

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

CONTRACT NO. _____

SHORT TITLE OF WORK PROJECT:
UIC Category 3, Planning Package 5 (Project # E10322)

This contract is between the City of Portland ("City," or "Bureau") and Vigil-Agrimis, Inc., hereafter called Contractor. The City's Project Manager for this contract is Fred MacGregor.

Effective Date and Duration

This contract shall become effective on June 1, 2012. This contract shall expire, unless otherwise terminated or extended, on December 31, 2013.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$398,273 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.

=====

CONTRACTOR DATA AND CERTIFICATION

Name (please print): Vigil-Agrimis, Inc.

Address: 819 SE Morrison St. Suite 310, Portland, OR 97214

Employer Identification Number (EIN) 93-1262063

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

City of Portland Business License # 648523

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.

=====

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 Bureau X

Waived by Bureau ____

- (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 Bureau X

Waived by Bureau ____

- (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 Bureau X

Waived by Bureau ____

- (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

SCOPE OF WORK

1. Review & Evaluation of Existing Information

- a. Collect and review all available information including geologic, environmental, utilities, as-builts, site conditions, and survey and planning documents.
- b. Contractor will identify any additional information needed to begin the pre-design task upon review of the initial data provided by the City. The Contractor will review and identify any additional data or investigations needed and submit a formal request to the City PM with a requested turn around no shorter than 30 days.

DELIVERABLES:

- c. Written request to City PM with additional data or investigation needs.
- 2. Preliminary Design:** Contractor to prepare a Preliminary Design Report (PDR) for the project. Completion of the PDR document requires the Contractor complete the following and include the analysis in the document:
 - a. Design Criteria: Drainage basin, design flows, design assumptions (infiltration rates), etc.

- b. Constraints and Opportunities Analysis: Based on physical, regulatory requirements and proposed pedestrian improvements by PBOT, develop a summary of the constraints and opportunities for each UIC area.
- c. Sizing Calculations: Use the Presumptive Calculator to develop the sizing of the required infiltration infrastructure improvements.
- d. Summary of Changes to the Cat 3 Pkg 5 Planning Document: Update capital infrastructure requirements based on revised minimum 5' separation requirement from DEQ.
- e. UIC Infiltration Testing: The Cat 3 Pkg 5 Planning document states that six (6) of the existing sumps will be shallowed and remain in use. A sump infiltration test will be required as part of this contract for those six (6) sumps to confirm the infiltration capacities. The Contractor will perform the sump testing coordinating with the City PM. The City will provide the sump testing trailer, a technician, and the Water Bureau permit.
- f. Surface Infiltration Testing: The Cat 3 Pkg 5 Planning document outlines approximately 33 distinct locations where surface infiltration infrastructure will likely occur. The Contractor will perform surface infiltration testing for approximately 50% of the 33 sites, or sixteen (16) total surface infiltration tests.
- g. Alternative Development: Develop alternatives for each UIC area taking into consideration the Cat 3 Pkg 5 recommendations, the results of the constraints and opportunities analysis, and the testing data.
- h. Selected Alternative Summary: For each recommended alternative for each UIC site, provide a concept plan showing final selected alternative and existing site conditions, design calculations, cost estimate, and list of outstanding issues or information that is needed to finalize design (e.g. additional geotechnical information, survey, etc).

DELIVERABLES:

- i. PDR with supporting information addressing all of the items above: a through h.
- j. Appendices should include supporting calculations, data collected, results of analyses, test results, maps, and figures generated as part of the PDR process.

