

CITY OF PORTLAND

**CONTRACT FOR PROFESSIONAL, TECHNICAL, AND EXPERT
for
Automated Meter Reading and Advanced Metering Infrastructure Project**

Contract Number: _____

As authorized by _____, this Contract is made effective on _____ (“Effective Date”) by and between the City of Portland (“City”), a municipal corporation of the State of Oregon, and Diameter Services, Inc. (“Contractor”), a(n) _____ corporation, by and through their duly authorized representatives. This Contract may refer to the City and Contractor individually as a “Party” or jointly as the “Parties.”

City Council Ordinance _____ authorized a not to exceed amount for the contract with Diameter Services, Inc. (Consultant) to be \$5,464,248. Funds are available in the FY 2022-23 Budget and will be requested in the FY 2023-24 through FY 2029-30 Budgets. City agrees to pay Consultant a sum not to exceed \$5,464,248 for accomplished and approved work as set forth in the attached Statement of the Work (Exhibit A) and Contract Budget Detail (APPENDIX 1). Prior to the expiration of the five-year term of the contract and upon Council's acceptance of the Water Bureau's report for recommending the acceptance of an additional two (2) year extension to the contract, the Chief Procurement Officer is authorized to execute an amendment to extend the term of the contract for the Project.

Party contacts and Contractor’s and City’s Project Manager for this Contract are:

For City of Portland: Water Bureau	For Contractor: Diameter Services, Inc.
Name: Marci Rees	Name: Joel Carty
Title: Project Manager	Title: President & Principal Consultant
Address: 1120 SW 5 TH Ave.	Address: 1315 Pickering Parkway, Suite 300
City, State: Portland, OR 97204	City, Province: Pickering, ON
e-mail: Marci.Reese@portlandoregon.gov	e-mail: jcarty@diameterservices.com
Copy to: Jess Cline	Copy to: Darlene McNichol
email: Jess.Cline@portlandoregon.gov	e-mail: dmcnichol@diameterservices.com
email: Corrina.Rodriguez@portlandoregon.gov	

Scope and Consideration

- (a) Contractor shall perform the Services and provide the Deliverables set forth in the Statement of Work by the due dates specified in the Contract.
- (b) Payments shall be made to Contractor according to the schedule identified in Exhibit A and APPENDIX 1.

Recitals:

WHEREAS, to further its government operations, the City of Portland desires to hire the Contractor, Diameter Services, Inc. to be the City's Owner Representative for the Automated Meter Reading and Advanced Metering Infrastructure Project (Project) assigned to assist the Portland Water Bureau (PWB) in developing and managing the Project including lead consultant in the coordination, planning, design, construction, testing, training, and implementation phases of the Project; and

WHEREAS, the City issued a notice of a of a Sole Source Procurement in accordance with Portland City Code 5.68 for an Owner Representative for the Project on May 6, 2021 with no protest received.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1 DEFINITIONS (10/19)

General Definitions. (11/18) These definitions apply to the entire Contract, subsequent Amendments, and any Change Orders, unless modified in an Amendment. If any definition contains a substantive provision conferring rights and/or obligations upon a Party, then effect shall be given to the substantive provision.

“Acceptance” (10/19) means the Deliverable demonstrates to the City's satisfaction that the Deliverable conforms to and operates according to the Acceptance Criteria, and if required, has successfully completed Acceptance review, and for Deliverables not requiring Acceptance Testing that the Deliverable conforms to the Acceptance Criteria or the City's Specifications.

“Acceptance Certificate” (11/18) means a written instrument by which the City notifies Contractor that a Deliverable has been Accepted or Accepted with exceptions, and Acceptance Criteria have been met or waived, in whole or in part.

“Acceptance Criteria” (11/18) means functionality and performance requirements determined by the City, based upon the Specifications, which must be satisfied prior to City's Acceptance of a Deliverable. City and Contractor shall agree upon written Acceptance Criteria.

“Acceptance Date” (11/18) means the date on which the City issues an Acceptance Certificate for the Deliverable(s).

“Affiliates” (11/18) means, for Contractor, any individual, association, partnership, corporation, or other entity controlling, controlled by, or under common control. The term “control” means the power to direct or cause the direction of the management and policies of an individual or entity, whether through the ownership of voting securities, by contract, agreement or otherwise.

“Amendment” (12/18) means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions of the Contract, Contract amount, or substantially altering a Statement of Work.

“Business Day” (11/18) means a twenty-four hour day, excluding weekends and City holidays, beginning at midnight, and ending at midnight twenty-four hours later.

“Calendar Day” (11/18) means a twenty-four hour day, including weekdays, weekends, and holidays, beginning at midnight, and ending at midnight twenty-four hours later.

“Change Order” (12/18) means a document, agreed, and signed by both Parties, that changes an existing Statement of Work. Change Orders cannot change Contract amount or Master Terms and Conditions.

“Confidential Information” (08/19) means any information that is disclosed in written, graphic, or machine-recognizable form and is marked or labeled at the time of disclosure as being Confidential or its equivalent, or, if the information is in verbal or visual form, it is identified as Confidential or proprietary at the time of disclosure, or a reasonable time thereafter. Information shall always be considered Confidential Information, whether or not it is marked or identified as such, if it is described by one or more of the following categories: (1) non-public financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.345(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) information which is exempt from disclosure per Oregon Public Records Law; (6) attorney/client privileged communications; (7) information which is exempt per federal laws (including but not limited to copyright, HIPPA); and (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems including without limitation, data and information systems, any software code and related materials and processes, Customizations, Configurations, Updates, Upgrades; and any Documentation. Confidential Information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving Party; is already lawfully known to the receiving Party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Contract or any other agreement between the Parties or of any applicable protective or similar order, in the receiving Party’s possession without any obligation restricting disclosure; is independently developed by the receiving Party, as shown by reasonable written documentation, without breach of this Contract; or is explicitly approved for release by written authorization of the disclosing Party.

“Contract” (11/18) means the Master Terms and Conditions including all exhibits, attachments and schedules and their constituent parts listed in the Order of Precedence or incorporated by reference.

“Contract Price” (10/19) means the not-to-exceed price agreed upon by the Parties for all Services.

“Deliverable(s)” (11/18) means the Services, Documentation or documents or tangible work products described in the Statement of Work to be provided to the City by Contractor under this Contract.

“Documentation” (10/19) means user manuals and other written materials in any form that describe the features or functions of the Deliverables and Services, including but not limited to published specifications, online instructions and help, marketing materials, technical manuals, and operating instructions provided by Contractor to the City, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

“Defect” (10/19) means any error, problem, condition, bug, or other partial or complete inability of a Service, Deliverable, or component thereof, to operate in accordance with the applicable Specifications.

“Final Acceptance” (11/18) means the City has determined that all Deliverables have successfully completed Acceptance Testing, which demonstrates to the City’s satisfaction that all Deliverables conform to and operate according to the Acceptance Criteria, applicable Documentation, and Contractor’s representations; and that for Deliverables not requiring Acceptance Testing, that the Deliverables conform to the Acceptance Criteria or the City’s specified requirements.

“Force Majeure Event” (11/18) means an exceptional and unavoidable occurrence beyond the reasonable control of the affected Party, such as, riots, epidemics, war, government regulations, labor disputes, fire, natural phenomena, or other causes beyond such Party’s reasonable control.

“Goods” means materials supplied by Contractor under this Contract.

“Intellectual Property Rights (IPR)” (11/18) means any patent rights, copyrights, trade secrets, trade names, service marks, trademarks, trade dress, moral rights, know-how and any other similar rights or intangible assets to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations, or reissues of the foregoing now or hereafter in force.

“Key Personnel” (11/18) means the specific individuals identified in Section 3.11 to fill Key Positions.

“Master Terms and Conditions” (11/18) means the body of text from the preamble through the signature page of this Contract.

“Material Breach” (11/18) means any breach of this Contract that causes, caused, or may cause substantial harm to the non-breaching Party or substantially deprives the non-breaching Party of the benefit it reasonably expected under this Contract.

“Personally Identifiable Information (PII)” (11/18) means information that can be used on its own or with other information to identify, contact, or locate a single person, or to identify an individual in context, as described in the Oregon Consumer Identity Theft Protection Act.

“Project” (10/19) means the overall delivery of the Services including, without limitation, design, development, integration, implementation, testing, support, and any Deliverables any of which Contractor may be providing in whole or in part.

“Services” (10/19) means ordinary or professional services performed by Contractor under this Contract.

“Specifications” (10/19) means the most current cumulative statement of capabilities, functionality, and performance requirements for the System and its components as set out in the Acceptance Criteria, Change Orders, the Statement of Work, Documentation, Contractor’s representations, Contractor’s Proposal and Proposal Clarifications.

“Statement of Work” (SOW) (10/19) means the written detailed specifications of the Services(s) to be delivered to the City by Contractor, including any Change Orders subject to the terms and conditions of this Contract.

“Subcontractor” (11/18) means any person or entity under the control of Contractor, other than an employee of Contractor, utilized by Contractor to perform all or part of this Contract.

“Task Order” (10/19) means any written request or document issued by the City and signed by both Parties for additional Service(s) to be provided under this Contract. Task Orders shall document the description of Services, price, payment schedule, Project and performance schedule, due dates, milestones, and Deliverables.

“Term” (11/18) means the period of time that this Contract is in effect as stated on page one.

