

CITY OF PORTLAND
AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES

CONTRACT NO. 30002668

SHORT TITLE OF WORK PROJECT:
Portland Brownfield Redevelopment Assessment

This contract is between the City of Portland ("City," or "Bureau") and Maul Foster & Alongi, Inc., hereafter called Contractor. The City's Project Manager for this contract is Tyler Bump.

Effective Date and Duration

This contract shall become effective on May 7, 2012. This contract shall expire, unless otherwise terminated or extended, on December 31, 2012

Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$150,000 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

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CONTRACTOR DATA AND CERTIFICATION

Name (please print): Maul Foster & Alongi, Inc.

Address: 2001 NW 19th Avenue, Suite 200, Portland OR 97209 (971-544-2139)

Employer Identification Number (EIN) 91-1730412

[INDEPENDENT CONTRACTORS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN) – LEAVE BLANK IF NO EIN]

City of Portland Business License # 434951

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.

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TERMS AND CONDITIONS

1. Standard of Care: Contractor shall perform all services under this contract using that care, skill and diligence that would ordinarily be used by similar professionals in this community in similar circumstances.

2. Effect of Expiration

Passage of the contract expiration date 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 corrected.

3. Order of Precedence

This contract consists of these Terms and Conditions, the Statement of Work and Payment Schedule, and any exhibits that are attached. Any apparent or alleged conflict between these items will be resolved by using the following order of precedence: a) these Terms and Conditions; b) Statement of Work and Payment Schedule; and c) any exhibits attached to the contract.

4. Early Termination of Contract

(a) The City may terminate this Contract for convenience at any time for any reason deemed appropriate in its sole discretion. Termination is effective immediately upon notice of termination given by the City.

(b) Either party may terminate this Contract in the event of a material breach by the other party that is not cured. Before termination is permitted, the party seeking termination shall give the other party written notice of the breach, its intent to terminate and fifteen (15) calendar days to cure the breach. If the breach is not cured within 15 days, the party seeking termination may terminate immediately by giving written notice that the Contract is terminated.

5. Remedies and Payment on Early Termination

- (a) If the City terminates pursuant to 4(a) above, the City shall pay the Contractor for work performed in accordance with the Contract prior to the termination date. No other costs or loss of anticipated profits shall be paid.
- (b) If the City terminates pursuant to 4(b) above, the City is entitled all remedies available at law or equity. In addition, Contractor shall pay the City all damages, costs and sums incurred by the City as a result of the breach.
- (c) If the Contractor justifiably terminates the contract pursuant to subsection 4(b), the Contractor's only remedy is payment for work prior to the termination. No other costs or loss of anticipated profits shall be paid.
- (d) If the City's termination under Section 4(b) was wrongful, the termination shall be automatically converted to one for convenience and the Contractor shall be paid as if the Contract was terminated under Section 4(a).
- (e) In the event of early termination the Contractor's work product before the date of termination becomes property of the City.

6. 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.

7. Compliance with Applicable Law

Contractor shall comply with all applicable federal, state and local laws and regulations. Contractor agrees it currently is in compliance with all tax laws.

8. Indemnification for Property Damage and Personal Injury

Contractor shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from all claims, losses, damages, and costs (including reasonable attorney fees) for personal injury and property damage arising out of the intentional or negligent acts or omissions of the Contractor, its Subcontractors, suppliers, employees or agents in the performance of its services. Nothing in this paragraph requires the Contractor or its insurer to indemnify the City for claims of personal injury or property damage caused by the negligence of the City. This duty shall survive the expiration or termination of this contract.

9. Insurance

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

- (a) 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).
- (b) Commercial 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 Insureds, but only with respect to the Contractor's services to be provided under this Contract:

Required by operating Bureau X

Waived by operating Bureau Director or designee ____

- (c) 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 non-owned vehicles, as applicable:

Required by operating Bureau X

Waived by operating Bureau Director or designee ____

- (d) Professional Liability insurance with a combined single limit of not less than \$1,000,000 per claim, incident, or occurrence. If insurance is provided on a "claims made" basis the Contractor shall acquire "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If not feasible, contractor shall notify City immediately.

