

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

CONTRACT NUMBER _____

**TITLE OF WORK PROJECT
Leach Upper Garden Development Project**

This contract is between the City of Portland ("City," or "Bureau") and Richard Hartlage Land Morphology, hereafter called Consultant. The City's Project Manager for this contract is Ross Swanson, Portland Parks and Recreation.

Effective Date and Duration

This contract shall become effective on March 25, 2015. This contract shall expire, unless otherwise terminated or extended, on March 15, 2018.

Consideration

- (a) City agrees to pay Consultant a sum **not to exceed \$ 433,314** 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.

CONSULTANT DATA AND CERTIFICATION

Name (print full legal name): Richard Hartlage Land Morphology

Address: 223 Taylor Avenue N, Suite 100B, Seattle, Washington 98109

Employer Identification Number (EIN): 461796723

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

City of Portland Business Tax Registration Number: _____

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

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, the Contractor 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 // ☐ Reduce 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 // ☐ Reduce by Bureau Director or designee

- (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 // ☒ Reduce 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. Sub consultant certificates of insurance and the associated waiver information is attached at the end of this document.

27. Progress Reports: /X☐/ 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: /X☐/ 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

Contractor 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 Contractor as a proposer has competed solely on its own behalf without connection or obligation to, any undisclosed person or firm. Contractor 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, Contractor, 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. Contractor understands that should it elect to employ any former City official/employee during the term of the contract then that the former City official/Contractor 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.

STATEMENT OF THE WORK AND PAYMENT SCHEDULE

A. SCOPE OF WORK

See Attached Exhibit 'A'

B. CONSULTANT PERSONNEL

Consulting Team

The Contractor shall assign the following personnel and subcontractors to do the work in the capacities designated below. The Contractor shall not change personnel or subcontractor assignments without the prior written consent of the City.

Land Morphology Personnel Name	ROLE ON PROJECT
Richard Hartlage	Principal
Sandy Fischer	Principal & Project Director
Lindsey Heller	Project Manager

NAME	ROLE ON PROJECT	Personnel Name
Olson Kundig Architects	Architecture	Kevin Kudo King Misun Chung Gerrick
Greenworks	Green infrastructure	Mike Faha
Winterbrooks	Land use planning	Tim Brooks
Suenn Ho	Graphics	Suenn Ho
Capital	Civil engineering	Janet Spriggs
Lancaster	Traffic engineering	Mike Ard
Mitali	Cost estimating	Vai Potnis, Mitali Kulkarni
Reyes	Electrical engineering	Flaviano Reyes
Hodaie	Mechanical engineering	Saifan Hodaie

Diversity and M/W/ESB Commitments

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 \$100,000 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.portlandonline.com/shared/cfm/image.cfm?id=119851>.

As approved in advance by the City Project Manager, fee shifts between team members may occur, if necessary, to best serve the project needs, but shall not exceed 20% change within any single subcontractor's fees as obligated and shown above, unless especially approved by the City Project Manager. However, a minimum of the same percentage listed on the PTE First Tier Subconsultant Disclosure Form of the total labor costs will be performed by a combination of the M/W/ESB firms on this list.

C. COMPENSATION

"Basic Services" include all work described in 'EXHIBIT A- SCOPE OF WORK' above, which Consulting Team agrees to complete no later than the expiration date of the Personal Services Contract between the parties, commencing upon Consulting Team's receipt of a Notice-To-Proceed from PPR for the work described herein.

In consideration of the services Consulting Team agrees to perform under the Personal Services Contract between the parties, PPR agrees to pay the Consulting Team a lump sum fee of \$398,494 for personnel labor costs, billed monthly on a percent complete basis of each major Task, plus any authorized expenses directly related to the Project, not to exceed \$34,820 for reimbursable expenses, as set forth in more detail above, for a TOTAL not-to-exceed contract amount of \$433,314 for all work described in "Statement of Work". This is a Lump Sum Fixed Fee contract for personnel labor costs, and therefore the number of hours required to perform the services is irrelevant to the contract, other than the Proposed Project Fee exhibit's hours may be used as a guide to determine approximate percent completion of tasks. The "not to exceed amount" is the maximum amount of compensation due the Contractor for all the work required by the contract. Errors in estimating the number of hours necessary to perform the work is the sole responsibility of the Contractor. Schedule of payment by task can be found in 'EXHIBIT B – FEE SCHEDULE'.