SECTION 2 ORDER OF PRECEDENCE

2.1 Order of Precedence. (09/17) In the event there is a conflict or ambiguity between the terms and conditions of one portion of this Contract with another portion of this Contract, the conflict or ambiguity will be resolved in accordance with the order of precedence below. This order of precedence designates which portion of the Contract takes precedence over the other for purposes of interpretation. Contractor’s hyperlinks contained herein will not supersede or alter the Master Terms and Conditions. For the avoidance of doubt, no other terms and conditions will override the Parties’ obligations in the Confidentiality, Indemnification, or Choice of Law provisions in these Master Terms and Conditions. In this Contract the order of precedence shall be:

1. Amendments
2. Master Terms and Conditions
3. Exhibit A Statement of Work
4. APPENDIX 1, Budget Detail

SECTION 3 GENERAL AND ADMINISTRATIVE PROVISIONS

3.1 Term. (09/17) This Contract shall begin on the Effective Date and end upon the expiration date set forth on page one of this Contract unless terminated or extended under the applicable Contract provisions.

3.2 Point of Contact. (09/17) Contractor shall be the sole point of contact for the City with regard to this Contract and the System.

3.2.1 Written Notifications. (10/18) All notices to, and other written communication between the Parties shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, or by e-mail. All notices and written communications shall be sent to the Parties set forth on page 1 of the Contract, or to such other places as they may designate by like notice from time to time. Each Party shall provide written notice of any changes to the Party's contacts within thirty (30) Calendar Days.

3.3 Changes to Contract.

3.3.1 Amendment of the Contract. (06/19) Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the City Attorney and executed in writing by authorized representatives of the Parties. If the requirements for Amendment of this Contract as described in this section are not satisfied in full, then such Amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect. The City reserves the right to make administrative changes to the Contract unilaterally, such as extending option years and increasing compensation. An administrative change means a written Contract change that does not affect the substantive rights of the Parties.

3.3.2 Change Orders to a Statement of Work. (12/18) The City and Contractor can agree to make changes, at any time to a Statement of Work in the form of a Change Order. Contractor agrees to timely alter the delivery of Products or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall complete a request for change order, Exhibit C and once approved by both Parties, execute an Amendment to the Contract, and if the amount of such adjustment is not calculable as a function of hours or tasks, the Parties shall negotiate in good faith a modified amount.

3.4 Time is of the Essence. (06/19) The Parties agree that time is of the essence as to the delivery of Deliverables and performance of Services under this Contract. By executing this Contract and accepting the Statement of Work, Contractor agrees that

the time limits specified in the Statement of Work are reasonable. By accepting late or otherwise inadequate performance of Contractor's obligations, the City will not waive its rights to require timely performance of Contractor's obligations thereafter.

- 3.5.1 Late Delivery. (10/19) In the event that any specified delivery date is not met, and to the extent that the Contractor is responsible for this unmet delivery, Contractor shall be liable for any reasonable loss, or expense, resulting from delay in delivery or failure to deliver Deliverables or provide Services which is due to any cause except as set forth in Force Majeure. Such losses will be limited to the prorated value of the Deliverable that is deemed to be late based on the number of days that this Deliverable is late. Such delays will also specifically exclude any unmet delivery dates from equipment providers or service providers who are ultimately contracted by PWB to provide and install the AMI system components. In the event of delay due to any such cause, the City may obtain substitute Services from another source.
- 3.5.2 Best Efforts. (10/19) Contractor shall use best efforts to minimize any delay in the provision of Deliverables or performance of Services. If Contractor anticipates any delay that may prevent timely performance of Contractor's obligations under this Contract, Contractor shall promptly notify the City, including the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the timetable for implementation of such measures.
- 3.6 City Reporting Requirements. (12/18) The City is required to track certain types of contract data for reporting purposes. Items which the City must report on may include, but are not limited to, Subcontractor utilization, Minority, Women, Emerging Small Business, Service-Disabled Veteran Business Enterprise (D/M/W/ESB/SDVBE) participation and Subcontractor/Supplier Payment. The City will enforce all diversity in workforce and D/M/W/ESB/SDVBE subcontracting commitments made by Contractor.
- 3.7 Payment. (09/17) Payment(s) shall be in accordance with the payment schedule set forth in APPENDIX 1, Budget Detail.
- 3.7.1 Payment shall be issued by the City net thirty (30) Calendar Days from receipt of a complete and acceptable invoice from Contractor. Contractor invoices must contain Contractor's name and address; invoice number; date of invoice; Contract number and date; description of Products and/or Services; quantity, unit price, (where appropriate), and total amount; City-required reporting, if any, and the title and phone number of the person to whom payment is to be sent. The City may stipulate how line items are entered on an invoice to ensure compatibility with the City's accounting and financial systems and to facilitate payment to Contractor.

3.7.2 The City will make payments via check to the Contractor. To initiate payment of invoices, Contractor shall confirm address and banking details to facilitate payment. All payments shall be made in United States currency.

3.8 Payment of Taxes/Contractor Shall Withhold. (09/17) Contractor shall, at its own expense, timely (a) pay all salaries, wages, and other compensation to its employees; (b) withhold, collect, and pay all applicable federal, state, and local income taxes (domestic or foreign), FICA, Medicare, unemployment insurance and any other taxes or charges in connection with its employees; and (c) provide and pay for workers compensation insurance and any statutory or fringe benefits to employees. Contractor shall be solely responsible for all such obligations for its employees. Contractor shall also ensure that any Subcontractor shall comply with the foregoing obligations for its employees. The City shall have no duty to pay or withhold such obligations.

3.9 Records and Audits (06/19)

3.9.1 Records Retention. (06/19) Contractor shall maintain current financial records in accordance with Generally Accepted Accounting Principles (GAAP). Contractor agrees to maintain and retain and retain all financial records, supporting documents, statistical records, and all other records pertinent to this Contract during the Term of this Contract and for a minimum of six (6) years after the expiration or termination date of this Contract or until the resolution of all audit questions or claims, whichever is longer.

3.9.2 City Audits. (06/19) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and Products or Services at any time in the course of the Contract and during the records retention period listed above. Audits shall 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.

3.9.3 Access to Records. (06/19) The City may examine, audit and copy Contractor's books, documents, papers, and records relating to this Contract at any time during the records retention period listed above upon reasonable notice. Copies of applicable records shall be made available upon request.

3.10 Overpayment. (09/17) If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices.

3.11 Independent Contractor. (09/17) Contractor is independent of the City and, accordingly, this Contract is not entered into as a joint venture, partnership, or agency between the Parties. No employment or agency relationship is or is intended to be created between the City and any individual representing Contractor. Employees of Contractor and any authorized Subcontractors shall perform their work under this Contract under Contractor's sole control.

3.12 Personnel.

3.12.1 Key Positions and Personnel. (09/17) For the period of performance until Final Acceptance has been completed, the Parties have identified Key Positions and Key Personnel as set forth in the table below, along with the percentage of their time to be allocated to the City's Project:

Name	Title/Role	Estimated % of Time	Company
Mr. Joel Carty	President & Principal Consultant	11%	Diameter Services, Inc. (Contractor)
Mr. Brayden Doody, Mr. Jake Mather	VP Program Management, Director of Program Management	30%	Diameter Services, Inc. (Contractor)
Ms. Darlene McNichol, Mr. David Hanes, Mr. Dan Donovan,	Senior Director of Consulting, Director of Consulting	15%	Diameter Services, Inc. (Contractor)
Mr. Jamie Wagler, Mr. Logan Tacoma, Mr. Mark Wedgewood, Mr. Kyle Giedraitis, Ms. Joumana Chebbani	Senior Consultant, Consultant	40%	Diameter Services, Inc. (Contractor)
Ms. Diane McMahon	Quality Assurance Manager	4%	Diameter Services, Inc. (Contractor)
Total		100%	

3.12.2 Substitution of Key Personnel. (09/17) Contractor shall make no substitutions of Key Personnel unless the substitution is necessitated by law, illness, death, resignation, or termination of employment. Contractor shall notify the City within ten (10) Calendar Days after the occurrence of any of these events.

Any substitutions or replacements of Key Personnel require the written approval of the City. Contractor shall provide the City with the maximum possible period of notice of substitution or replacement of Key Personnel in order to allow for background screening, fingerprint checks, and other investigation as may be required in Section 3.11.3.

For any proposed substitute or replacement Key Personnel, Contractor shall provide the following information to the City: a detailed explanation of the circumstances necessitating the proposed substitution or replacement, a complete resume for the proposed substitute(s), and any additional information requested by the City. Proposed substitutes or replacements should have qualifications comparable to or better than those of the persons being replaced. No change in Contract prices may occur as a result of substitution or replacement of Key Personnel.

- 3.12.3 Security Requirements for Personnel. (09/17) If required by the City, Contractor shall conduct a criminal history/records check of all personnel that will have access to City information, systems, or payments and ensure ongoing security requirements for personnel are maintained.
- 3.13 Termination. (06/19) The following conditions apply to termination of this Contract. The City, on thirty (30) Calendar Days' written notice to Contractor, may terminate this Contract for any reason in the City's sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all Deliverables Accepted or Services performed and Accepted through the effective date of the termination. In the event of termination all of Contractor's Work Product to date shall be delivered to the City, and it will become and remain property of the City.
- 3.14 Mutual Agreement. (09/17) The City and Contractor, by mutual written agreement, may terminate this Contract at any time.
- 3.15 Material Breach. (09/17) Either Party may terminate this Contract in the event of a Material Breach of this Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely cured the Material Breach within thirty (30) Calendar Days of the notice, then the Party giving the notice shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.
- 3.16 Force Majeure. (09/17) Either Party may terminate this Contract due to a Force Majeure event as set forth in Section 5.12, Force Majeure.
- 3.17 Bankruptcy. (09/17) The City may terminate this Contract if Contractor: (a) becomes insolvent, makes a general assignment for the benefit of creditors; (b) suffers or permits the appointment of a receiver for its business or assets; (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether

domestic or foreign, and such proceeding has not been dismissed within a sixty (60) Calendar Day period; or (d) has wound up or liquidated, voluntarily or otherwise.