Required by operating Bureau X

Waived by operating Bureau Director or designee ____

- (e) There shall be no cancellation, material change, reduction of limits, or intent not to renew any required insurance without 30 days written notice from the Contractor or its insurer(s) to the City.
- (f) Certificates of insurance. The Contractor shall furnish acceptable insurance certificates to the City showing the required insurance coverage. The certificate will specify all of the parties who are Additional Insureds. Certificates and insurers are subject to City approval. Complete policy copies shall be provided to the City upon request. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

10. Ownership of Work Product

All work product produced by the Contractor under this contract is the exclusive property of the City. "Work Product" includes, but is not limited to: research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form. The Contractor and the City intend that such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," the

Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such work product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the Work Product is the property of the Contractor-Architect, and by execution of this contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that Work Product.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets and other proprietary rights of Contractor are and will remain the exclusive property of Contractor.

11. EEO Certification: In the event Contractor provides in excess of \$2,500.00 for services to the City in any fiscal year, Contractor shall obtain EEO certification from the City.

12. Equal Benefits

Contractor must comply with the City's Equal Benefits program as prescribed by Chapter 3.100 of the Code of the City of Portland. The required documentation must be filed with Procurement Services, City of Portland, prior to contract execution.

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 promptly perform such additional services as may be necessary to correct errors in the services required by this contract without undue delays and without additional cost.

17. Governing Law/Venue

The provisions of this contract shall be interpreted, construed and enforced in accordance with, and governed by, the laws of the State of Oregon without reference to its conflict of laws provisions that might otherwise require the application of the law of any other jurisdiction. 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 Chief Procurement Officer 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 Contract.

20. Prohibited Conduct

The Contractor shall not hire any City employee who evaluated the proposals or authorized the award of this Contract for two years after the date the contract was authorized without the express written permission of the City and provided the hiring is permitted by state law.

21. Payment to Vendors and Subcontractors

The Contractor shall timely pay all subcontractors and suppliers providing services or goods for this Contract.

22. Access to Records

The Contractor shall maintain all records relating to this Contract for three (3) years after final payment. The City may examine, audit and copy the Contractor's books, documents, papers, and records relating to this contract at any time during this period upon reasonable notice. Copies of these records shall be made available upon request. Payment for the reasonable cost of requested copies shall be made by the City.

23. Audits

(a) The City 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 paragraph 22. 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 Government Accountability Office.

(b) If an audit discloses that payments to the Contractor exceed the amount to which the Contractor was entitled, the Contractor shall repay the amount of the excess to the City.

24. Electronic Signatures

The City and Contractor may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

25. Merger Clause

This Contract encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether verbal or written.

26. Dispute Resolution/Work regardless of disputes

The parties shall participate in mediation to resolve disputes before conducting litigation. The mediation shall occur at a reasonable time after the conclusion of the Contract with a mediator jointly selected by the parties. Notwithstanding any dispute under this Contract, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Contract for undisputed portions of the work. In the event of litigation no attorney fees are recoverable. No different dispute resolution paragraph(s) in this contract or any attachment hereto shall supersede or take precedence over this provision.

27. Progress Reports: / X / Applicable / ___ / Not Applicable

If applicable, the Contractor shall provide monthly progress reports to the Project Manager as described in the Statement of the Work and Payment Schedule.

28. Contractor's Personnel: / X / Applicable / ___ / Not Applicable

If applicable, the Contractor shall assign the personnel listed in the Statement of the Work and Payment Schedule for the work required by the Contract and shall not change personnel without the prior written consent of the City, which shall not be unreasonably withheld.

29. Subcontractors

The Contractor shall use the subcontractors identified in its proposals. The Contractor shall not change subcontractor assignments without the prior written consent of the Chief Procurement Officer. Failure to use the identified M/W/ESB subcontractors without prior written consent is a material breach of contract.

30. Third Party Beneficiaries

There are no third party beneficiaries to this contract. Enforcement of this contract is reserved to the parties.

STATEMENT OF THE WORK AND PAYMENT SCHEDULE

The City of Portland Bureau of Planning and Sustainability requires services to assess potential for redevelopment of Portland brownfields. Services will identify barriers to brownfield redevelopment, analyze incentives for financial and technical assistance, analyze financial feasibility, analyze the public benefit and recommend implementation actions to incrementally increase the rate of brownfield redevelopment. A Brownfield Advisory Group convened by the City will oversee and provide input into all phases of drafting reports for the Portland Brownfield Redevelopment Assessment.

