTS REPRESENTED ABOVE AND THAT THE INFORMATION CONTAINED HEREIN IS COMPLETE AND ACCURATE.

Authorized Signature of Consultant Representative

Date

**Submit with invoice by the 15th of the month to the City's Project Manager AND City of Portland, Bureau of Purchases, Contract Compliance Specialist,
1120 SW 5th Avenue, Room 750, Portland, OR 97204**

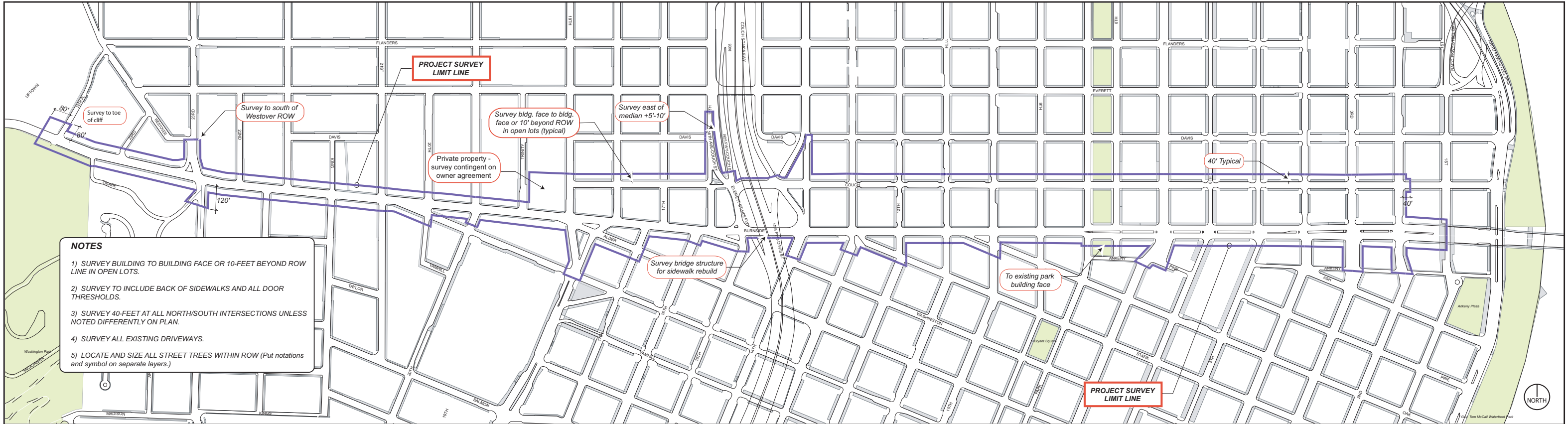
INSTRUCTIONS FOR COMPLETING THE MONTHLY SUBCONSULTANT PAYMENT AND UTILIZATION REPORT

1. **SOLICITATION NUMBER:** Enter City of Portland solicitation number.
2. **CONTRACT NUMBER:** Indicates the contract number assigned by the City Auditor for this project.
3. **PRIME CONSULTANT:** Indicate the name of the prime consultant.
4. **PRIME CONTRACT AMOUNT:** Indicate the total dollar amount of the prime contract.
5. **REPORT DATES:** Indicate the beginning and ending dates corresponding to the progress payment period or use calendar month (i.e. 1/1/02 thru 1/31/02); reports should be sequential and not overlap.
6. **PROJECT NAME:** Indicate the project name as indicated on the contract documents.
7. **PROGRESS REPORT NUMBER:** Enter report No.1 for the first report submitted and sequential numbers for reports submitted thereafter.
8. **ALL SUBCONSULTANT NAMES:** List the names of all subconsultants listed on the original First-Tier Subconsultant Disclosure form as submitted at solicitation due date.
9. **ORIGINAL SUBCONTRACT AMOUNT:** Indicate the dollar amount for each subconsultant at time of award.
10. **AMENDED SUBCONSULTANT AMOUNT:** This amount should be the total dollar value (original subconsultant amount plus any additions or deletions) of the subcontract.
11. **PAYMENT AMOUNTS AND DATES MADE, FOR MONTH:** Please list any payment amounts for the month, and the dates the payments were made.
12. **TOTAL PAYMENTS, TO DATE:** This amount should be the total dollar amount paid-to-date to the subconsultant.

SUBCONSULTANTS ADDED AFTER PROJECT WAS AWARDED

13. **SUBCONSULTANT NAME:** Please list any subconsultants not appearing on original disclosure form.
14. **NATURE OF WORK:** Briefly describe subconsultants work (i.e. CAD drafting, environmental testing, etc.).
15. **STATUS:** Indicate the appropriate M/W/ESB status of each subconsultant listed (i.e. MBE, WBE, ESB). **Note:** Designations should be consistent with how firms were certified by the State at time of contract award. Leave blank for non-certified firms.
16. **SUBCONSULTANT AMOUNT:** Indicate the dollar amount of the subcontract.
17. **PAYMENT AMOUNTS AND DATES MADE, FOR MONTH:** Please list any payment amounts for the month, and the dates the payments were made.
18. **TOTAL PAYMENTS, TO DATE:** This amount should be the total dollar amount paid-to-date to the subconsultant

COMMENTS (Include why any payment amounts made to a subconsultant are less than that requested by the subconsultant).



- NOTES**
- 1) SURVEY BUILDING TO BUILDING FACE OR 10-FEET BEYOND ROW LINE IN OPEN LOTS.
 - 2) SURVEY TO INCLUDE BACK OF SIDEWALKS AND ALL DOOR THRESHOLDS.
 - 3) SURVEY 40-FEET AT ALL NORTH/SOUTH INTERSECTIONS UNLESS NOTED DIFFERENTLY ON PLAN.
 - 4) SURVEY ALL EXISTING DRIVEWAYS.
 - 5) LOCATE AND SIZE ALL STREET TREES WITHIN ROW (Put notations and symbol on separate layers.)

EXHIBIT A3: WEST BURNSIDE / COUCH COUPLET - Project Area & Features To Be Surveyed

Not to Scale
JANUARY 2008



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.

Contractor Signature _____ Date _____ Entity _____

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

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.

City 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 \$1,000,000 per 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 \$1,000,000 per 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 per 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. If insurance coverage is provided on a "claims made" basis, the successful Proposer shall acquire a "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If such coverage is not available or economically feasible, contractor shall notify City immediately.

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.