

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

CONTRACT NUMBER _____

**TITLE OF WORK PROJECT:
BES E08676: Fanno Creek at SW 45th Culvert Replacement**

This contract is between the City of Portland ("City," or "Bureau") and ESA Vigil-Agrimis, Inc., hereafter called Consultant. The City's Project Manager for this contract is Eric Brennecke, P.E.

Effective Date and Duration

This contract shall become effective upon execution by all parties. This contract shall expire, unless otherwise terminated or extended, on December 31, 2017.

Consideration

- (a) City agrees to pay Consultant a sum not to exceed \$365,928 for accomplishment of the work.
- (b) Interim payments shall be made to Consultant according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

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CONSULTANT DATA AND CERTIFICATION

Name (print full legal name): ESA Vigil-Agrimis, Inc.

Address: 819 SE Morrison St., 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 Tax Registration Number: 663691

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

Consultant 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 Consultant 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, Consultant shall pay the City all damages, costs, and sums incurred by the City as a result of the breach.
- (c) If the Consultant justifiably terminates the contract pursuant to subsection 4(b), the Consultant'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 Consultant shall be paid as if the Contract was terminated under Section 4(a).
- (e) In the event of early termination the Consultant's work product before the date of termination becomes property of the City.

6. Assignment

Consultant 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 subconsultant, the Consultant shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Consultant hereunder. The Consultant agrees that if subconsultants are employed in the performance of this Agreement, the Consultant and its subconsultants are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

7. Compliance with Applicable Law

Consultant shall comply with all applicable federal, state, and local laws and regulations. Consultant agrees it currently is in compliance with all tax laws. Consultant shall comply with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>. In connection with its activities under this Contract, Consultant shall comply with all applicable Grant Terms and Conditions. This includes all terms and conditions contained in this Contract and, for a contract involving a grant, the Grant Terms and Conditions as further described at: <http://www.portlandoregon.gov/bibs/article/455735>.

8. Indemnification for Property Damage and Personal Injury

Consultant 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 Consultant, its Subconsultants, suppliers, employees or agents in the performance of its services. Nothing in this paragraph requires the Consultant 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

Consultant shall obtain and maintain in full force at Consultant expense, throughout the duration of the Contract and any warranty or extension periods, the required insurance identified below. The City reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of the Contract.

- (a) Workers' compensation insurance as required by ORS Chapter 656 and as it may be amended. Unless exempt under ORS Chapter 656, the Consultant and all subconsultants shall maintain coverage for all subject workers.

☒ Required and attached // ☐ Proof of exemption (i.e., completion of Workers' Compensation Insurance Statement)

- (b) General commercial liability (CGL) insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduced by Bureau Director or designee

- (c) Automobile liability insurance with coverage of not less than \$1,000,000 each accident, and an umbrella or excess liability coverage of \$2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduced by Bureau Director or design

- (d) Professional Liability and/or Errors & Omissions insurance to cover damages caused by negligent acts, errors or omissions related to the professional services, and performance of duties and responsibilities of the Consultant under this contract in an amount with a combined single limit of not less than \$1,000,000 per occurrence and aggregate of \$3,000,000 for all claims per occurrence. In lieu of an occurrence based policy, Consultant may have claims-made policy in an amount not less than \$1,000,000 per claim and \$3,000,000 annual aggregate, if the Consultant obtains an extended reporting period or tail coverage for not less than three (3) years following the termination or expiration of the Contract.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduced by Bureau Director or designee

Continuous Coverage; Notice of Cancellation: The Consultant agrees to maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non renewal of coverage without thirty (30) days written notice from Consultant to the City. If the insurance is canceled or terminated prior to completion of the Contract, Consultant shall immediately notify the City and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.

Additional Insured: The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland and its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the Consultant's activities to be performed, or products or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

Certificate(s) of Insurance: Consultant shall provide proof of insurance through acceptable certificate(s) of insurance, including additional insured endorsement form(s) and all other relevant endorsements, to the City prior to the award of the Contract if required by the procurement documents (e.g., request for proposal), or at execution of Contract and prior to any commencement of work or delivery of goods or services under the Contract. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Contract shall be obtained from insurance companies acceptable to the City of Portland. The Consultant shall pay for all deductibles and premium. The City reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsements evidencing the coverage the required.

Subconsultant(s): Consultant shall provide evidence that any subconsultant, if any, performing work or providing goods or service under the Contract has the same types and amounts of coverages as required herein or that the subconsultant is included under Consultant's policy.