The City and Contractor will work closely together to perform the following tasks:

SCOPE OF WORK

Work Performed by the Contractor

Task 1 – Project Management

Contractor shall manage a project team to complete the analysis and other work as identified in Tasks 2 through 5 within the budget and schedule. Contractor shall submit a monthly Subconsultant Payment and Utilization Report by the 15th of each month with invoice.

Task 1 Deliverables and Schedule: due the 15th of each month

Monthly Subconsultant Payment and Utilization Report by the 15th of each month with invoice.

Task 2 – Inventory and Conditions Analysis

- 1) Contractor shall work with City to develop a typology of sites that can be applied to both the existing City brownfield inventory and the refined brownfield inventory. The typology will categorize a site's level of "brownness" by taking into account factors such as the type and level of contamination, historical use, site location, and applicable land use zoning category. The brownfield typology will be developed to be incorporated into the City's GIS database for internal use and map production.
- 2) Contractor shall prepare an overview of local development trends including case studies of recent brownfield redevelopment on a variety of site types. As part of the overview Contractor will identify and describe market and non-market related barriers to brownfield redevelopment and identify existing incentives such as financial and technical assistance.
- 3) Contractor shall work with City to prepare a draft Inventory and Conditions Analysis report of findings and present findings to the City's Brownfield Advisory Group.

Task 2 Deliverables and Schedule: due May 29, 2012

- a) Draft Inventory and Conditions Analysis
- b) Attendance at Brownfield Advisory Group to review/discuss Inventory and Conditions Analysis

Task 3 – Financial Feasibility Analysis

1. Contractor shall classify sites in the brownfield inventory by financial factors, including land use and type of contamination, and estimate average cleanup and related costs, including duration of the remediation process, by brownfield type.
2. Contractor shall provide a summary of sites by financial factor including a map of sites by employment geography as identified in the City's *Proposed Draft Economic Opportunities Analysis* developed by E.D. Hovee & Company in 2012.
3. Contractor shall develop and apply a pro-forma based financial model to estimate redevelopment feasibility by employment geography and brownfield type. The pro-forma analysis will be developed to allow for alternatives analysis, and inputs will be structured to allow for changes in factors such as incentives, change-of-use, density, and public benefit requirements. Contractor shall apply the results of the financial model to the land supply shortfalls and demand needs identified in Hovee's *Proposed Draft Economic Opportunities Analysis*.
4. Contractor shall evaluate financial gaps and other market feasibility barriers to achieve 50%, 70% and 90% redevelopment of the city's brownfields by 2035. Contractor and City will discuss and identify definitional methodological and definitional issues for the financial gap and feasibility analysis.
5. Contractor shall compile a draft Financial Feasibility Analysis report and present findings to the Brownfield Advisory Group.

Task 3 Deliverables and Schedule: due June 27, 2012

- a) Draft Financial Feasibility report.
- b) Attendance at Brownfield Advisory Group to review/discuss Financial Feasibility Analysis

Task 4 – Public Benefit Analysis

1. Contractor shall prepare an economic estimate of the lost revenue opportunities resulting from idle brownfields by type and employment geography. Review will build on recent work from the Portland Development Commission's *Harbor Redevelopment Initiative* to understand the unique challenges associated with brownfield properties in the Portland Harbor area.
2. Contractor shall analyze the related financial payback period of development incentives by site typology needed to fill financial gaps identified in Task 2. The analysis will include financing scenarios relative to the objectives of achieving rates 50%, 70%, and 90% brownfield redevelopment citywide by 2035, and the benefits and impacts will be quantified for each scenario.
3. Contractor shall also provide analysis of environmental benefits and impacts of brownfield redevelopment such as lowered vehicle miles, lowered greenhouse gas levels, decreased runoff/improved water quality and lowered requirements for infrastructure investment. The analysis will compare all of these public benefits of brownfield redevelopment to alternative greenfield and sprawl development patterns.
4. Contractor shall research and summarize national best practices, especially in the area of state and local financial incentives. Contractor will explore regulatory or policy best practices if analysis shows that these tools can substantially increase the rate of brownfield redevelopment. Contractor shall further build on the best practices research by analyzing the public return on investment of specifically identified national best practices for increasing the rate of brownfield redevelopment. This analysis of public return on investment will include a comparison of incentive levels, types of brownfields and employment geographies.
5. Contractor shall compile a draft Public Benefit Analysis report and present findings to the Brownfield Advisory Group.