- 3.18 Void Assignment. (09/17) In the event that Contractor assigns its obligations under this Contract to a third party in a manner other than as set forth in Section 5.7, Assignment, the City shall have the option to terminate this Contract without any notice or cure period or further obligation to Contractor or the assignee, and promptly receive a refund for fees paid for Products delivered and/or Services performed by the third party.
- 3.19 Waiver. (09/17) No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract. The failure of either Party to insist upon any of its rights under this Contract upon one or more occasions, or to exercise any of its rights, shall not be deemed a waiver of such rights on any subsequent occasions.
- 3.20 Severability. (09/17) Any section of this Contract, which is held or declared void, invalid, illegal, or otherwise not fully enforceable shall not affect any other provision of this Contract and the remainder of this Contract shall continue to be binding and of full force and effect. This Contract shall be binding upon and inure to the benefit of the City and its successors and assigns.
- 3.21 Business Tax Registration. (09/17) Contractor shall register for a City of Portland business license as required by Chapter 7.02 of the Code of the City of Portland prior to execution of this Contract. Additionally, Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full Term of this Contract. Failure to be in compliance may result in payments due under this Contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.
- 3.22 EEO Certification. (09/17) Contractor shall be certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 5.33.076 of the Code of the City of Portland and maintain its certification throughout the term of this Contract.
- 3.23 Non-Discrimination in Benefits. (09/17) Throughout the term of this Contract, Contractor shall provide and maintain benefits to its employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 5.33.077 of the Code of the City of Portland.

- 3.24 Sustainability. (12 /18) Pursuant to the City’s Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Contractor is encouraged to incorporate these Principles into its scope of work with the City wherever possible. Therefore, in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of Products or Services that help to minimize the human health and environmental impacts of City operations. Contractor is encouraged to incorporate environmentally preferable Products or Services into its work performance wherever possible. "Environmentally preferable" means Products or Services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the Product or Service.
- 3.25 Packaging. (09/17) All packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, readily recyclable in local recycling programs, is made from recycled materials, and/or is collected by Contractor for reuse/recycling.
- 3.26 News Releases and Public Announcements. (09/17) Contractor shall not use the City seal or other representations of the City in its external advertising, marketing, website, or other promotional efforts, nor shall Contractor issue any news release or public announcements pertaining to this Contract or the Project without the express written approval of the City. Such approval may be withheld in the City’s sole discretion. Contractor shall not use the City seal without specific written permission from the City Auditor.
- 3.27 Rule of Construction/Contract Elements/Headings. (09/17) This Contract has been drafted by the City in the general format by the City as a convenience to the Parties only and shall not, by reason of such action, be construed against the City. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of this Contract.
- 3.28 Survival. (09/17) All obligations relating to Confidential Information; indemnification; publicity; representations and warranties; remedies; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination or expiration shall survive the termination or expiration of this Contract and shall, to the extent applicable, remain binding and in full force and effect for the purposes of the ongoing business relationship by and between Contractor and the City.

- 3.29 Access to City Facilities. (11/18/20) Contractor agrees that Contractor's physical or remote access to City facilities shall be subject to the security interests and health controls necessary to protect public property, City employees and the public. The City shall not be liable for any delays necessary in granting Contractor access to any portion of the facilities or systems.

SECTION 4 STATUTORY REQUIREMENTS, PUBLIC RECORDS AND CONFIDENTIALITY

- 4.1 Governing Law and Jurisdiction. (09/17) This Contract shall be construed according to the laws of the State of Oregon without reference to the conflict of laws' provisions. Any litigation between the City and Contractor arising under this Contract or out of work performed under this Contract shall occur, if in the state courts, in the Multnomah County Circuit Court, and if in the federal courts, in the United States District Court for the District of Oregon.
- 4.2 Public Records Request. (09/17) Contractor acknowledges that the City of Portland is subject to the Oregon Public Records Act and Federal law. Third persons may claim that the Confidential Information Contractor submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. All information submitted by Contractor is public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions for which Contractor requests and meets an exemption from disclosure consistent with federal or Oregon law. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.
- 4.3 Public Records. (09/17) The City will retain one (1) copy of any public records for the express purposes of complying with State of Oregon and Portland City Code public records and archiving laws.
- 4.4 Confidentiality.
- 4.4.1 Contractor's Confidential Information. (08/19) During the term of this Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark Confidential Information CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked, or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information as confidential at the time of disclosure or within a reasonable time thereafter. This Contract itself shall not be considered Confidential Information. Subject to

Section 4.2, the City shall: (1) limit disclosure of Contractor Confidential Information to those directors, employees, contractors and agents of the City who need to know the Contractor Confidential Information in connection with the City Project and who have been informed of confidentiality obligations at least as strict as those contained in this Contract, and (2) exercise reasonable care to protect the confidentiality of the Contractor Confidential Information, at least to the same degree of care as the City employs with respect to protecting its own proprietary and confidential information.

- 4.4.2 City's Confidential Information. (08/19) Contractor shall treat as confidential any City Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard, or observed; or to which Contractor has had access. Contractor shall use City Confidential Information exclusively for the City's benefit in the performance of this Contract. Except as may be expressly authorized in writing by the City, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees, subcontractors and agents of Contractor who need to know the City Confidential Information in connection with the City Project and who have agreed in writing to confidentiality obligations at least as strict as those contained in this Contract, (2) exercise reasonable care to protect the confidentiality of the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use the Intellectual Property Rights of the City without the City's prior written consent.
- 4.4.3 Scope. (09/17) This Contract shall apply to all City Confidential Information previously received, learned, observed, known by, or made available to Contractor. Contractor's confidentiality obligations under this Contract shall survive termination or expiration of this Contract.
- 4.4.4 Equitable Relief. (12/18) Contractor acknowledges that unauthorized disclosure of City Confidential Information will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain injunctive relief prohibiting the breach, in addition to any other appropriate legal or equitable relief. The Parties agree that, notwithstanding any other section of this Contract, in the event of a breach or a threatened breach of Contract terms related to Confidential Information or Intellectual Property Rights, the non-breaching Party shall be entitled to seek equitable relief to protect its interests, including but not limited to injunctive relief. Nothing stated herein shall be construed to limit any other remedies available to the Parties.
- 4.4.5 Discovery of Documents. (06/19) In the event a court of competent jurisdiction orders the release of Confidential Information submitted by one Party, the other Party will notify the Party whose Confidential Information is being requested to be disclosed of the request. The Party receiving

the request shall allow the other Party to participate in the response at its own expense. Each Party will comply with any effective court order.

SECTION 5 CONTRACTOR PERFORMANCE AND WARRANTIES

5.1 General Warranties. (09/17) Contractor makes the following warranties:

- 5.1.1 Capacity. (09/17) Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.
- 5.1.2 Authority to Conduct Business. (08/19) Contractor warrants it is lawfully organized and constituted and duly authorized to operate and do business in all places where it shall be required to do business under this Contract, and that it has obtained or will obtain all necessary licenses and permits required in connection with this Contract.
- 5.1.3 Disclosure of Litigation. (09/17) Contractor warrants that as of the Effective Date there are no suits, actions, other proceedings, or reasonable anticipation thereof, in any judicial or quasi-judicial forum that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract. Contractor further warrants that it will immediately notify the City in writing if, during the Term of this Contract, Contractor becomes aware of, or has reasonable anticipation of, any lawsuits, actions, or proceedings in any judicial or quasi-judicial forum that involves Contractor or any Subcontractor and that will or may adversely affect Contractor's ability to fulfill its obligations under this Contract.
- 5.1.4 Conflict of Interest. (09/17) Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under this Contract.
- 5.1.5 Compliance with Applicable Law. (09/17) Contractor warrants it has complied and shall comply with all applicable federal, state, and local laws and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is currently in compliance with all tax laws.
- 5.1.6 Public Contracts. (09/17) Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapters 279A and 279B require every public contract to contain certain provisions. To the extent applicable, ORS 279B.220, 279B.230 and 279B.235 are incorporated into this Agreement by reference.
- 5.1.7 Compliance with Civil Rights Act. (09/17) Contractor warrants it is in compliance 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>

- 5.1.8 Respectful Workplace Behavior. (09/17) The City is committed to a respectful work environment, free of harassment, discrimination and retaliation and other inappropriate conduct. Every individual has a right to work in a professional atmosphere where all individuals are treated with respect and dignity. The City's HR Rule 2.02 covers all employees of the City as well as contractors, vendors or consultants who provide services to the City of Portland. Contractor warrants its compliance with terms and conditions HR 2.02 as further described at: <https://www.portlandoregon.gov/citycode/27929>
- 5.2 Grant Funding. (02/18). This Contract is currently not using grant funding. However, in the event that City acquires or uses grant funding to pay for any portion of this Contract, the City and Contractor agree to Amend the Contract to include the federally required terms and conditions. General grant terms may be found at <http://www.portlandoregon.gov/bibs/article/455735>
- 5.3 Compliance with Non-Discrimination Laws and Regulations.
- 5.3.1 Nondiscrimination. (06/19) Pursuant to all City, State, and federal non-discrimination and civil rights laws, Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, including limited English proficiency, sex, sexual orientation, gender identity, age, religion or non-religion, disability, marital status, family status, or source of income, including in employment practices, the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- 5.3.2 Solicitations for Subcontractors, Including Procurements of Materials and Equipment. (06/19) In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.
- 5.3.3 Sanctions for Noncompliance. (09/17) In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or any state or federal agency may determine to be appropriate, including, but not limited to withholding of payments to Contractor under this Contract until Contractor complies, and/or cancellation, termination, or suspension of this Contract, in whole or in part.
- 5.3.4 ADA Compliance. (07/18) Contractor shall comply with the Americans With Disabilities Act (ADA), including any duty the ADA may impose on City or Contractor as a result of the Products, Services or activities requested to be provided for City under this Agreement.