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 10% and have been included as a not-to exceed amount, as indicated in the contract fee under "reimbursable costs".

Standard Reimbursable Costs

Reimbursable expenses will be billed monthly in accordance with the following reimbursable expense schedule:

Subconsultant Mark up @ 10%	10% maximum	\$ 13,025
Travel Mileage	6 trips = 2400	\$ 1,440
Per Diem at \$80/ day	16 days	\$ 1,280
Hotel	3 people 2 nights	\$ 1,200
Reproduction and Expenses 3%	Maps and Handouts	\$ 7,515
	Phase 1 Not to Exceed, Tasks 0 - 2	\$ 24,460
	Phase 2 Not to Exceed, Tasks 3 - 6	\$ 10,360

Adjustment of Labor Rates Due to Inflation

Hourly Rates

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.

D. PAYMENT TERMS: Net 30 Days

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, 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.

E. Change in Services

Consulting Team shall not perform work beyond the 'A- SCOPE OF WORK', unless such additional services are authorized and confirmed in writing by PPR through an Amendment to the Agreement for Professional, Technical, or Expert Services. Services beyond those listed in "A- SCOPE OF WORK" above will be determined based on the following billing rates, and will either be billed on a time and material basis or by lump sum fee, as specified in the Amendment.

- | | |
|--------------------|--|
| • Richard Hartlage | \$185/hour |
| • Sandy Fischer | \$140/hour |
| • Lindsey Heller | \$115/hour Phase 1 Landscape Architect |
| Lindsey Heller | \$140/ hour Phase 2 PM |

1. 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.

2. Place of Performance

Contract performance will take place primarily at the Contractor's facility. On occasion and as appropriate, work will be performed at City facilities, a third-party location, or any combination thereof.

All meetings will take place in Portland, Oregon. Specific locations will be determined at a future date. All work on the production of the project documents will take place in the contractor's and subcontractors' offices.

3. Public Safety

Public safety may require limiting access to public work sites, public facilities, and public offices, sometimes without advance notice. The Contractor shall anticipate delays in such places and include the cost of delay in the contract cost. The successful Contractor's employees and agents shall carry sufficient identification to show by whom they are employed and display it upon request to security personnel. City Project Managers have discretion to require the Contractor's employees and agents to be escorted to and from any public office, facility or work site if national or local security appears to require it.

F. List of Attachments:

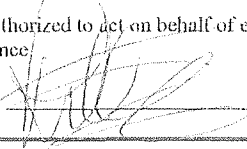
EXHIBIT 'A' – SCOPE OF WORK

EXHIBIT 'B' – FEE SCHEDULE

EXHIBIT 'C' – PROJECT TIMELINE

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: 1/27/15

Entity: Land Morphology

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.

BY: Richard Hartlage Land MorphologyDate: 2/17/15Name: Title: President 

CONTRACT NUMBER: _____

CONTRACT TITLE: Leach Upper Garden Development Project

CITY OF PORTLAND SIGNATURES:

By: _____
Bureau Director

Date: _____

By: _____
Chief Procurement Officer

Date: _____

By: _____
Elected Official

Date: _____

Approved:

By: _____
Office of City Auditor

Date: _____

Approved as to Form:

By: _____
Office of City Attorney

APPROVED AS TO FORM

CITY ATTORNEY

Date: 2/20/15

EXHIBIT 'A' – SCOPE OF WORK

LEACH BOTANICAL GARDEN: UPPER GARDEN DEVELOPMENT PROJECT

TASK 0.0 PROJECT MANAGEMENT & BUSINESS PLAN REVIEW: Work plan will include project management, communications and stakeholder/agency engagement plans. Goals and decision making process will be documented.