10. Ownership of Work Product

All work product produced by the Consultant 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 Consultant 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 Consultant 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. Consultant shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Consultant 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 Consultant is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this contract, the Consultant-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 Consultant are and will remain the exclusive property of Consultant.

11. EEO Certification

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

12. Equal Benefits

Consultant 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 Consultant 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 Tax Registration

The Consultant shall obtain a City of Portland business tax registration number as required by PCC 7.02 prior to beginning work under this Contract.

20. Prohibited Conduct

The Consultant 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 Subconsultants

The Consultant shall timely pay all subconsultants and suppliers providing services or goods for this Contract.

22. Access to Records

The Consultant shall maintain all records relating to this Contract for three (3) years after final payment. The City may examine, audit and copy the Consultant'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 Consultant exceed the amount to which the Consultant was entitled, the Consultant shall repay the amount of the excess to the City.

24. Electronic Signatures

The City and Consultant 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 Consultant 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: ☒ Applicable ☐ Not Applicable

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

28. Consultant's Personnel: ☒ Applicable ☐ Not Applicable

If applicable, the Consultant 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. Subconsultants

The Consultant shall use the subconsultants identified in its proposals. The Consultant shall not change subconsultant assignments without the prior written consent of the Chief Procurement Officer. The City will enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Consultant in its proposals. Failure to use the identified M/W/ESB subconsultants without prior written consent is a material breach of contract.

For contracts valued \$50,000 or more, the Consultant shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandoregon.gov/bibs/45475>.

30. Third Party Beneficiaries

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

31. Conflict of Interest

Consultant hereby certifies that, if applicable, its contract proposal is made in good faith without fraud, collusion or connection of any kind with any other proposer of the same request for proposals or other City procurement solicitation(s), that the Consultant as a proposer has competed solely on its own behalf without connection or obligation to any undisclosed person or firm. Consultant certifies that it is not a City official/employee or a business with which a City official/employee is associated, and that to the best of its knowledge, Consultant, its employee(s), its officer(s) or its director(s) is not a City official/employee or a relative of any City official/employee who: i) has responsibility in making decisions or ability to influence decision-making on the contract or project to which this contract pertains; ii) has or will participate in evaluation or management of the contract; or iii) has or will have financial benefits in the contract. Consultant understands that should it elect to employ any former City official/employee during the term of the contract then that former City official/Consultant employee must comply with applicable government ethics and conflicts of interest provisions in ORS Chapter 244, including but not limited to ORS 244.040(5) and ORS 244.047, and the City's Charter, Codes and administrative rules, including lobbying prohibitions under Portland City Code Section 2.12.080.

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**STATEMENT OF THE WORK
AND PAYMENT SCHEDULE**

SCOPE OF WORK

Deliverables shall be considered those intangible resulting work products that are to be delivered to the City as such as reports, draft documents, data, interim findings, drawings, and schematics. All deliverables and resulting work products from this contract are the property of the City of Portland.

Task 1 - Project Management

This task assumes that the contract will begin July 2014 and continue through December 2016, upon the completion of construction.

1a. Project Invoicing, Budget Tracking, and Reporting

Assumes monthly invoicing over the course of 30 months

Deliverables – Monthly invoices, work summary and budget updates, monthly sub-consultant utilization reports (MURs)

Sub-task Budget: \$13,424

1b. Project Team Meetings

Assumes an average of 2 meetings per month through the end of design.

30 of these meetings will be conference calls between BES and Consultant project managers.

15 of these meetings will be face-to-face meetings, including pertinent project team staff.

Deliverables – Email follow-up summaries of conference calls, formal meeting notes for all face-to-face meetings

Sub-task Budget: \$21,496

1c. Project Management

Consultant will manage the project by completing the following routine project management tasks over the duration of the project contract:

- internal consultant team coordination (communication meetings, etc.)
- routine client communication/coordination not covered under task 1b. (phone calls and emails)

- internal work plan, schedule, and budget reviews
- quality assurance / quality

Deliverables – Detailed project work plan and schedule - updated throughout the project.

Sub-task Budget: \$10,295

Task 2 - Preliminary Design (30%)

The general purpose of this task is to identify the project opportunities and constraints, consult with the state, federal, and local permitting agencies, and develop a preferred design approach. This process will involve strategic and iterative coordinating with regulatory staff and sharing proposed design concepts. The goal of this task is to have clear understanding of the proposed design of the culvert replacement and the permitting requirements.