Task 4 – Public Benefit Analysis: due June 27, 2012

- a) Draft Public Benefit Analysis report
- b) Attendance at Brownfield Advisory Group to review/discuss Inventory and Conditions Analysis

Task 5 – Final Findings and Recommendations Report with Executive Summary

1. Contractor shall review best practices, case studies and program or policy recommendations identified by Metro in the forthcoming Regional Brownfield Scoping Project for application in the City of Portland.
2. Contractor shall prepare a final report that incorporates the recommendations from the Metro project where appropriate as well as incorporates the findings and conclusions resulting from Tasks 2 through 4 of the this project. The report will identify key findings, presents recommendations to the Portland Brownfield Advisory Group, provide implementation steps and identify priority actions to incrementally increase the rate of

brownfield redevelopment throughout the city. The final report will include an analysis of the brownfield inventory and typologies, market barriers and opportunities, economic impacts of vacant brownfields and brownfield redevelopment, the public benefits of increasing the rate of brownfield redevelopment and a recommended policy framework for moving forward.

3. Contractor shall present a draft Recommendations Report with Executive Summary to the Brownfield Advisory Group. Contractor's final report shall be based on input from City staff and the Brownfield Advisory Group.

Task 5 – Final Findings and Recommendations Report and Executive Summary: due August 1, 2012

- a) Draft Findings and Recommendations report
- b) Attendance at Brownfield Advisory Group to review/discuss Inventory and Conditions Analysis
- c) Final reports from Tasks 2, 3, and 4 based on input from the Brownfield Advisory Group.

Work Performed by the City

In addition to work described above City will assign a project manager to oversee work under the contract and provide support as needed. Specific duties the City will perform include:

- BPS staff will refine the City's GIS brownfield inventory to include information from an expanded dataset provided by the State Department of Environmental Quality and spatial data from the City's historic land use inventory. BPS staff will be available for sufficient number of hours to meet with Contractor and provide necessary information as required.
- BPS staff will provide documents and other information in formats as agreed upon by Contractor and City as needed to perform Tasks 2 through 5. In particular, the City will provide an updated brownfield inventory, GIS database and data from the City's historic land use inventory. City will provide access to the E.D. Hovee Draft Proposed Economic Opportunities Analysis, PDC's Harbor Redevelopment Initiative, and materials from Metro's Regional Brownfield Scoping Project.
- BPS staff will develop and convene the membership of the Brownfield Advisory Group. The advisory group will be composed of: City of Portland staff, agency partners and representatives from community stakeholder groups. BPS staff will be responsible for coordinating meetings and facilities for the group's meetings.
- BPS staff will review and approve all materials before they are submitted to the Brownfield Advisory Group and before posting to the web and/or presenting to the public.
- BPS staff will coordinate internal staff reviews as needed.

CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT
Jim Darling	Principal
Seth Otto	Project Manager
Michael Stringer	Project Planner
Various	Administrative and Technical Staff

SUBCONTRACTORS

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

NAME	ROLE ON PROJECT
Eric Hovee, E.D. Hovee & Company LLC	Lead Economic Analyst
Andrea Logue, E.D. Hovee & Company LLC	Research Coordinator
Abe Farkas, EcoNorthwest	Director, Development Services
Lorelei Juntunen, EcoNorthwest	Senior Economic Planner
Evans Paull, AICP, Redevelopment Economics	Senior Advisor
David Orelans, Willis Environmental Practice	Senior Advisor
Various	Administrative and Technical Staff

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. For contracts valued \$100,000 or more, the Contractor shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subcontractors employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandonline.com/shared/cfm/image.cfm?id=119851>.

COMPENSATION

The maximum that the Contractor can be paid on this contract is \$ 150,000 (hereafter the "not to exceed" amount.). The "not to exceed" amount includes all payments to be made pursuant to this contract, including reimbursable expenses, if any. Nothing in this contract requires the City to pay for work that does not meet the Standard of Care or other requirements of the Contract. The actual amount to be paid Contractor may be less than that amount.