5.3.5 Required Reporting. (05/19) If any person or class of persons files a complaint with Contractor alleging discrimination under Title VI of the Civil Rights Act of 1964 (race, color, or national origin, including limited English proficiency), Contractor will notify the City of Portland of the complaint and cooperate with any investigation related to the complaint. Notifications shall be sent to Title VI Program Manager, 421 SW 6th Ave, Suite 500, Portland, Oregon 97204, or title6complaints@portlandoregon.gov.

5.4 Service(s) and Deliverables Warranties. (10/19) Contractor makes the following warranties:

5.4.1 No Third-Party Conflict or Infringement. (01/19) As of the Effective Date, Contractor warrants the execution and performance of this Contract, shall not contravene the terms of any contracts with third parties or any third-party Intellectual Property Right; and, as of the Effective Date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision. Contractor agrees to promptly notify the City, in writing, if during the Term of the Contract, a potential third-party conflict or infringement of third-party Intellectual Property Rights arises.

5.4.2 No Encumbrances. (08/19) All Deliverables provided by Contractor under this Contract shall be transferred to the City free and clear of any and all restrictions of transfer or distribution and free and clear of any and all liens, claims, security interests, liabilities, and encumbrances of any kind.

5.4.3 Conformance with Specifications. (01/19) Contractor warrants that the Deliverables and Services shall operate in conformance with the Specifications.

5.4.4 Compliance with Law. (10/19) Contractor warrants that the Deliverables conform to all requirements of applicable law, including all applicable health, safety, privacy, data security and environmental laws and regulations.

5.4.5 Industry Standards. (10/19) Contractor warrants that the Services performed under this Contract will meet the standards of skill and diligence normally employed by persons performing the same or similar services.

5.4.6 Substitution or Modification of Products at No Charge. (03/19) In the event that Contractor substitutes or modifies the Deliverables, Contractor shall ensure that the new or modified Deliverables shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Deliverables and shall not result in additional cost to the City.

5.5 No Waiver of Warranties or Representation. (10/19) Performance of Services shall not be construed to represent Acceptance nor relieve Contractor from its

responsibility under any representation or warranty. If the City makes a payment prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.

- 5.6 No Third Party to Benefit. (09/17) This Contract is entered into for the benefit of the City and Contractor. Except as set forth herein, nothing in this Contract shall be construed as giving any benefits, rights, remedies, or claims to any other person, firm, corporation, or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a Party to this Contract to maintain a suit for breach of contract, personal injuries, property damage, or any other relief in law or equity in connection with this Contract.
- 5.7 Assignment. (08/19) Neither Party shall assign, transfer, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld. For purposes of this Section, the acquisition, merger, consolidation or change in control of Contractor or any assignment by operation of law shall be considered an assignment of this Contract that requires the City's prior written consent. Notwithstanding the foregoing: (a) in the event that the City's business needs change or the City enters into an agreement with a provider for outsourcing services, Contractor agrees that the City shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the City's business, including an outsourcing provider, upon written notice to the other Party, and (b) Contractor may, without the City's consent, but upon prior written notice to the City, assign its right to payment under this Contract or grant a security interest in such payment to any third party without requiring that the third party be liable for the obligations of Contractor under this Contract. Any attempted assignment or delegation in violation of this Section shall be void.
- 5.8 Notice of Change in Financial Condition. (09/17) Contractor must maintain a financial condition commensurate with the requirements of this Contract. If, during the Term of this Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform the obligations of this Contract, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition is sufficient grounds for terminating this Contract.
- 5.9 Notice of Change in Ownership. (09/17) If, during the Term of this Contract, Contractor experiences a change in ownership or control, Contractor shall immediately notify the City in writing. Failure to notify the City of such a change in ownership or control is sufficient grounds for terminating this Contract.

5.10 Subcontractors. (10/19) Contractor shall not subcontract any work under this Contract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors, including any Affiliates, at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City reserves the right to review any agreements between Contractor and its Subcontractors for Services authorized under this Contract.

All D/M/W/ESB/SDVBE (COBID Certified) Subcontractors/suppliers identified in Contractor's proposals shall be used in their proposed capacity during Contract performance. If Contractor desires to replace any D/M/W/ESB/SDVBE Subcontractors/suppliers under this Contract all substitution requests must have approval from the City's Chief Procurement Officer before such substitutions can be made. In no event shall Contractor subcontract any work, assign any rights, or delegate any obligations under this Contract without the City's prior written consent.

5.11 Flow-down Clauses. (01/19) Contractor shall include the following clauses, or substantially similar language, in its subcontracts under this Contract:

Section 4.4, Confidentiality

Section 5.3, Compliance with Non-Discrimination Laws and Regulations

Section 6.1, Hold Harmless and Indemnification

Section 6.2, Insurance

5.12 Force Majeure. (01/19)

5.12.1 In the event that either Party is unable to perform any of its obligations under this Contract due to a Force Majeure Event not the fault of the affected Party, the Party who has been so affected immediately shall give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, the performance obligations affected by the Force Majeure event shall immediately be suspended.

5.12.2 If the period of nonperformance exceeds fifteen (15) Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract or any Statement of Work.

5.12.3 If the period of nonperformance due to a Force Majeure Event does not exceed fifteen (15) Calendar Days, such nonperformance shall automatically extend the Project schedule for a period equal to the duration of such events. Any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event.

5.12.4 If the period of nonperformance due to Force Majeure Event is longer than fifteen (15) Calendar Days, the Parties shall negotiate options for mitigation of the Force Majeure Event.

5.13 Ownership of Property. (06/19) All work product produced by the Contractor under this Contract is the exclusive property of the City. "Work Product" includes, but is not limited to: research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form. The Contractor and the City intend that such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," the Contractor hereby irrevocably assigns and transfers to the City all right, title and interest in such Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Contractor shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Contractor waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Contractor is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this Contract, the Contractor-Architect grants the City an exclusive and irrevocable license to use that Work Product.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets, and other proprietary rights of Contractor are and will remain the exclusive property of Contractor. Contractor hereby grants to the City a non-exclusive, perpetual, irrevocable license, with the right to sublicense, to disclose, copy, distribute, display, perform, prepare derivative works of, and otherwise exploit any pre-existing Intellectual Property Rights incorporated into the Work Product(s).

SECTION 6 INDEMNIFICATION, INSURANCE, BONDING, LIQUIDATED DAMAGES

6.1 Hold Harmless and Indemnification. (08/19)

6.1.1 Contractor shall indemnify, defend, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, demands, suits, and actions for all losses, damages, liabilities, costs, and expenses (including all attorneys' fees and costs), resulting from or arising out of the actions, errors, or omissions of Contractor or its officers, employees, Subcontractors, or agents under this Contract.

6.1.2 Infringement Indemnity. (08/19) Contractor shall indemnify, defend, and hold harmless the City, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions for any damages, liabilities, losses, costs, and expenses (including reasonable

attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement of any proprietary right or Intellectual Property Right of any person whatsoever. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise.

6.1.3 Contractor shall indemnify, defend, and hold harmless the City against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the City may be required to pay arising from Deliverables and Services provided by Contractor under this Contract. The City of Portland, as a municipal corporation of the State of Oregon, is a tax-exempt unit of local government under the laws of the State of Oregon and is not liable for any taxes.

6.2 Insurance. (08/19) Contractor shall not commence work until Contractor has met the insurance requirements in this section and Contractor has provided insurance certificates approved by the City Attorney. Contractor shall acquire insurance issued by insurance companies or financial institutions with an AM Best rating of A- or better and duly licensed, admitted and authorized to do business in the State of Oregon.

6.2.1 Insurance Certificate. (08/19) As evidence of the required insurance coverage, Contractor shall provide compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as certificate holder. Contractor shall maintain continuous, uninterrupted coverage for the Term of this Contract and to provide insurance certificates demonstrating the required coverage for the Term of this Contract. Contractor's failure to maintain insurance as required by this Contract constitutes a Material Breach of this Contract. Contractor must notify the City in writing thirty (30) Calendar Days prior to a cancellation, non-renewal, or changes to the insurance policy.

6.2.2 Additional Insureds. (08/19) For commercial general liability coverage, Contractor shall provide City with a blanket additional insured endorsement form that names the City of Portland, Oregon, and its officers, agents, and employees, as an additional insured. The additional insured endorsement must be attached to the general liability certificate of insurance.

6.2.3 Insurance Costs. (08/19) Contractor shall be financially responsible for all premiums, deductibles, self-insured retentions, and self-insurance.

6.2.4 Coverage Requirements. (08/19) Contractor shall comply with the following insurance requirements:

6.2.4.1 Commercial General Liability. (08/19) Contractor shall acquire commercial general liability ("CGL") and property damage insurance coverage in an amount not less than \$2 million per

occurrence for damage to property or personal injury arising from Contractor's work under this Contract.

- 6.2.4.2 Required and attached Reduced by Authorized Bureau Director Waived by Authorized Bureau Director

Automobile Liability. (08/19) Contractor shall acquire automobile liability insurance to cover bodily injury and property damage in an amount not less than \$2 million for each accident. Contractor's insurance must cover damages or injuries arising out Contractor's use of any vehicle.

- Required and attached Reduced by Authorized Bureau Director Waived by Authorized Bureau Director

- 6.2.4.3 Workers' Compensation. (08/19) Contractor shall comply with Oregon workers' compensation law, ORS Chapter 656, as it may be amended. If Contractor is required by ORS Chapter 656 to carry workers' compensation insurance, Contractor shall acquire workers' compensation coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City for the entire period during which work is performed under this Contract. Contractor shall acquire workers compensation coverage in an amount not less than \$1 million each accident, \$1 million disease each employee, and \$1 million disease policy limit.