SUBTASKS

- 0.01 Project Management Plan
- 0.02 Shared Portal Set Up & Management
- 0.03 Team Management & Coordination
- 0.04 Contract & Sub Consultant Contracts
- 0.05 Monthly Invoices & Reports
- 0.06 2 meeting per month with PM (14 phone meetings)
- 0.07 Quality Control- for all Submittal
- 0.08 Assess Planned Improvements Feasibility and Explore Options'

DELIVERABLES

- Work Plan
- Contracts
- Monthly Invoices and reports
- DRAFT development program/ options

TASK 1.0 MASTER PLAN REFINEMENT: Engage client, partners, community and consults team in collaborative assessment of resources and opportunities. Consultant shall review existing conditions and identify opportunities. Consultants will develop a comprehensive permitting strategy, identify relevant policies, regulations and guidelines and develop an agency stakeholder engagement plan that coordinates with the Garden's Public involvement plan. Proposed site, building and garden improvement plans and programs will be reviewed, the feasibility assessed and opportunities presented

SUBTASKS

- 1.01 Base Plans - AutoCAD format
- 1.02 Traffic Circulation Plan
- 1.03 Ex Condition / Program / Feasibility Assessment Report – to include:
 - Planning Context
 - Existing Conditions & Opportunities
 - Planned Improvements and Program Feasibility
 - Final Site and Building Program
 - Permitting and Approval Strategy
 - Required Approvals, Strategy, Process & Schedule
- 1.04 Coordinate Report Production with City Staff
- 1.05 Meetings & Reviews
 - Team Kick-off Meeting in Portland - Prepare, Attend, Summarize
 - Meeting #1 CAC and #2 hosted by LGF (on site)
 - Graphics Support CAC
 - 2 meeting per month with PM (10 phone meetings)
 - Meetings Working Group 2-5
 - Design / Review Workshop in Portland
 - Technical Meetings

DELIVERABLES

- Existing Conditions PPT PDF (brief)

- Traffic Circulation Analysis and Recommendations-includes (1) intersection analysis
- Analysis & Recommendations of proposed building, site and garden character and development and conservation programs. Analysis will include site circulation and integration of Upper Garden with existing garden, access for people with disabilities and overall visitor experience.
- Review and understanding of feasibility of connecting to existing utilities.
- Feasibility Assessment Memo & Maps addressing issues and opportunities
- Graphic support CAC Meetings
- Meeting summaries

ASSUMPTIONS

- Stakeholder Process and Findings (Led & documented by City and Friends)
- Garden to provide inventory and map of Plant Collections
- Survey and Master Plan CAD files with existing improvements, utilities and topography provided by City
- Client responsible for meeting planning, notification and facilitation
- Client to coordinate internal reviews provide written response to submittals that provide clear direction
- Client to provide sustainability goals and priorities, particularly for building system performance

TASK 2.0: SITE PLAN ALTERNATIVES: Schematic Design Development of (3) preliminary alternatives for evaluation and selection of preferred alternative for refinement. With client and community, explore alternative spatial frameworks, architectural vocabulary, form, character, design vocabulary. Assist decision-makers in selection of most sustainable alternatives.

SUBTASKS

- 2.01 Schematic Design Development of (3) alternative designs.
- 2.02 Evaluation of Alternatives
- 2.03 Schematic Design - Preferred Alternative
 - Site plan
 - Grading Plan
 - Utility Servicing Concept
 - Landscape / Garden Plan
 - Access & Parking Plan
 - Way-finding Plan
 - Architectural pricing package
- 2.04 Priorities, Phasing & Cost estimate
- 2.05 Presentation & Summary / Select Projects for DD
- 2.06 Technical Reviews - City PM will lead and schedule, meetings will be scheduled to occur during scheduled trip
 - Meetings & Reviews
 - CAC and Working Group Meetings 4-6
 - 2 meeting per month with PM
 - Land use pre-application conference
 - PBOT Info Meeting
 - Review by Bureau of Development Services
 - PP&R Review by City Disability Advisory Committee
- 2.07 Graphics and Renderings

DELIVERABLES

- 3 alternative site design concept diagrams including site utility servicing concepts

- SD Design Package-preferred plan 50% and 100% submittals
- 50 & 100% SD cost estimate
- List of required permits and a permitting strategy
- Annotated phasing plan with narrative and cost estimates
- Illustrative site renderings of each phase
- 2 Site Perspectives
- 2 Building Perspectives
- Architectural Pricing Package- Narratives w/o plans for structural, electrical and mechanical
- Graphics for newsletters
- Meeting summaries
- Work within the allocated budget to advanced Type 3 Land use permit and support City in securing the approvals