2a. Review of Existing Site Information, Site Reconnaissance, and Field Investigations

Consultant will review the project's topographic survey, available utility map data, floodplain maps, and available riparian/aquatic habitat documentation. Consultant will:

- flag and document Ordinary High Water (OHW)
- establish cross sections and calibrate the hydraulic model
- document the stream's geomorphic and habitat conditions
- document existing riparian and vegetation conditions and characteristics
- identify project opportunities or constraints that are not obvious from the survey

Consultant assumes that no jurisdictional wetlands are present above the OHW line and that the City's survey crew will pick up the OHW marks flagged by Consultant and incorporate them into the project survey.

Deliverables – A summary of site reconnaissance and field investigation findings and photo documentation will be included in the Preliminary Design Report (See sub-task 2f.)

Sub-task Budget: \$8,151

2b. Estimate Site Hydrology and Develop Hydraulic Model

Consultant will coordinate with BES System Analysis to evaluate the project hydrology from a variety of sources including:

- existing hydrological models (i.e. Watersheds 2000 HEC-HMS revised 2003 and the City's MIKE SHE)
- previous floodplain studies and available flooding accounts/documentation
- the USGS 56th Avenue stream gage and Oregon StreamStats website
- site geomorphic indicators

From this review Consultant will establish the appropriate fish passage design flows and the flood conveyance design flows. If Consultant determines that additional hydrological modeling is necessary, the design team will utilize **Contingency Task 2g. Develop Hydrological Model** as authorized by the City's project manager.

Consultant will obtain a copy of the regulatory floodplain model (HEC-RAS) from either the City or FEMA's consultant. Consultant will update the regulatory floodplain model with data from the project survey and supplemental data collected during the field investigation. Consultant will use this hydraulic model to:

- inform the design of the new culvert
- evaluate conditions associated with fish passage
- document the effects on the regulatory floodplain
- determine whether a Conditional Letter of Map Revision (CLOMR) –*Contingency Task 2h.* – is necessary

Deliverables – Technical memorandum defining design flows and recommendations for additional analysis

Sub-task Budget: \$14,826

2c. BDS Early Assistance Meeting and City Bureau Coordination

Consultant will coordinate with the City's PM to set up an early assistance meeting with Bureau of Development Services (BDS). The purpose of this meeting is to establish the Land-Use permitting requirements for this project, as well as the design requirements associated with Transportation (PBOT), Environmental Services (BES), and

Water (PWB). Consultant will provide the City's PM with a narrative, figures, and discussion questions for the Early Assistance Application. The City will prepare the narrative and submit the application to BDS.

Deliverables – Figures and questions for the Early Assistance Application. BDS will provide written notes from this meeting

Sub-task Budget: \$2,201

2d. Environmental Streamlining Committee and Agency Coordination

Consultant will provide technical support and coordination with state and federal regulatory agencies including:

- Oregon Department of State Lands (DSL)
- Oregon Department of Fish and Wildlife (ODFW)
- U.S. Army Corps of Engineers (USACOE)
- National Oceanic and Atmosphere Administration (NOAA), National Marine Fisheries Service (NMFS), as referred to as NOAA Fisheries

Consultant assumes that there will be:

- 2 meetings with the City's Environmental Streamlining committee
- 1 on-site meeting that includes representatives from ODFW and NOAA Fisheries
- 1 follow-up meeting / conference call with ODFW and NOAA Fisheries fish passage staff
- Follow-up meetings with regulatory staff

Deliverables – Support figures and notes from meetings and site visit

Sub-task Budget: \$5,922

2e. Permitting Requirements and Land Use Tech Memo

Upon completion of the Early Assistance Meeting and Agency Coordination, Consultant will develop a technical memorandum that outlines all of the anticipated land-use and environmental permits that will be required for this permit. Below is a preliminary list of the anticipated permits/ approvals that will be required for this project:

- BDS Environmental reviews and permits
- City Forestry Tree Removal Permit
- PBOT Street Opening Permit
- USACOE Section 404
- NOAA Fisheries Consultation
- DSL Removal-Fill Permit
- ODFW Fish passage Approval and Scientific Taking Permit

This technical memorandum will include information regarding permit application submittal requirements, typical timelines, likely mitigation requirements, and a project permitting schedule. This technical memorandum will also identify any property acquisition and easement requirements. It is assumed that the any property acquisition or easements associated with this project will not impact the overall design and construction schedule for this project. Any coordination with property owners will be led by City staff.

Deliverables – A draft and final Project Permitting Requirements – Technical Memorandum

Sub-task Budget: \$5,387

2f. Alternatives Analysis, 30% Design, Preliminary Design Report

The purpose of this task is to evaluate the civil, geotechnical, hydrologic, hydraulic, water quality, and structural design options and synthesis a preferred design alternative that will be consistent with City bureau and regulatory agency coordination. Upon consideration of the different design layouts, required roadway and utility improvements, and construction methods, Consultant will develop a preferred design alternative for the project that will include a narrative of the project's design criteria and a preliminary estimate of probable construction costs.