- Required and attached Proof of exemption (Complete Independent Contractor Certification Statement)

- 6.2.4.4 Professional Liability. (08/19) Contractor shall acquire insurance to cover damages caused by negligent acts, errors or omissions related to the professional Services, and performance of duties and responsibilities of the Contractor under this Contract in an amount not less than \$1 million per occurrence and aggregate of \$3 million for all claims per occurrence. In lieu of an occurrence-based policy, Contractor may have claims-made policy in an amount not less than \$1,000,000 per claim and \$3,000,000 annual aggregate, if the Contractor acquires 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 Reduced by Authorized Bureau Director Waived by Authorized Bureau Director

- 6.2.5 Insurance Requirements for Subcontractors. (08/19) Contractor shall contractually require its Subcontractors to acquire and maintain for the duration of this Contract insurance equal to the minimum coverage limits required above.

- 6.3 Rolling Estoppel. (09/17) Unless otherwise notified by Contractor, it shall be understood that the City shall have met all its obligations under this Contract. The City will be conclusively deemed to have fulfilled its obligations, unless it receives written notification of a failure to meet such obligations in the next status report, or within ten (10) Business Days following such failure, whichever is sooner, and Contractor identifies the specific failure in that notification. The City's failure to meet obligations must be described in terms of how it has affected the Project schedule or a specific performance requirement of Contractor.

- 6.3.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in Project timetable, the standards of performance under this Contract, or the Contract price, if Contractor knew of that problem and failed to provide notification to the City as set forth above or to include it in the applicable status report, Exhibit A-1 to the City's project manager.
- 6.3.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's notification should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the City's Project Manager can make a prompt decision as to the best method of dealing with the problem and continuing the Project in an unimpeded fashion.

6.4 Dispute Resolution. (09/17) Contractor shall cooperate with the City to ensure that all claims and controversies which arise during this Contract will be resolved as expeditiously as possible in accordance with the following resolution procedure:

- 6.4.1 Any dispute between the City and Contractor shall be resolved, if possible by the Project Manager or their designee on behalf of the City and President & Principal Consultant on behalf of Contractor.
- 6.4.2 If the Project Manager or the Project Manager's designee and Contractor are unable to resolve any dispute within three (3) Business Days after notice of such dispute is given by either Party to the other, the matter shall be submitted to the Water Bureau Director on behalf of the City and President & Principal Consultant on behalf of Contractor for resolution, if possible.
- 6.4.3 Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.
- 6.4.4 Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.
- 6.4.5 Unless ordered by the City to suspend performance of all or any portion of Contractor's Services, Contractor shall proceed with the performance of such Services without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute while having the right to withhold payments that are in dispute.

- 6.5 Remedies. (09/17) The remedies provided in this Contract are cumulative and may be exercised concurrently or separately. In the event of any Material Breach by Contractor, which Material Breach shall not have been cured as agreed to between the Parties, the City shall have the ability to pursue the City's rights at law or equity. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.
- 6.6 Cost of Cover. (09/17) In the event of termination of this Contract by the City due to a Material Breach by Contractor, then the City may complete the Project itself, by agreement with another contractor, or by a combination thereof. After termination, in the event the cost of completing the Project exceeds the amount the City would have paid Contractor to complete the Project under this Contract, then Contractor shall pay to the City the amount of the reasonable excess.

SECTION 7 SOFTWARE LICENSE SPECIFIC PROVISIONS

- 7.1 Application. (09/17) These provisions shall apply to all Software. These Provisions shall cover any Third Party Software supplied by Contractor except where specifically excluded. The terms in this Section supersede and prevail over any embedded, "click-wrap," "shrink-wrap," or hyperlinked terms of license for the Software.
- 7.2 Grant of License. (09/17) Contractor hereby grants the City a non-exclusive, perpetual, irrevocable license to Access, Use, and benefit from the Software. The City owns the perpetual license regardless of whether or not the City purchases Maintenance and support. Except as otherwise expressly provided in this Contract, Contractor grants this license without restriction.
- 7.3 Third Party Software. (09/17) Contractor shall be responsible for effecting licensure for the City of all Third Party Software required for the System and provided by Contractor under this Contract.
- 7.4 Substitution or Modification of Products at No Charge. (09/17) In the event that Contractor substitutes or modifies the Products, Contractor shall ensure that the new or modified Products shall conform in all aspects to the Specifications. Such substitutions or modifications shall in no way degrade the performance or functionality of the Products and shall not result in additional cost to the City.

- 7.5 Documentation Explains Use. (09/17) The Documentation shall explain the operation of the System in terms understandable by City personnel of reasonable technical competence.
- 7.6 Copies. (09/17) The City may reproduce the Software and Documentation for a Redundant System, provided that each copy thereby produced shall be marked with Contractor's proprietary markings as delivered to the City. Unlimited copies of Software may be used A) for testing, including testing within a City lab, or other lab as agreed to between the Parties, B) on a mirrored server for purposes of redundancy, back up, archive, and disaster recovery purposes, C) for migration to another platform, and D) in such manner as may be necessary to facilitate the continuation of the City's governmental operations.
- 7.7 Escrow of Source Code. (09/17) The escrow of Source Code for the Software shall be governed by a separately executed Source Code Escrow Agreement. Upon release of the Source Code to the City pursuant to the Source Code Escrow Agreement, the City shall have the right to modify the Source Code. The rights provided in the Source Code Escrow Agreement are in addition to those granted to the City as licensee under this Contract, and the rights granted under the Source Code Escrow Agreement shall not affect the rights granted to the City under this Contract.
- 7.8 Ownership. (09/17) Contractor shall retain all ownership rights and Intellectual Property Rights in pre-existing or independently developed Software. Title to all tangible personal property, including title to the medium or media of delivery of the Software, shall vest in the City upon delivery.
- 7.9 Infringement Indemnity. (09/17) Contractor shall, at its own expense, save, hold harmless, and defend the City, its directors, officers, employees, and agents from and against any and all claims, demands, suits, and actions, and indemnify the City, its directors, officers, employees, and agents from any damages, liabilities, losses, costs, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged misappropriation, violation, or infringement by the Software of any proprietary right or Intellectual Property Right of any person whosoever. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise.

7.9.1 No settlement that prevents the City's continuing Use of the Software shall be made without the City's prior written consent. If any third party claim causes the City's Use of the Software to be endangered, restricted or disrupted, Contractor shall: a) cause the Software to be replaced, at no additional charge, with compatible, functionally equivalent, and non-infringing Software; b)

cause the Software to be modified to avoid the infringement; c) obtain a license for the City to continue using the Software and pay any additional fee required for such license; or d) if, after Contractor uses all due diligence or standard of care none of the foregoing alternatives is possible, in addition to other remedies set forth herein Contractor will terminate the license and refund to the City license fees actually paid by the City and any direct damages documented by the City for the affected Software and Documentation.

7.10 Security. (09/17) Contractor shall provide immediate notification to the City's Chief Information Security Officer and the City's Project Manager of any security breach that affects City data or systems. Contractor shall provide notification to the City's Project Manager of any incident relating to System integrity such as a computer virus.

7.10.1 Contractor shall comply with City of Portland, Bureau of Technology Services Information Security Administrative Rules BTS-2.01, BTS-2.02, BTS-2.04, BTS-2.08, BTS-2.12, BTS-2.14, BTS-2.15, BTS-2.17, and BTS-2.18. These rules are located at: <https://www.portlandoregon.gov/citycode/26821?>. Contractor shall also comply with FIN-2.10 and FIN-2.17, which are located at: <https://www.portlandoregon.gov/citycode/26819>

7.10.2 Contractor and their subcontractors providing or having access to data containing personally identifiable information (as defined in the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 to 646A.628) must maintain and demonstrate compliance with ORS 646A.600 to 646A.628. Specifically, contractors must develop, implement, and maintain reasonable safeguards to protect the security, confidentiality, and integrity of the personal information, including disposal of the data. Contractors must also provide immediate notification to the City of a data security breach and in cooperation with the City, provide notice to affected consumers.

7.10.3 Should remote access to City systems or networks be required, Contractor will follow all City policies regarding remote access including completion of a Remote VPN Access Form. The Remote VPN Access Form is available upon request.

7.10.4 If the City furnishes Contractor with City-provided e-mail addresses for Contractor employees or Subcontractors working on the Project, all communications shall take place on such City e-mail addresses and not be moved, copied, or forwarded to private e-mail addresses.

7.11 PCI DSS Requirements.

7.11.1 Any contractor who provides or has access to software, systems, hardware, or devices which process and/or interact with payment card information or payment card holder data must be compliant with the current version of the Payment Card Industry - Data Security Standard (PCI DSS). The most current standards are maintained at: https://www.pcisecuritystandards.org/security_standards/index.php.