ASSUMPTIONS

- Client responsible for meeting planning, notification, facilitation and associated costs
- Client to lead, arrange, attend and assist with review meetings w/ PP&R, BDS, Urban Forestry and maintenance staff. Consultant participation to be coordinated with planned trips.
- Client will define decision making process, and provide written response to formal submittals or at critical decision points
- PPT Template and final report will be designed, produced and printed by PP&R staff
- Permit and land use review fees are to be paid directly by City and are not included in consultants budget
- Inventory of plant collections or condition are not included in consultants fee, City will provide

NOTE: TASKS 3 – 5: The scope below was included in the initial proposal and reflects the RFP and submitted work plan. This scope of work is subject to amendment based upon completion of Phase 1 (Tasks 0 – 2) and dependent on the selection of a construction project to move forward into Design Development.

ASSUMPTIONS Task 3 -5: \$1,200,000 Construction Project

TASK 3.0: DESIGN DEVELOPMENT: Design Development of preferred plan and priority project(s). Develop form, character and details including grading, hardscape, site planting, botanical collections, structures, utilities (as determined by Phase 1.)

SUBTASKS

- 3.01 Develop DD Level Materials for City review at 50%and 100% Complete.
Refine the selected site elements, based on the Final Schematic Design Package, to clarify intent, including refinement of furnishings and materials selection and site element detailing.
- 3.02 Develop 50% and 100% DD Level Cost Estimate
This construction cost estimates will be prepared to confirm probable costs and to determine if the available budget is sufficient for proposed improvements.
- 3.03 Prepare Preliminary Specifications (Table of Contents)
Develop specification Table of Contents depicting sections that will be included in the construction documents package.

DELIVERABLES

- Monthly Consulting Team Progress and Expenditure Reports

- Responses to 100% SD City comments
- Provide 50% and 100% Design Development Drawings Package
 - Existing Conditions Survey
 - Demolition Plan
 - Civil Utility & Storm water Plans & Preliminary Details
 - Materials Plan
 - Grading Plan
 - Layout Plan (primary dimensions only)
 - Planting Concept Plan and Irrigation Zone Plan
 - Preliminary Landscape Architecture Sections and Details
 - Preliminary Lighting/Electrical Plans, Details & Photometric Calculations
- Table of Contents for Specifications
- 50%, and 100% Design Development Cost Estimates
- Pre-application conference application

TASK 4.0: CONSTRUCTION DOCUMENTS: Upon written authorization from the PPR Project Manager, the Consulting Team will proceed with Task Four – Construction Documents (CD) to prepare 100% construction documents and specifications for construction of the project that fit the project budget.

SUBTASKS

- 4.01 Prepare 30%, 50%, 90%, and 100% Construction Documents Package
Make revisions from comments provided on 100% DD level package, and provide responses to all comments. Prepare and submit subsequent packages and response to comments at 30%, 50%, 90% and 100% Construction Documents. Prepare draft technical specifications and special provisions section.
- 4.02 Develop, 50% and 100% Construction Document Level Cost Estimates
These construction cost estimates will be prepared to confirm probable costs and to determine that the proposed improvements are within the project budget.
- 4.03 Provide Final (100% Level) Construction Document Materials
Submit final consultant-provided materials for a completeness review, and when approved, provide the materials in electronic or camera-ready form as desired. Incorporate diagrams developed with franchise utilities.

DELIVERABLES

- Monthly Consulting Team Progress and Expenditure Reports
- Prepare 30%, 50%, 90% and 100% CD Level Packages.
Documentation may include – to be determined at the end of Design Development:
 - Existing Conditions Survey
 - Civil Utility Plans, Erosion Control Plan & Civil Details
 - Demolition Plans
 - Materials Plans
 - Layout Plans
 - Grading Plans
 - Planting Plans
 - Irrigation Plans
 - Landscape Architecture Details
 - Lighting Plan
 - Electrical Utility Plans & Details,

- Franchise Utilities Diagram
- Draft technical specifications and special provisions section
- 50%, 90% and 100% CD Level Construction Cost Estimates
- Responses to 30%, 50%, 90% and 100% CD City comments
- Prepare 100% CD Level Package. Plans, Technical Specifications, Special Provisions

Task 5.0: SITE DEVELOPMENT PERMITS: Upon written authorization from the PPR Project Manager, the Consulting Team will proceed with Task 5 – Site Development Permitting. Consultant shall ensure a complete document package suitable for obtaining necessary permits.