The Contractor is entitled to receive progress payments for its work pursuant to the Contract as provided in more detail below. The City will pay Contractor based on these invoices for acceptable work performed and approved until the "not to exceed" amount is reached. Thereafter, Contractor must complete work based on the Contract without additional compensation unless there is a change to the scope of work.

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

If work is completed before the "not to exceed" amount is reached, the Contractor's compensation will be based on the Contractor's bills previously submitted for acceptable work performed and approved.

PAYMENT TERMS: Net 30 Days

Hourly Rates

The billing rates shall not exceed those set forth below:

Principals: \$175-\$200/hour

Project-Level Staff: \$100-\$150/hour

Staff Level: \$65-\$95/hour

Firm		Task 1	Task 2	Task 3	Task 4	Task 5	Total
MFA	Hours	8	52	70	58	136	324
	Cost	\$1,000	\$7,150	\$10,110	\$8,790	\$17,830	44,880
E.D. Hovee			56	176	160	56	448
			\$6,720	\$21,120	\$19,200	\$6,720	\$53,760
ECONorthwest			50	96	100	50	296
			\$6,000	\$11,520	\$12,000	\$6,000	\$35,520
Redevelopment Economics			16		40	44	100
			\$1,920		\$4,800	\$5,280	\$12,000
Willis Environmental Practice			8		8	16	32
			\$960		\$960	\$1,920	\$3,840
Total Cost		1,000	\$22,750	\$42,750	\$45,750	\$37,750	\$150,000

The allotment of hours and expenses for each task are projected estimates and may be revised by written agreement by both parties as project needs develop but at no time may go over \$150,000.

Standard Reimbursable Costs

The following costs will be reimbursed without mark-up:

- Air travel/ lodging (if any)
- Ground travel (\$.051 per mile or cost)
- Data and equipment
- Postage and delivery
- Printing (\$.10 b/w; \$.80 color)
- Storage media (\$0.30 CD; \$0.90 DVD)
- Publications
- Supplies
- Telephone/ conference calls

However, in no case will total compensation for all reimbursable costs and hours worked exceed the total project budget listed above.

Subconsultant Costs

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. Expenses for subconsultants are included in the table above.

Adjustment of Labor Rates Due to Inflation

Annual adjustment of hourly rates will be considered upon written request from the Consultant. Approval of a request for rate increases is solely within the City's discretion and under no circumstances is the City obligated to approve such a request.

Rate increases are subject to the following limitations:

- No increases will be granted before the one-year anniversary of the contract;
- No more than one increase shall be granted per contract year;
- Rate increases may not exceed the then-current average inflation rate for the Portland Metropolitan Area (as determined from the US Department of Labor statistics);
- Rate increases shall not be retroactive.

Other than the impact of inflation as described above, hourly rates may not be increased.

Progress Payments

On or before the 15th of each month, the Contractor shall submit to the City's Project Manager an invoice for work performed by the Contractor during the preceding month. The invoice shall contain the City's Contract Number and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, and tasks performed. The Contractor shall also attach photocopies of claimed reimbursable expenses, if applicable. The Project Coordinator shall stamp and approve all subconsultant invoices and note on the subconsultant invoice what they are approving as "billable" under the contract. The billing from the prime should clearly roll up labor and reimbursable costs for the prime and subconsultants – matching the subconsultant invoices. Prior to initial billing, the Contractor shall develop a billing format for approval by the City.

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved.

The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the City to Contractor.

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

JL Wa

Date

5/22/12

Entity

Maul Foster & Alongi II

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

CONTRACTOR SIGNATURE:

This contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

The parties agree the City and Contractor may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

I, the undersigned, agree to perform work outlined in this contract in accordance to the STANDARD CONTRACT PROVISIONS, the terms and conditions, made part of this contract by reference, and the STATEMENT OF THE 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.

Maul Foster & Alongi, Inc.

BY: T/Wa Date: 5/22/12

Name: Ted Wall

Title: Business Operations

Contract No. 30002668Contract Title: Portland Brownfield Redevelopment Assessment

CITY OF PORTLAND SIGNATURES:

By: _____
Mayor

Date: _____

Approved:

By: _____
Office of City Auditor

Date: _____

Approved as to Form:

By: _____
Office of City Attorney

APPROVED AS TO FORM

James H. Van Dyke

CITY ATTORNEY

Date: 9/27/11