Deliverables – A draft and final Preliminary Design Report that contains the following information:

- Project design standards and considerations for hydrology, hydraulics, geotechnical, structural, and water quality
- A discussion of the regulatory floodplain impact (need for a CLOMR or not)

- *Plan and Profile drawings for the preferred design approach*
- *A preliminary estimate of probable construction costs*

Sub-task Budget: \$28,090

2g. Develop Hydrological Model – Contingency Task

Consultant understands the utility and long term benefit to the City for having an up to date hydrological model of Fanno Creek. However, updating or developing a new hydrological model is not critical for the design of this project. This contingency task will be performed as needed, per the direction of the City's project manager.

If needed, Consultant will review the input data from the City's existing MIKE SHE model and the Clean Water Services Watersheds 2000 HEC-HMS model. Consultant will compare the existing modeling data with current drainage areas, land use and development, available rainfall and soils data, and conveyance infrastructure. Consultant will update the existing Clean Water Service's HEC-HMS model with more current data and calibrate the model, as needed.

Deliverables –An updated HEC-HMS model for the portion of the Fanno Creek watershed upstream of the SW 56th Avenue gaging station and a draft and final technical memorandum describing the update process and findings.

Contingency Task Budget: \$14,376

2h. Conditional Letter of Map Revision (CLOMR) Application– Contingency Task

Based on the findings from Tasks 2b. and 2f, Consultant will prepare the necessary materials for FEMA's CLOMR application, if needed. This task includes the preparation of hydraulic models, figures, and documentation necessary to support FEMA's CLOMR application process. Consultant will submit the CLOMR application to FEMA and provide the necessary correspondence with the FEMA reviewer. The City will provide the application fees and lead the public participation and outreach associated with this process.

This contingency task will be performed, as needed, per the direction of the City's project manager.

Deliverables –CLOMR application, including hydraulic models, documentation and figures.

Contingency Task Budget: \$24,209

Task 3 – Final Design and Permitting (60%, 90%, 100%)

For scoping and budgeting purposes, the final design of the proposed SW 45th Avenue culvert replacement over Fanno Creek is assumed to be a bottomless arch culvert that will include foundations, wing walls and head walls, and upstream/downstream slope and bank stability treatments. Fish passage will be achieved by a combination of re-grading the existing stream channel and designing several pool and drop structures. An existing 8-inch sewer main and water main runs parallel along SW 45th Avenue. The flow line of the existing sewer main appears to be at an elevation that is higher than the downstream streambed. Consultant will develop design plan packages for the 60/90/100 percent milestones.

During the development of the project design, Consultant will assist the City with developing the permit applications for the permits identified in Task 2e.

3a. Geotechnical Investigation

The geotechnical investigation will explore subsurface soil and groundwater conditions by drilling 4 borings to an average depth of 30 feet below the ground surface. Two borings will be located in the travel lanes of SW 45th Avenue and these will extend to 40 feet or refusal. Boring depths will be greater than 40 feet if very soft soils are encountered. Two shallower borings will be located in the parking lots on the northwest and southeast portions of the project. The southwest parking lot is assumed to be within City right-of-way, but the northwest will be on private property. Consultant assumes that the City will provide access permission to this site.

For each boring, samples will be taken at representative intervals. Standard Penetration Testing will be performed, groundwater conditions will be noted, and detailed logs will be maintained. Laboratory tests will be performed on select soil samples to evaluate pertinent engineering characteristics.

A geotechnical report will be compiled that includes the following:

- descriptions of surface and subsurface conditions

- a site plan showing exploration locations
- boring logs and laboratory test results

Findings from the geotechnical report will include conclusions and recommendations related to seismic hazards, foundation design, shoring, groundwater dewatering, retaining walls, stream bank stability, backfill compaction requirements, and fill materials.

Prior to the geotechnical exploration, Consultant will coordinate the timing of the borings with the City's Coordinated Site Analysis (CSA) team. The CSA team will perform any necessary environmental testing that will be required for this project.