3. Design

- a. Develop the stormwater infrastructure designs, details, specifications and estimates to meet the Water Pollution Control facilities Permit for Class V Stormwater Underground Injection Control Systems permit, issued by Oregon DEQ to the City of Portland.
- b. Design stormwater facilities to meet City of Portland Stormwater Management Manual, August 2008 and the City of Portland, BES Sewer and Drainage Facilities Design Manual, June 2007. Drawings will be developed using AutoCAD 2010 compatible software. All contract documents will be developed utilizing the City of Portland Standard Construction Specifications 2010. Designs shall be developed under the oversight of a Professional Engineer licensed in the State of Oregon.
- c. Prepare and submit Design Submittals at 30%, 60% and 90%, and final. Design Submittals shall include: plans, specifications engineers estimates, design calculations and an updated project schedule for the BES PM. Participate in review meetings with BES and PBOT project team and incorporate comments into subsequent revisions.
- d. Prepare and submit a Final Design Report (FDR) that is stamped and signed by the licensed professional engineer who either performed or provided oversight to the team through the design process.
- e. Prepare and submit final stamped bid book and design drawings which incorporate city comments and have been reviewed and approved by a licensed professional engineer in the state of Oregon. Final submittal shall also include a final design report which shall include basis of design, exceptions to standards, design calculation and engineer's estimate. Provide electronic files (Word and AutoCAD) for all bid documents.

DELIVERABLES:

- f. 30% Design Construction documents including: Plans, Specifications, and Estimates.

- g. 60% Design Construction documents including: Plans, Specifications, and Estimates.
- h. 90% Design Construction documents including: Plans, Specifications, and Estimates.
- i. Final Design Construction documents including: Plans, Specifications, Estimates (Bid Books).
- j. Electronic copies of all documents generated in the format of the software they were generated in and in PDF format.

4. Bid Phase

- a. Assist the City in the advertising, bidding and award of this project.
- b. Attend the pre-bid meeting and answer questions from prospective bidders.
- c. Provide written responses to all questions and requests for information or clarifications, and generate any required addenda to the Contract Documents.

DELIVERABLES:

- d. Written clarification and responses to questions and requests for information and generate required addenda to the Contract Documents.

5. Construction

- a. Provide interpretation and clarification of design documents during the construction phase.
- b. Review submittals, requests for information (RFI) and requests for clarification (RFC), and provide written responses.

DELIVERABLES:

- c. Interpretation, clarification, review submittals and RFI's/RFC's and written responses.

6. Post Construction

- a. Sump infiltration tests of the six (6) sumps that were shallowed. Final infiltration field rates are required to be documented as part of the permitting process with Oregon DEQ.

DELIVERABLES:

- b. Provide sump infiltration test results.

7. Project Management: The Contractor will provide project management and be responsible for administering the contract, appoint a project manager who will be responsible for providing oversight and leadership for their project team and plan and monitor the progress of the work throughout the contract duration. The Contractor's Project Manager shall be responsible for:

- a. Developing a Project Work Plan (PWP) schedule and budget for the project. The PWP, schedule and budget must be approved by the BES Project Manager prior to commencing work.
- b. Project monitoring and progress reporting on a monthly basis.
- c. Oversight and control of budget and schedule.
- d. Oversight and approval of all invoicing and billings.
- e. Quality Assurance and Control for all Deliverables.
- f. Coordination and communication with BES Personnel and Project Team.
- g. Participate in regular progress meetings with BES PM and Project Team.

DELIVERABLES:

- h. Project Work Plan (PWP)
- i. Monthly progress reports and billings
- j. Communications and correspondence
- k. Attendance at monthly BES team meetings

8. The City will provide Contractor with the following data

- a. Field survey
- b. Copy of the planning Document for Cat 3 Pkg 5
- c. Copies of available information as requested and needed
- d. Existing Geotechnical investigations and infiltration testing completed to date
- e. List of field verified total depth and depth of non-perforated sections of each UIC
- f. Provide equipment for UIC/sump infiltration testing
- g. Coordination with PBOT Project Managers and design teams
- h. Environmental Assessment & Investigations as needed
- i. Lead and Coordinate Public Involvement
- j. Complete utility notifications
- k. Coordinated design review of all major deliverables with compiled comments returned to consultant