SUBTASKS

- 5.02** Working within the established budget of \$3,000 assist City with Site Development Building Permit Applications and Forms
Provide information, resubmittals, corrections and additions necessary to obtain required building permits, as necessary. The City's Project Manager will be the applicant and prime point of contact, for all communications, check sheets, responses, negotiations, and appeals. The City Project Manager will give direction on revisions.

DELIVERABLES

- Permit Set suitable for submittal submission to BDS and PBOT for permitting, and any necessary appeals and revisions as necessary
- Completed permit application forms and appeal application forms, if necessary. (City to pay for all permit and appeal applications and review and recording fees directly.)
- Traffic impact study to support land-use application (\$2000) budget

Task 6.0: CONSTRUCTION ADMINISTRATION AND CLOSE-OUT: Upon written authorization from the PPR Project Manager, the Consulting Team will proceed with Task 7.0 – Construction Administration and Close-Out.

SUBTASKS

- 7.01** Develop Submittal List. Develop a complete list of required submittals, including close out submittals, per PPR format spreadsheet, as a tracking log.
- 7.02** Provide Construction Administration Services. Attend Pre-Construction Meeting(s) and project meetings as requested by PPR. Services may include site visits during construction, site observation reports, as required. Review of shop drawings, tracking and review of required submittals (including completeness review), samples and mockups, Requests for Information (RFIs) responses, issuance of Architect's Supplemental Instructions (ASIs) and communication with the contractor through PP&R Construction Manager or Project Manager and inspectors, providing clarification to construction documents as necessary. Track all drawing and specification changes throughout the construction process in the electronic files for ease of compiling Record Drawings during Close-Out.
- 7.03** Substantial Completion Walk-Through and Punchlist. Perform substantial completion site visit(s) with City staff to observe level of completion of construction and assist in developing an initial punch list.
- 7.04** Project Close-out Document Review / As-Built Markup Review. Review contractor provided red-lined as-builts, closeout manual, warranties and other materials. Produce a document providing comments on accuracy and completeness.

DELIVERABLES

- Submittal tracking log
- Materials Provided In Response to Contractor Inquiries, Requests, and Submittals
ASI clarifications as necessary
- As Requested by City Staff, Reviews of Contractor's Periodic Pay Requests
- Response memos from review of contractor's close out submittals and as-built mark ups
- Substantial completion & final completion punch-lists
- Record Drawings Prepared from Contractor-Provided As-Built Notes (Hard copy and/or electronic files as desired.)

ASSUMPTIONS

- Fee excludes Tree review, street vacation, LEED documentations, Energy modeling, and street vacation
- Fee assumes no buildings are included in first project
- Fee assumes periodic construction observation with City PM assigned to provided oversight during construction
- Changes to drawings initiated by City and resulting from changes to budget or priorities after a phase has been approved will be considered extra services.
- City will be responsible for consolidating coordinated/ non contradicting review comments
- All permit application fees will be paid by the City and are not included in the consultants fee
- Geotech and materials testing fees are not included in consultant fee