Deliverables – Draft and final geotechnical investigation report

Sub-task budget: \$17,468

3b. 60% Design Submittal

The 60% design will begin with a design meeting to review the City's comments from the Preliminary Design Report (Task 2f). This design package will comply with the BES-provided checklist for 60% design completion milestones and include the following:

- 60% design submittal narrative
- 60% Design Plans including
 - Cover sheet, demolition plans, access and stockpiling plans, grading and stream restorations plans, profiles and cross sections, right-of-way plans, structural details, erosion control plans, and planting plans
- an update of the engineer's estimate of probable construction costs
- technical specifications following the City of Portland construction standards
- Consultant responses to 30% review comments; collated and summarized by the City's PM

Deliverables – 60% design package submittal including:

- A design submittal narrative
- One reproducible set of 11x17 (half-size) plans and one set of 8.5x11 technical specifications
- Pdf versions of plans and cost estimate
- Draft hydrological/hydraulic report – one hard copy and digital copy
- Draft Stormwater water quality design report – one hard copy and digital copy
- Written response to 30% comments (in a spreadsheet format)
- Meeting notes from design review meetings

Sub-task budget: \$43,516

3c. BDS Land Use Permitting Support

Consultant will assist the City with the preparation of and submittal of the anticipated land use permitting requirements. The City will prepare the Type II permit application and narrative including:

- the description of the project and site
- the findings for each applicable approval criterion
- a description of resources and functional values present on site
- evaluation of alternatives
- potential development impacts and proposed mitigation
- monitory plan for mitigation plantings

Consultant will provide the City with impact areas, project design figures, and mitigations plans to support the permit application.

Consultant assumes that the Type II permit application will be prepared using design information from the 30% and 60% design submittal packages. Permitting and application fees will be provided by the City.

Deliverables – Support figures, plans, and impact areas to support City's Type II environmental review procedure.

Sub-task budget: \$5,398

3d. DSL/USACOE Joint Permit and ODFW Fish Passage Applications

Consultant will lead the preparation of the DSL Removal-Fill and USACOE Section 404 joint permit application for this project. Consultant will also prepare the necessary documentation for the ODFW Fish Passage application. Consultant will submit all documents and address any questions or correspondence from the agencies. These tasks have been scoped based on the following assumptions:

- no wetlands above the ordinary high water mark are present
- the project will require an ODFW Fish Passage Permit and Scientific Collection Permit application and other supporting documentation
- the project will require the preparation of a stormwater management plan in accordance with DEQ and NMFS criteria
- no federally listed species under the jurisdiction of the USFWS
- the project will qualify under the Endangered Species Act – Section 7 Programmatic Consultation Conference and Biological Opinion (SLOPES) – Refer to **Contingency Task 3i Individual Consultation and Biological Assessment** if the SLOPES criteria cannot be met for this project.
- the City will pay for application and permit fees

Deliverables –

- *Preparation of DSL/USACOE Joint Permit Application*
- *Preparation of a DEQ Stormwater Management Plan*
- *Preparation of ODFW Fish Passage application*
- *Preparation of ODFW Scientific Collection Permit application*

Sub-task budget: \$21,924

3e. Public Outreach Support

Consultant will support the City's public outreach effort with the development of color displays and attendance at public meetings arranged and hosted by the City. Consultant will attend two open houses and develop two colored display boards for each meeting. Consultant will also provide support information and graphical support prior to project construction.

Deliverables – Two color display boards to support each of the two open house events

Sub-task budget: \$5,629

3f. 90% Design Submittal

Comments from the 60% design submittal package (Task 3b) will be used to develop the 90% design package. This design package will comply with the BES-provided checklist for 90% design completion milestones and include the following:

- 90% design submittal narrative
- 90% Design Plans including
 - Cover sheet, demolition plans, access and stockpiling plans, grading and stream restorations plans, profiles and cross sections, right-of-way plans, structural details, erosion control plans, and planting plans
- an update of the engineer's estimate of probable construction costs
- technical specifications following the City of Portland construction standards
- project team responses to City's 60% review comments

Deliverables – 90% design package submittal including:

- *A design submittal narrative*
- *One reproducible set of 11x17 (half-size) plans and one set of 8.5x11 technical specifications*
- *Pdf versions of plans and cost estimate*
- *Written response to 60% comments (in spreadsheet format)*
- *Meeting notes from design review meetings*

Sub-task budget: \$34,863

3g. Design Calculations

Consultant will provide stamped geotechnical and structural as well as stamped copies of the final hydrology/hydraulics and stormwater water quality design reports. The stormwater water quality portion of this report will be consistent with City's 2014 Storm Water Management Manual (SWMM). These calculations and report will be submitted with the water quality design report during the Final design submittal.