- 7.11.2 PCI DSS Certification. (09/17) Contractor warrants it will maintain its PCI DSS certification and to secure any cardholder data it possesses in full compliance with the applicable provisions of PCI DSS, as they are updated or amended from time to time. Contractor shall demonstrate its compliance with PCI DSS by annually providing the City an executed Attestation of Compliance.
- 7.11.3 Compliance with Industry Security Standards. (09/17) Contractor shall provide to the City's agent annual confirmation and evidence of compliance with industry standards for information security controls related to Contract scope of services. Contractor will reasonably accommodate periodic and announced site and security control inspections and process reviews.
- 7.11.4 Incident Response. (09/17) In the event Contractor becomes aware of a confirmed or suspected security incident involving the unauthorized disclosure or theft of PCI Data, Contractor shall (a) notify The City immediately, (b) cooperate in any investigation, (c) promptly take reasonable measures to prevent further unauthorized access or use of City Data, (d) cooperate with the City's notification to affected individuals if such notification is required by applicable law or regulation, and (e) perform all such other acts, or cooperate with the City's performance of all such other acts, that are required with respect to such security incident by applicable law or regulation, including but not limited to The Oregon Consumer Identity Theft Protection Act. Contractor shall provide assistance as reasonably requested by the City for any additional requirements related to a security incident.
- 7.11.5 In the event of a security incident, or if, in the City's reasonable opinion, there is a suspected violation of security, fraud, or a potential data or security breach, the City may request an investigation by an independent third-party qualified PCI Forensic Investigator (PFI), at the City's own time and expense. If the investigation finds that such violation, fraud, or breach is the result of Contractor's actions or omissions, Contractor shall reimburse the City for the costs of the PFI.
- 7.11.6 Contractor shall indemnify the City for any fines or penalties by government or regulatory agencies or financial institutions and related costs if the City is fined or penalized due to lack of PCI DSS compliance on the part of Contractor or the Products or Services. Additionally, any costs or fees incurred by the City due to Contractor's data or security breach or lack of PCI DSS compliance, including but not limited to consumer notification, consumer credit reports, and credit monitoring for potentially affected consumers up to one year, shall be paid directly or reimbursed to the City by Contractor.
- 7.11.7 IN THE EVENT OF A SECURITY BREACH OF PERSONAL INFORMATION AS DEFINED IN ORS 646A.600 OR CONTRACTOR'S FAILURE TO MAINTAIN PCI DSS COMPLIANCE, THE CITY'S COSTS FOR BREACH NOTICES, CONSUMER CREDIT MONITORING, REGULATORY PENALTIES, FINES, INVESTIGATIONS AND FORENSIC

ACTIVITIES ARISING FROM A DATA OR SECURITY BREACH OF PERSONAL INFORMATION OR FROM LACK OF PCI DSS COMPLIANCE SHALL BE CONSIDERED DIRECT DAMAGES.

SECTION 8 ACCEPTANCE AND ACCEPTANCE TESTING

8.1 Right to Perform Acceptance Testing. (09/17) Prior to Accepting Deliverables or the System, the City shall have the right to perform Acceptance Testing, or for Deliverables not requiring Acceptance Testing, the City shall have the right to evaluate the Deliverable(s) to ensure they meet Acceptance Criteria. Contractor shall cooperate with the City in the development of Acceptance Criteria and the Acceptance Test Plan that shall codify and set forth the location, date, and other specifications of the test. Acceptance Testing may occur in one or more phases, depending on the integration of contingent products, scalability, performance tuning or other measurable features or milestones.

8.2 Procedure and Timetable. (09/17) Unless otherwise specified,

8.2.1 The City shall commence Acceptance Testing within a reasonable amount of time after receipt of a Deliverable.

8.2.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation in order to facilitate Acceptance Testing.

8.2.3 City will make all reasonable efforts to complete Acceptance Testing within the time period specified within the Project schedule mutually agreed upon by the Parties in writing. If an Acceptance Test is successful the City shall issue an Acceptance Certificate, a sample of which is attached in Exhibit B.

8.3 Failure of Acceptance Test. (09/17) The City will notify Contractor if a Deliverable or a portion of a Deliverable fails to pass an Acceptance Test and will specify in reasonable detail the identified failures and possible reasons for failure. After City's notification, Contractor shall correct the failure within ten (10) Business Days and notify the City that the correction has been completed. After Contractor's correction notification, the City shall perform a second Acceptance Test. If the Deliverable or portion of the Deliverable fails to pass the second Acceptance Test, the City shall notify Contractor in writing, and the City may, in its sole discretion: (a) terminate this Contract with no further liability; (b) require Contractor to replace the Deliverable or defective portion of the Deliverable at no additional cost to the City, (c) require Contractor to make further corrections to prepare for retesting again; (d)

Accept the Deliverable at a reduced cost to be negotiated between the Parties; or (e) issue an Acceptance Certificate for an “Acceptance with Exception(s)” in accordance with Sections 8.3.1 and 8.3.2.

8.3.1 If the City issues an Acceptance Certificate for an “Acceptance with Exception(s)” the City will list the exception(s) and the date for Contractor’s correction of the Error(s). If Error(s) are corrected by the listed date(s) the City agrees to commence further Acceptance Testing of the Deliverable or affected portion(s). If the Deliverable passes the Acceptance Tests, the City will issue an Acceptance Certificate.

8.3.2 If a Deliverable fails a second or subsequent Acceptance Test (or in the event of a single Acceptance Test, the Acceptance Test) in no event shall there be an increase to the original price agreed to by the Parties for the Deliverable.

8.4 City Acceptance of Failure. (09/17) If the City elects to accept a Deliverable, the System, or any combination of Products even with the failure(s), then the City may request that Contractor issue a refund to the City in an amount equal to a percentage of the full fee value of the Deliverable or System that the Parties mutually determine represents the loss of functionality.

8.5 Revocation of Acceptance. (09/17) The City shall have the right to revoke “Acceptance with Exception(s)” if the City granted an “Acceptance with Exception(s)” based on Contractor’s commitment to correct the Error within a reasonable period of time, but the Error has not been so corrected. The City shall also have the right to revoke Acceptance if the City accepted the Deliverable without discovery of the Error, and the Acceptance was reasonably induced by Contractor’s assurances or by the difficulty of discovery of the Error before Acceptance. Revocation is effective only if it occurs within a reasonable time after the City discovers or should have discovered the reasons for revocation.

8.6 Termination Based on Failure of Acceptance. (09/17) If the System fails to pass the Final Acceptance Test(s), the City may terminate this Contract. Contractor shall refund all costs paid for the System or any combination of Products and Services in U.S. Dollars within fifteen (15) Calendar Days of the date of receipt of notice of termination. The refund shall be in cash and not in the form of future credits from Contractor.

8.7 No Waiver. (09/17) Acceptance shall not relieve Contractor from its responsibility under any Warranty. Payment for Products or the System or any portion thereof does not constitute Acceptance nor does it constitute a waiver of any Warranty applicable to the City.

SECTION 9 TRAVEL

- 9.1 Reimbursement. (09/17) Contractor may be reimbursed, upon advance written approval, via email, by the Portland Water Bureau Project Manager and the Customer Service Workgroup Director, for certain expenses incurred in connection with personnel assigned to provide services for the City on the City's site. Travel and meal reimbursement is not in addition to the not to exceed amount of the Contract. The Consultant is required to notify the Water Bureau Project Manager regarding all travel they anticipate, including any travel beyond a 100-mile radius of Portland and indicate why this travel would be necessary. When requesting authorization for travel and meals, the Consultant shall include the estimated date/times when Key Personnel, either employed with the Consultant or as a subconsultant on the Contract, will be required to travel and how this is associated with the Contract as well as indicate the location and estimated costs for that travel.

The Consultant shall include the purpose and reason why a local member would not be available to perform the work and why an alternate communication method could not be used. All invoices shall be accompanied by electronic copies of original receipts and any additional supporting documentation that may be appropriate. The Consultant shall provide the preapproved email or letter that authorized travel when submitting their monthly invoice for review and approval.

The following are reimbursable to the Consultant at their cost ***without markup***: pre-authorized travel beyond a 100-mile radius of Portland when specifically required by the Contract and requested by the Water Bureau Project Manager; meals and mileage costs directly attributable to the work and pre-approved; preapproved information technology equipment including computers, printers, and related equipment purchased by Consultant specifically for this Contract; and document reproduction costs.

Reimbursement will be made based on the following guidelines:

- 9.1.1 Commercial Air Travel. (09/17) Commercial air travel reservations are to be arranged based on the lowest coach fare available within a reasonable time frame surrounding the desired arrival or departure time. When possible, air travel arrangements should be reserved at least seven (7) to fourteen (14) Calendar Days in advance. Direct billing for commercial air travel is NOT permitted; however, City may elect to arrange travel reservations on behalf of Contractor personnel. In the event weekend travel is reimbursed, such reimbursement shall be made based on an amount up to and in lieu of any authorized per diem amounts and, if applicable, any other daily expense reimbursement.
- 9.1.2 Rental Cars/Surface Transportation. (09/17) Contractor shall choose the most economical mode of transportation. Except when there is only one person traveling by rented auto, vehicle rental will be reimbursed based on a minimum ratio of one (1) compact auto per two (2) Contractor

personnel. Reimbursement for vehicle rental will not be approved for Contractor personnel falling below that ratio. Cost for additional insurance is not reimbursable, nor will reimbursement be permitted for fuel obtained at a vehicle rental agency. City does not assume any liability of any type in connection with rental vehicles reserved or operated by Contractor personnel. Direct billing for rental vehicles is not permitted. If the City's Project Manager chooses to provide a per diem for auto rental, such per diem shall be the same per diem as allowed for City employees. The City will reimburse Contractor for surface transportation such as taxicabs, shuttles, and mass transit, at actual cost when reimbursement requests are accompanied by original receipts.

9.1.3 Lodging. (09/17) Contractor shall arrange for lodging. The City will reimburse Contractor per individual for a daily lodging expenses based on GSA per diem rates; such per diem shall be the same per diem as allowed for City employees. GSA lodging allowances can be found at the U.S. General Services Administration website: <http://www.gsa.gov/perdiem>

9.1.4 Meal and Incidental Expenses (M&IE). (09/17) The City will provide per diem for each full day (eight hours) worked for Contractor personnel assigned to deliver Services. The per diem rate will be the same as the one published on the U.S. General Services Administration website, identified as the Meal and Incidental Expenses (M&IE) for the Portland, Oregon area. GSA per diem rates can be found at the U.S. General Services Administration website: <http://www.gsa.gov/perdiem>

9.2 Non-reimbursable Expenses. (09/17) Expenses incurred for personal entertainment while traveling on the City business are not reimbursable. Personal entertainment includes items such as in-room movie charges, sightseeing, attendance at sporting events, reading materials, gifts, haircuts, etc. Expenses incurred for travel to and from, and parking at, the departure airport are not reimbursable.