LEACH BOTANICAL GARDEN
Fee Proposal
Prepared 02/11/2015

<div><div><div>FH LM</div></div></div> <div>LEACH BOTANICAL GARDEN</div> <div>Fee Proposal</div> <div>Prepared 02/11/2015</div>		LM L Arch	SUENNHO Graphic	OK ARCH Architect	WINTERB Land Use	GRN WKS Grn Info	CAPITAL Civil	LANCASTER Traffic	MITALI Estimating	REYES Electrical	HODAE Mechanical	EXPENSES	LABOR TOTAL	TOTAL	
PHASES AND TASKS	PH1 Cost	\$ 120,245	\$ 9,840	\$ 11,200	\$ 54,565	\$ 11,000	\$ 8,874	\$ 6,650	\$ 8,420	\$ 7,700	\$ 7,000	\$ 5,000	\$ 24,460	\$ 250,494	\$ 274,954
BUSINESS PLAN & PROJECT MANAGEMENT		\$ 17,785	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 17,785	\$ -
MASTER PLAN REFINEMENT- Meetings, Exist conditions, Workshop	Labor Task 1	\$ 36,760	\$ 1,680	\$ 2,520	\$ 9,395	\$ 3,000	\$ 2,000	\$ 1,000	\$ 4,540	\$ 1,000	\$ 1,000	\$ 500		\$ 63,395	
SITE PLAN ALTERNATIVES		\$ 23,175	\$ 1,440	\$ 2,240	\$ 30,960	\$ 3,000	\$ 2,191	\$ 2,000	\$ 2,880	\$ 1,000	\$ 2,000	\$ 1,500		\$ 72,386	
SCHEMATIC DESIGN (\$10M Project per MR Master Plan)		\$ 42,525	\$ 6,720	\$ 6,440	\$ 14,210	\$ 5,000	\$ 4,683	\$ 3,650	\$ 1,000	\$ 5,700	\$ 4,000	\$ 3,000		\$ 96,928	
	PH2 Cost	\$ 148,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,360	\$ 148,000	\$ 158,360
PH 1 PROJECT TOTALS		\$ 120,245	\$ 9,840	\$ 11,200	\$ 54,565	\$ 11,000	\$ 8,874	\$ 6,650	\$ 8,420	\$ 7,700	\$ 7,000	\$ 5,000	\$ 24,460	\$ 398,494	\$ 433,314



WORK PLAN - PHASE 1 Tasks 1 & 2

Last Modified 01-29-2015

187045

WEEK	1	2	3	4	5	6	7	8	9	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	34	35	36	36
DATE	2/1	2/8	2/15	2/22	3/1	3/8	3/15	3/22	3/29	4/5	4/12	4/19	4/26	5/3	5/10	5/17	5/24	5/31	6/7	6/14	6/21	6/28	7/5	7/12	7/19	7/26	8/2	8/9	8/23	8/30	9/7	9/15
CONSULTANT IN PORTLAND																																
TRIP					1			2				3							4					5							6	
					WG			WG & CAC				WG & CAC							WG & CAC					WG & CAC							WG & CAC	
					Site Visit							Workshop							Agency Review					Agency Review								
MEETINGS																																
Working Group					1			2				3							4					5							6	
					Intro -Ex Conditions			Review Opportunities				DESIGN / REVIEW				5 WEEKS OF OUTREACH			Select					Present							Present 100%	
					Draft Project &			Project Goals				WORKSHOP							Preferred Alt					50%							Present Phasing	
					Sustainability Goals			Discuss Options																							ID Phase 2 Project	
					Decision Criteria			Confirm Program																								
CAC Meetings								#1				#2							#3					#4							#5	
					Introduction, Goals, Process			Review Program				3 Site Options							Select					Present 50%							Present 100% Plan	
					Without consultant per Gay			Goals Opportunities				Workshop & Evaluation							Preferred Alt					Comments / Priorities							Comments	
Team Workshop																																
					Team Kick Off							Design / Review Workshop																				
					Site Visit																											
Project Manager Mtgs.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16																
STAFF REVIEWS																																
Progress Reports					Mo Reports & Invoices		Apr		May						June		July									Aug					Sept	
Submittals												Draft Report & Program							Preferred Alt							50% SD Comments						
Technical Review Mtgs.								PBOT Info Mtg.							PP&R / BOD				PP&R / BOD							PP&R / BOD						
DELIVERABLE																																
PPT Summary Report								Draft							Final																	
Permit Strategy								Land Use Issues											Permit Schedule & Strategy													
Traffic Study								Eval Options																								
Land Use Submittal								PBOT Info Mtg																								
Schematic Design															3 Alt Sketches										50%						100%	
Illustrations								Options																		Plan Rendering					Renderings	
Phasing Plan																				Draft											Final	
Cost Estimate															Update Existing ROM										50% Estimate						100% Estimate	
Newsletter Graphics																			June													
CAC Graphic Support								#2											#3							#4						