Deliverables – Design Calculations including:

- *Signed and sealed calculations packages (four copies) for*
 - *Geotechnical*
 - *Structural*
- *Final hydrology/hydraulics report – four hard copies and one digital copy*
- *Final stormwater water quality design report – four hard copies and one digital copy*

Sub-task budget: \$9,728

3h. Final Design Submittal

Comments from the 90% design package submittal, agency permit conditions, and BDS review comments will be incorporated into a final design submittal package. This design package will comply with the BES-provided checklist for final design completion milestones and include the following:

- Final design submittal narrative
- Final Design Plans including
 - Cover sheet, demolition plans, access and stockpiling plans, grading and stream restorations plans, profiles and cross sections, right-of-way plans, structural details, erosion control plans, and planting plans
- an update of the engineer's estimate of probable construction costs
- technical specifications following the City of Portland construction standards
- Consultant responses to City's 90% review comments

Deliverables – Final design package submittal including:

- *A design submittal narrative*
- *One reproducible 11x17 (half-size) plans and 8.5x11 set of technical specifications*
- *Pdf versions of plans and cost estimate*
- *Written response to 90% comments (in spreadsheet format)*
- *Meeting notes from design review meetings*

Sub-task budget: \$25,224

3i. Individual Consultation and Biological Assessment – Contingency Task

If the proposed project does not qualify under Endangered Species Act – Section 7 Programmatic Consultation Conference and Biological Opinion (SLOPES), Consultant will prepare a biological assessment for this project. This sub-task has been scoped based on the following assumptions:

- the project will trigger an individual formal consultation under Section 7 of the Endangered Species Act and will require a Biological Assessment
- the presence of federally listed fish species in Fanno Creek and the presence of Essential Fish Habitat (EFH) as regulated under the Magnuson-Stevens Act

This contingency task will be performed, as needed, per the direction of the City's project manager.

Deliverables – Preparation of Draft and Final Biological Assessment and agency coordination

Contingency Task Budget: \$14,323

Task 4 – Advertisement/Bid**4a. Bid Set Submittal**

Consultant will prepare a bid package for the project's advertisement for construction. This bid set will include a full size (22x34) signed and stamped set of construction plans on vellum to be reproduced by the City for its

advertisement. The bid package will also include a final bid form and a revised set of project specifications/special provisions in a MS Word (.doc) file format. Consultant will also provide the City with the AutoCAD drawings of the final drawings following BES CAD standards.

Deliverables – A bid package including the follow:

- *One set of full-size (22x34) signed and stamped reproducible vellums*
- *Technical Specifications in MS Word*
- *Bid form in MS Excel*
- *AutoCAD (.dwg) files of the bid drawings set following BES CAD standards*

Sub-task Budget: \$6,336

4b. Advertising and Bidding Support

Consultant will provide the following project advertisement and bidding support to the City:

- Attend the pre-bid construction meeting
- Assist the BES PM and CM with preparation of written responses to the bidders' questions and assist, as needed, in the preparation of addendum.
- Prepare any drawing clarifications
- Assist the City with the evaluation of the bids.

Deliverables – Support documentation, as needed.

Sub-task Budget: \$4,488

Task 5 – Construction and Project Close-out Phase

5a. Construction Services

The construction lead for the Consultant will attend project construction and site meetings as required and per the direction of the City's Construction Manager (CM). Consultant assumes participation in six construction and site meetings during the construction phase of this project. Consultant will also respond to submittals, shop drawings, Requests for Information (RFI's), Requests for Clarifications (RFC's), and re-issue engineering drawings when changes are needed. Consultant has estimated a total of 80 hours of work associated with this task. Consultant assumes that the City will provide any required special inspections and that the City will track and document the As-Constructed project conditions.

Deliverables – Include the following:

- *Written responses to RFI's and RFC's, as needed.*
- *Revisions to engineering drawings when changes are needed.*
- *Field summary reports for all site visits.*

Sub-task Budget: \$10,582

5b. Letter of Map Revision (LOMR) Application – Contingency Task

Based on the project needs for a CLOMR (contingency task 2h. Conditional Letter of Map Revision), Consultant will prepare the final LOMR documentation to FEMA upon the completion of construction, as needed. This task includes the preparation of hydraulic models, figures, and documentation necessary to support FEMA's LOMR application process. Consultant will submit the LOMR application to FEMA and provide the necessary correspondence with the FEMA reviewer. The City will provide the application fees and provide the Consultant with an as-built survey that contains the necessary level of detail to complete the LOMR documentation.

This contingency task will be performed, as needed, per the direction of the City's project manager.

Deliverables –LOMR application, including hydraulic models, documentation, and figures.