9. Schedule

- a. Notice to Proceed – *May 2012*
- b. Review and Evaluation
 - i. Review existing data and information – *May 2012*
 - ii. Request for Information (as needed, survey, geotechnical, environmental ,etc) – *May 2012*
- c. Design
 - i. Conceptual Design and Preliminary Design Report – *July 2012*
 - ii. 30% Design Submittal (8 copies plus electronic) – *August 2012*
 - iii. 60% Design Submittal (8 copies plus electronic) – *November 2013*
 - iv. 90% Design Submittal (8 copies plus electronic) – *March 2013*
 - v. Final Design and Final Design Report – *May 2013*
 - vi. Final Stamped Bid Documents (originals for signature plus electronic copy) – *May 10, 2013*
- d. Bid Phase
 - i. Written response to questions – *July 2013*
 - ii. Update documents as needed – *July 2013*
- e. Construction
 - i. Submittal review in paper – *August 2013*
 - ii. Change order plan if needed – *August 2013*

CONTRACTOR PERSONNEL

185389

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

NAME	ROLE ON PROJECT
Ken Vigil, PE	Principal-in-Charge
Adam Zucker, PE	Project Manager / Project Engineer
Ryan Maike, PE	Project Engineer
Mauria Pappagallo, PE	Field Review, Preliminary Design, Hydrology
Nate Robinson, EIT	Field Reviews, Preliminary Design, Drafting Support
Steve Roelof, RLA	Landscape Architecture
Amanda Jones, EIT	Engineering Support

SUBCONTRACTORS

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

NAME	ROLE ON PROJECT
Ash Creek Associates, Inc.	Geotechnical – Infiltration Testing
Site Tech, Inc.	Sump Testing Contractor
C.O.A.T. Flagging	Sump Testing Traffic Control / Flagging

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 \$398,272.72 (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.

Payment Terms: Net 30 Days

Hourly Rates

The billing rates shall not exceed those set forth below:

Position	Direct Rate	Billing Rate	Multiplier
VIGIL-AGRIMIS, INC.			
Principal-in-Charge	\$50	\$150	3.00
Project Manager	\$38	\$115	3.03
Project Engineer	\$34	\$105	3.09
Engineer-in-Training	\$24 - \$25	\$72 - \$77	3.08 – 3.0
Staff Engineer	\$27	\$81	3.00
Landscape Architect Lead	\$30	\$90	3.00
Landscape Architect Design	\$23.50	\$72.50	3.09
Drafting CAD	\$22	\$68	3.09
Administrative	\$19.50	\$59	3.03
ASH CREEK ASSOCIATES, INC.			
Principal-in-Charge	\$69.33	\$214.91	3.10
Senior Engineer	\$41.17	\$127.64	3.10
Staff Engineer	\$35.33	\$109.51	3.10
Admin./CAD	\$22.32	\$69.20	3.10

Multiplier

The multiplier applied to salaries shall be as shown in the above table. In no case shall the multiplier exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

Reimbursable Costs

The following costs will be reimbursed without mark-up.

- Drilling Services
- COP Drilling Permit Fee
- PBOT Permit Fees (Flagging)
- Photocopying/Reproduction Costs. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Consultant's or sub's own use.

Subconsultant Costs

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. There will be no markup on subconsultant services.

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.

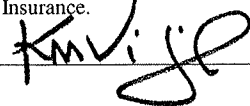
The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the City to Contractor.

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



Date

4/26/12

Entity

VIBIL-ABRIMIS, INC.

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

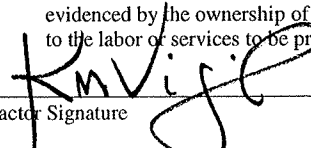
SECTION C

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

4/26/12

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.

VIGIL-AGRIMIS, INC.

BY: _____



Date: _____

4/26/12

Name: _____

Kenneth M. Vigil

Title: _____

President

Contract No. _____

Contract Title: UIC Category 3, Planning Package 5 (Project # E10322)**CITY OF PORTLAND SIGNATURES:**By: n/a
Bureau Director

Date: _____

By: n/a
Chief Procurement Officer

Date: _____

By: _____
Elected Official

Date: _____

Approved:

By: _____
Office of City Auditor

Date: _____

Approved as to Form: APPROVED AS TO FORMBy: James H. Van Dyke
Office of City Attorney
CITY ATTORNEYDate: 5/11/12