Social Media. (7/18) Contractor will manage social media pages in compliance with the City's Social Media Policy, HR 4.08A. <https://www.portlandoregon.gov/citycode/article/372781>

Video and Audio. (7/18) Contractor will create video or audio in compliance with the Twenty-First Century Communications and Video Accessibility Act of 2010 and the City's Closed Captioning requirement ARC- BTS 3.04. <https://www.portlandoregon.gov/citycode/article/462666>

Domain Names. (7/18) Any domain names required under this Contract must be acquired by the City per Ordinance No. 177852 and City Code 3.15.070(B)12, or a waiver granted by the City's Chief Technology Officer. Domain names must be assigned to the City upon termination of this Contract or abandoned, in the City's sole discretion. <https://www.portlandoregon.gov/citycode/article/524341>

Websites (08/19) Any Contractor's Website created for the City must be compliant with ARC-BTS 3.02. <https://www.portlandoregon.gov/citycode/article/114337> Contractor shall ensure that the webpages comply with version 2.1 Level AA of the "Web Content Accessibility Guidelines" published by the Web

Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C), or any subsequent version(s) that are published during the term of the Agreement.

SIGNATURE PAGE

(08/19)

Contractor represents that Contractor has had the opportunity to consult with its own independently selected attorney in the review of this Contract. Neither Party has relied upon any representations or statements made by the other Party that are not specifically set forth in this Contract.

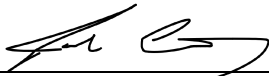
This Contract constitutes the entire agreement between the City and Contractor and supersedes all prior and contemporaneous proposals and oral and written agreements, between the Parties on this subject, and any different or additional terms on a City purchase order or Contractor quotation or invoice.

The Parties agree that they may execute this Contract and any Amendments to this Contract, by electronic means, including the use of electronic signatures.

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.

IN WITNESS WHEREOF, the Parties hereby cause this Contract to be executed.

CONTRACTOR



December 21, 2022

Authorized Signature

Date

Joel Carty, President & Principal Consultant

Address: 1315 Pickering Parkway, Suite 300

Pickering ON, L1V 7G5

Phone: (416) 305-3409

Email: jcarty@diameterservices.com

Contract Number: _____
Ordinance Number: _____

Contract Title:

CITY OF PORTLAND SIGNATURES

By: n/a
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

Date: _____

Exhibit A, Statement of Work

Automated Meter Reading and Advanced Metering Infrastructure

Statement of the Work (SOW) and Payment Schedule

BACKGROUND

The Portland Water Bureau (PWB) currently serves drinking water to more than 952,000 Oregonians with the following types of water services: 159,500 Residential Single-Family, 13,700 Residential Multi-Family, 20,700 Commercial, and 19 Wholesale customers with 24 accounts. PWB maintains a relationship with the City’s Bureau of Environmental Services (BES), which provides sanitary and stormwater sewers and surface water management. This relationship includes the preparation of shared bills for mutual customers as well as bills on BES’ behalf for some whose water is supplied by another provider. PWB sends approximately 830,000 utility bills, 260,000 notices, and 90,000 letters to rate payers annually. There are currently 60,500 accounts enrolled in electronic billing. PWB currently bills most accounts quarterly and manually reads meters. There are also monthly accounts read manually, and accounts billed bimonthly for sewer and stormwater services with reads provided by another water district.

One of the services performed by PWB is the task of meter reading using a radio signal device which permits off-site meter reading via radio signals. In the late 1990’s, PWB conducted a pilot study using Sensus radios. During the study, PWB deployed approximately 450 units. PWB deemed the Sensus pilot and units unsuccessful and proceeded with a second pilot project with Itron using a fixed network and installing approximately 900 units. These Itron units remain in place and are in use today. Aside from those pilot projects, PWB uses meter readers to physically view and read each meter either monthly or quarterly.

In 2019, PWB developed a five-year Strategic plan that recommended researching how smart meter technology could affect PWB and the communities we serve; focusing on the equity impacts of smart meter implementation. In support of the Strategic plan goals, PWB was interested in analyzing opportunities for improvement to its meter reading efficiency and effectiveness, and entered into a consulting contract with Diameter Services, Inc. (Contractor), Contract no. 30007400, in August 2020 to determine if implementation of Automatic Meter Reading (AMR) and/or Advanced Metering Infrastructure (AMI) is practical (AMR/AMI Project); what the costs to implement and operate are; and, what the benefits to PWB and its customers would be if implemented. The Contractor has spent considerable time with PWB and has proven their understanding of PWB’s system needs and now has thorough knowledge and familiarity with current PWB operations. The Contractor has demonstrated its experience in water utility AMR/AMI trends, technology and implementation, and specific knowledge and experience with implementation tools utilized in the field by water utility customer service personnel. This body of knowledge and expertise will be invaluable to PWB for the next phases of the Project and during the development of specifications and procurement packages. The Contractor’s input and proficiency is expected to ensure PWB secures an efficient and cost-effective technological solution that meets the needs of the City and its customers. The Contractor’s and PWB’s responsibilities under this contract include that which is detailed below.

Contractor shall:	PWB (via the PWB Project Manager) will:
<ul style="list-style-type: none">▪ Utilize knowledge and expertise to lead project planning, execution, and management▪ Plan, execute, and manage project procurement and vendor management▪ Responsible for preparing and delivering all technical communications▪ Responsible for project risk management▪ Provide monthly project status reports that includes a project summary, milestone review, change control	<ul style="list-style-type: none">▪ Serve as a single point of contact and translator▪ Provide overall vendor management▪ Ensure PWB’s Project requirements are met by Contractor▪ Ensure project is on schedule, on budget, and meeting quality assurance requirements▪ Coordinate timely internal communications and meetings▪ Lead steering committee meetings▪ Ensure internal compliance with project needs▪ Oversee internal change management

<p>highlights, risk summary, and a summary of vendor performance metrics</p> <ul style="list-style-type: none"> ▪ Oversee public outreach ▪ Manage field inspections and quality assurance checks ▪ Facilitate change management processes ▪ Develop equity plan and coordinate with PWB PM and City Procurement for endorsement and approval ▪ Support Steering Committee meetings 	<ul style="list-style-type: none"> ▪ Work with vendor to de-risk the project ▪ Secure necessary project approvals and acceptance of deliverables ▪ Secure funding and manage partnership with BES ▪ Engagement with BES
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ACRONYMS USED IN THIS DOCUMENT

Acronym	Expansion	Definition
AMR	Automated Meter Reading	Typically refers to a drive-by meter reading system to automate “on foot” meter reading.
AMI	Advanced Metering Infrastructure	A network of fixed data collection equipment that captures detailed consumption information from the metering population that is retrieved by data collection software on at least a daily basis.
BES	Bureau of Environmental Services	Sewer and stormwater utility for the City of Portland, Oregon.
CIS	Customer Information System	Software application that manages information about PWB’s customer base.
COBID	Certification Office for Business Inclusion and Diversity	Program that certifies businesses owned by minorities, women, or service-disabled veterans.
FN	Fixed Network	See AMI definition
MDM	Meter Data Management	Software application that helps manage and ensure the accuracy and completeness of the volumes of data provided by a fixed network for billing, analysis, reporting and presentment.
MIS	Meter Installation Software	Software that captures the details of the installation including meter serial #, transmitter identification #, account information of where the equipment was installed.
POC	Proof of Concept	Small-scale deployment to test out the capability and compatibility of the system prior to full-scale roll out.
PWB	Portland Water Bureau	Clean water utility for the City of Portland, Oregon.
SOW	Statement of Work	A set of project-specific activities, deliverables and timelines for a vendor providing services to a client.
UAT	User Acceptance Testing	Phase of software implementation in which the software is tested in the real world by its intended audience. Note: that we have used I-UAT for Initial User Acceptance Testing and F-UAT for Final User Acceptance Testing.

PROJECT PHASES

The AMI Project (Project) began with Phase 1: Design, during which Contractor assessed PWB's business processes, assisted PWB with exploring technology options, developed a financial model, and helped PWB define the project scope.

The Project outlined in this Statement of Work (SOW) will be divided into five general phases:

- 1) Procure (Phase 2 – Design and Procurement);
- 2) Manage (Phase 3 – Readiness and Start-up);
- 3) Manage (Phase 4a – Proof of Concept);
- 4) Manage (Phase 4b – Installation and Deployment), and,
- 5) Manage (Phase 5 – Close Out).

This SOW begins with Phase 2 Procurement and was developed based on reports created in Phase 1. The Contractor's services for Phase 2 work shall include development of an Advanced Meter Infrastructure (AMI) Request for Proposals (RFP), to procure AMI software, hardware, meters, deployment services. A second RFP will be developed for a full-function customer portal. RFP development must include the establishment of evaluation criteria based on technical expertise, drafting of specifications, detailed review of all technical proposals, coordination of and participation in vendor interviews, assistance with pilot tests, assistance with vendor negotiations, and development of communication strategies in Phase 2.

Subsequent work completed by the Contractor (Phase 3 through 5), which only proceeds with prior approval from PWB, will include management of tasks, liaising between PWB and contractors/vendors, management of contractors/vendors, installation, change management, quality assurance oversight, and operational transition to PWB. Additionally, during the remaining phases of this project the Contractor shall assist with a water meter exchange program and AMI project planning, procurement and implementation oversight and support. A more detailed description of each phase follows.

The Contractor shall be the City's Owner Representative for the Advanced Metering Infrastructure Project (Project) assigned to implement and support in the coordination, planning, public outreach, design, construction, testing, training, implementation, change management, and quality assurance phases of the Project. PWB will be the decision and policy makers. In general, as the City's Owner Representative, the Contractor shall be responsible for the following types of tasks:

- Procurement – Lead role for the Contractor's work in drafting bid specifications and vendor selection support for key elements of the Project including a procurement for AMI System, Water Meters, and Installation; and a separate procurement for a full-function Customer Self-Service Portal. The City manages and provides appropriate procurement solicitation documents. The Contractor is expected to work closely with the City Project Manager and City Procurement Manager(s) and Buyers assigned on the procurement processes to be used throughout the Project.
- Project Management – Development and monitoring of a work plan designed to keep the Project on track and on budget.
- Installation and Deployment – Act as the PWB's representative in managing the system deployment from Proof of Concept through Closeout with the selected vendors.
- System Success Management – Lead role in defining Change Management and Public Outreach activities to optimize system adoption and use.