Contingency Task Budget: \$18,072

WORK PERFORMED BY CITY

The City has assigned a project manager to oversee the Consultant's work and provide support as needed. Specific duties the City will perform include:

- a. **Land Acquisition:**
Acquire additional easement areas and record legal documentation of changes to easement areas.
- b. **Survey Services:**
 - 1) Provide a set of control points to be used for field investigations and construction.
 - 2) Establish property lines from located monument, maps, and legal descriptions.
- c. **Site Analysis:**
Provide documentation of a Coordinated Site Analysis that includes soils testing and hazardous materials survey.
- d. **Obtain Building and Regulatory Permits for Construction:**
BES shall apply for all applicable permits for this project. The contract documents shall require the construction contractor to be responsible for obtaining all other required City of Portland trade permits.
- e. **Bidding and Contract Requirements:**
BES, in coordination with Procurement Services, will prepare the Bidding and Contract Requirements sections of the Contract Documents.
- f. **Printing of Documents:**
BES shall be responsible for advertising, printing and distributing the final set of bidding and contract requirements, detailed plans and technical specifications. BES will also print and issue addenda.
- g. **Bid Evaluation Report:**
BES shall evaluate all bids submitted and prepare a bid analysis and evaluation report.
- h. **Construction Management:**
BES shall be responsible for the project construction management, field inspection, special inspections, record keeping, administration and coordination of contractors and subcontractors during the construction phase of the project.
- i. **Owner-Furnished Data:**
BES shall provide technical data known by the BES PM to be in the City's possession and related to the services required on this project. Bureau staff shall make available sufficient hours of staff personnel as is required to meet with the successful Proposer and provide such information as required.
- j. **Public Outreach:**
BES shall provide all public outreach and informational meetings with neighbors.

CONSULTANT KEY PERSONNEL

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

NAME	ROLE ON PROJECT
Ken Vigil	Project Director
Adam Zucker	Project Manager
Eirik Schulz	Senior Engineer

SUBCONSULTANTS

The Consultant shall assign the following subconsultants to perform work in the capacities designated:

NAME	ROLE ON PROJECT	AMOUNT (Base Budget)	AMOUNT (w/ Contingency Tasks)
Grummel Engineering, LLC	Structural Engineering	\$19,590	\$19,590

Geotechnics, LLC	Geotechnical Engineering	\$14,035	\$14,035
Sage Environmental Services, LLC	Permitting Support	\$7,600	\$21,200
Total Subcontracting:		\$41,225	\$54,825

The subconsultant amounts shown above include \$41,225 in the Base Budget for subcontracting to M/W/ESB certified firms, representing M/W/ESB participation of 14%. With contingency tasks added, the amount subcontracted to M/W/ESB certified firms is \$54,825, representing M/W/ESB participation of 15%.

The City will enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Consultant in its Proposal. For contracts valued \$50,000 or more, the Consultant shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandoregon.gov/bibs/45475>.

COMPENSATION

The maximum that the Consultant can be paid on this contract is \$365,928 (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 Consultant may be less than that amount.

The task breakdown of the “not to exceed” amount is shown in the table below. Work cannot proceed on a Task and/or charges made against a Task until the Consultant has received written notification from the City’s Project Manager that the Task is authorized to proceed. The Consultant may not reallocate compensation between tasks without the written approval of the City’s Project Manager.

Task No.	Description	Task Amount not to Exceed
Base Budget		
1	Project Management	\$45,215
2	Preliminary Design	\$64,577
3	Final Design	\$163,750
4	Bidding Phase	\$10,824
5	Construction Phase	\$10,582
	<i>Base Budget Subtotal (without Contingency Tasks):</i>	<i>\$294,948</i>
Contingency Tasks		
2g	Develop Hydrological Model	\$14,376
2h	Conditional Letter of Map (CLOMR)	\$24,209
3i	Individual Consultation and Biological Assessment	\$14,323
3b	Letter of Map Revision (LOMR) Application	\$18,072
	<i>Contingency Tasks:</i>	<i>\$70,980</i>
	Total Not-To-Exceed Amount:	\$365,928

The necessity for Contingency Tasks will be determined by the City. No work or charges may proceed on Contingency Tasks without written authorization of the City’s Project Manager.

The Consultant is entitled to receive progress payments for its work pursuant to the Contract as provided in more detail below. The City will pay Consultant based on these invoices for acceptable work performed and approved until the “not to exceed” amount is reached. Thereafter, Consultant 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 Consultant 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 Consultant’s compensation will be based on the Consultant’s bills previously submitted for acceptable work performed and approved.

PAYMENT TERMS: Net 30 Days

Hourly Rates

Contractor's hourly billing rates shall be based on a multiplier not to exceed 3.1 times the direct labor rate. The billing rates shall not exceed those set forth below:

ESA VIGIL-AGRIMIS	
Labor Classification	Maximum Billing Rate
Project Director	\$216/hr
Project Manager	\$137.50/hr
Sr. Engineer	\$131.75/hr
Sr. Scientist	\$112/hr
Registered Landscape Architect	\$102.50/hr
SUPPORT STAFF	
Professional Engineers	\$99.20 to 124.00/hr
Engineering Staff	\$74.40 to 99.20/hr
Landscape Architect Design	74.40 to 93.00/hr
Drafting	\$74.40 to 93.00/hr
Admin Support	\$46.50 to 77.50/hr
SUBCONSULTANTS	
Grummel Engineering, LLC	
Principal	\$150/hr
Engineer	\$102/hr
Drafter/Technician	\$78/hr
Geotechnics, LLC	
Principal	\$150/hr
Field Technician	\$95/hr
CADD	85/hr
Sage Environmental, LLC	
Biologist	\$100.00

The hourly billing rates include a multiplier applied to salaries. This multiplier shall not exceed 3.1 and 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 (travel within 100-mile radius of Consultant's office), information technology, all other direct costs not identified as reimbursable, other indirect costs and profit.

Standard Reimbursable Costs

The following costs will be reimbursed without mark-up:

- Out of Town Travel: Travel (transportation, lodging, and per diem) of Contractor and/or experts where specified in the contract scope or required by BES. Travel shall be directly attributed to specific project tasks and to a location outside of a 100-mile radius of the Contractor's project office. Travel will be preapproved by the City Project Manager, and travel costs will be reimbursed in accordance with the City's Travel Expense Guidelines.
- Photocopying / Reproduction Costs: Reproduction of required drawings, reports, specifications, public involvement material, and workshop material as reflected in the Scope of Work in Exhibit A.

Subconsultant Costs

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. The maximum markup on subconsultant services shall not exceed 5%.

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. Any adjustment of hourly rates must be made by written amendment to the contract.

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 Consultant shall submit to the City's Project Manager an invoice for work performed by the Consultant 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, billing rate, hours worked during the period, and tasks performed. The Consultant shall also attach photocopies of claimed reimbursable expenses, if applicable. The Consultant 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 Consultant 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 Consultant shall make full payment to its subconsultants within 10 business days following receipt of any payment made by the City to Consultant.

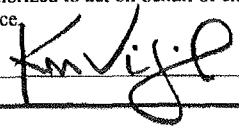
ACH Payments

It is the City's policy to pay its Consultant invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, Consultants shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at: <http://www.portlandoregon.gov/bfs/article/409834?>

Upon verification of the data provided, the Payment Authorization Agreement will authorize the City to deposit payment for services rendered directly into Consultant accounts with financial institutions. All payments shall be in United States currency.

WORKERS' COMPENSATION INSURANCE STATEMENT**IF YOUR FIRM HAS CURRENT WORKERS' COMPENSATION INSURANCE, CONTRACTOR MUST SIGN HERE:**

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

Contractor Signature: Date: 5/27/14Entity: ESA VIBIL-ABRIMIS**IF YOUR FIRM DOES NOT HAVE CURRENT WORKERS' COMPENSATION INSURANCE, CONTRACTOR MUST COMPLETE THE FOLLOWING INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT:**

As an independent contractor, I certify that I meet 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 _____

FOR CITY USE ONLY

PROJECT MANAGER-COMplete ONLY IF CONTRACTOR DOES NOT HAVE WORKER'S COMPENSATION INSURANCE
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 _____

CONSULTANT SIGNATURE:

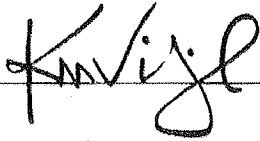
This contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

The parties agree the City and Consultant 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.

ESA VIGIL-AGRIMIS, INC.

BY: _____



Date: 5/27/14

Name: _____

Kenneth M. Vigil

Title: _____

Vice President

CONTRACT NUMBER: _____

CONTRACT TITLE: E08676: Fanno Creek at SW 45th Culvert Replacement

CITY OF PORTLAND SIGNATURES:

By: n/a Date: _____
Bureau Director

By: n/a Date: _____
Chief Procurement Officer

By: _____ Date: _____
Elected Official

Approved:

By: _____ Date: _____
Office of City Auditor

Approved as to Form: **APPROVED AS TO FORM**

By:  Date: 6/6/14
Office of City Attorney **CITY ATTORNEY**