PWB requires technical memorandums/reports to be completed throughout the Project phases. PWB's Project Manager or their designee will review all draft and final deliverables. The Contractor shall incorporate PWB comments into final products. Specific documents will be identified under deliverables. Deliverables shall be provided in electronic format, pdf, and Word, unless otherwise note or as directed by the PWB Project Manager or designee.

EXPECTED PROJECT DURATIONS

It is expected for each Project Phase to be supported for the following duration:

- Procure (Phase 2 - Design and Procurement): 24 Months
- Manage (Phase 3 - Readiness and Start-up): 12 Months
- Manage (Phase 4a - Proof of Concept): 4 Months
- Manage (Phase 4b - Installation and Deployment): 44 Months
- Manage (Phase 5 - Close Out): 6 months
- *Total all Phases: 90 Months*

NUMBERING CONVENTIONS

Numbering structure:

- X. First Digit = Phase
- X.X Second Digit = Task
- X.X.X Third Digit = Subtask
- X.X.X.X Fourth Digit = Deliverable
- X.X.X.X.X Fifth Digit = Deliverable detail

Numbering for phases in this Statement of Work begins at 2 for consistency with prior work on the Design phase which was Phase 1.

PRICING CONVENTIONS

Tasks and Deliverables noted as “Optional” are not included in the Budgeted pricing. Should PWB wish to include these items, the scope for each can be determined jointly and costing provided by the Contractor. The Optional Tasks and Deliverables will not require an increase to the Contract. The Mitigation Task – PWB’s (Owner’s) Allowance budget has been included and is managed by the PWB. Funds budgeted under that Task are used for Optional work or additional services needed by the Contractor. Refer to Task 35: Mitigation Task – PWB’s (Owner’s) Allowance for additional information.

PROJECT KEY PERFORMANCE INDICATORS (KPIs)

Key Performance Indicators (KPIs) will be developed to provide metrics for performance at various levels of the Project. Those defined in this SOW will be high-level KPIs that are designed to monitor overall performance of the Project. In addition to those shown, a range of specific Task-level KPIs will be agreed upon with PWB and implemented to manage different aspects of the project.

1. **Project Tracker.** Table 1 below describes the Project timelines, start/end dates, and funding. Contractor shall complete each Project Phase on time and on budget. Actual Project timing shall be measured at each Phase of the Project and reporting include the difference between Actual and Budget Start and End Dates. Project spending will also be tracked including difference and percentage difference between cumulative Actual and Budget monthly spending (see 2.2.1.5.).

Phase	Planned		Actual		Spending	
	Start Date	End Date	Start Date	End Date	Budget	Actual
Procure (Phase 2 - Design and Procurement)		<i>(Duration = 24 months)</i>			\$668,372.16	
Manage (Phase 3 - Readiness and Start-up)		<i>(Duration = 12 months)</i>			\$631,924.11	
Manage (Phase 4a - Proof of Concept)		<i>(Duration = 4 months)</i>			\$667,814.46	
Manage (Phase 4b - Installation and Deployment)		<i>(Duration = 44 months)</i>			\$2,374,309.78	
Manage (Phase 5 - Close Out)		<i>(Duration = 4 months)</i>			\$165,254.92	
Subtotal		<i>(Duration = 90 months)</i>			\$4,507,675.43	
Contingency – Owner’s Allowance (Task 35)					\$956,572.57	
Contract Not to Exceed Amount					\$5,464,248.00	

Table 1

2. **COBID %.** The overall Project target for COBID % has been established at 23%. The Contractor shall track COBID values based on amounts invoiced to PWB at each Phase of the Project. It should be noted that since the COBID percentages are not uniform across each Phase, there may be some variations throughout the Project but the overall Project target for COBID will remain at 23% or higher.
3. **Customer Satisfaction.** The Contractor shall use a Net Promoter Score (NPS) methodology to determine the general satisfaction of the PWS staff involved in the Project. Every 6 months and/or at the end of each Project Phase, the Contractor will survey the PWS staff involved in that Phase of the Project and ask two questions:
 - i. On a scale of 0 through 10, how likely would you be to recommend the Contractor to a peer of yours?
 - ii. Please explain.

Scores of 9 or 10 are considered “Promoters”; 7 or 8 are considered “Passives”; 0 through 6 are considered “Detractors”.

$$\text{Net Promoter Score} = \frac{(\# \text{ Promoters} - \# \text{ Detractors}) \times 100}{(\# \text{ Total Responses})}$$

The NPS can be used as a relative measure of the PWS team’s satisfaction with the Project. The answers to the second question provide actionable feedback for the Contractor to address and course-correct as needed.

Procure (Phase 2 - Design and Procurement)

The Contractor shall take the lead in drafting procurement documents for the AMI technology (including radio transmitter needs, data collection network, equipment siting, and approvals for mounting the equipment), the water meter supply, installation and deployment services, meter data management software, and customer portal. The specifications shall reflect the high-level business requirements gathered by the Contractor while working under their initial Contract #30007400 and incorporate knowledge gained in working with PWB to develop the business case. The duties shall include, but are not limited to, those Task Listed below.

The Contractor must complete and provide the PWB’s Project Manager the deliverables identified in those tasks below. Deliverables shall be considered those tangible items resulting from work products that are to be delivered to Water Bureau such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawing, and reports. The Contractor is encouraged to provide any deliverables in accordance with the City’s sustainable Paper Use Policy. The City’s Policy can be found at: <https://www.portlandoregon.gov/brfs/37732>

All deliverables and resulting work products from this Contract will become the property of the City of Portland. As such, the Contractor and any subcontractors grant the City the right to copy and distribute (in any and all media and formats) project deliverables for regulatory, project certification/recognition, program development, public education, and/or for any purposes at the sole discretion of the City of Portland.

PWB will provide written authorization to the Consultant via a Notice to Proceed with each Phase before the Consultant can initiate billable work on that Phase. Note that since some work may be done in parallel, two or more Phases may be in process at any given time. Any time delays associated with the approval of a subsequent Phase will not be counted against the Consultant in the measurement of on-time completion by the Consultant.

Task 1 – Meetings – Procure

The purpose of this task is to support the Procurement Phase of the Project through specific meetings and workshops that the Contractor will undertake with PWB to develop the appropriate RFP documents and select the vendors that best meet PWB’s needs.

Reference Description of Task, Subtask and Deliverables

2.1 Budgeted: **\$92,891.87**

2.1.1 Meeting: Kick off

- 2.1.1.1. • Conduct a Kickoff meeting with stakeholders to review workplan, schedule and budget.

2.1.2 Meeting: Procurement & Legal

2.1.3 Meeting: IT Considerations

2.1.4 Meeting: Facilities

2.1.5 Meeting: **AMI / Install / Meter: Scope and Alternatives**

- 2.1.5.1. • Meet with Water Bureau Project Manager and any Water Bureau designated staff to seek input for the Water Bureau’s Advanced Meter Infrastructure Project.

2.1.6 Meeting: **AMI / Install / Meter: Specification Review 1**

2.1.7 Meeting: **AMI / Install / Meter: Specification Review 2**

- 2.1.8. Meeting: **AMI / Install / Meter: Evaluation Section**
- 2.1.9. Meeting: **AMI / Install / Meter: Proposal Questions Review**
- 2.1.10. Meeting: **AMI / Install / Meter: Consensus Evaluation**
- 2.1.11. Meeting: **AMI / Install / Meter: Negotiation**
- 2.1.12. Meeting: **Customer Portal: Scope and Alternatives**
- 2.1.12.1.
 - Facilitate meeting to gather specifications and requirements for the customer portal from PWB, BES and other stakeholders.
- 2.1.13. Meeting: **Customer Portal Specification Review 1**
- 2.1.14. Meeting: **Customer Portal Specification Review 2**
- 2.1.15. Meeting: **Customer Portal Evaluation Section**
- 2.1.16. Meeting: **Customer Proposal: Proposal Questions Review**
- 2.1.17. Meeting: **Customer Proposal: Consensus Evaluation**
- 2.1.18. Meeting: **AMI / Install / Meter: Negotiation**

Task 2 - Project Management - Procure

The purpose of this task is to perform Project Management for the Procurement Phase of the Project. The work involves overall management and specific deliverables noted in this section of the SOW.

2.2 Budgeted: **\$132,277.79**

Deliverables shall include, but are not limited to, project management services during the design and implementation phase, including metering architecture and communication network, selection of meter equipment, configuring meters, fabricating panels, installing meters in the field, conducting point-to-point testing, and conducting independent certification. In addition, deliverables will be required for the technology side of the project and are identified below.

The Contractor shall also be the Owners Representative during installation of new supply-side and demand-side meters, and implementation of system-wide water meter automation upgrades to use AMI. After installation, the Contractor shall continue support with automatic meter reading, meter re-certification, training, meter data management services, and maintenance services.

As part of the work for this Project, the Contractor shall be required to:

- 2.2.1. Project Management (Coordination & Progress meetings)
 - 2.2.1.1.
 - Develop and deliver Project Plan with work breakdown structure
 - 2.2.1.2.
 - Develop a workplan, schedule, and budget to be presented, reviewed, and approved by Water Bureau staff.
 - 2.2.1.3.
 - Prepare and provide Monthly Status Reports, including earned value and task vs budget status
 - 2.2.1.4.
 - Prepare a monthly status report covering work completed within the current billing period, work anticipated for the upcoming period which shall be submitted with the monthly invoice. The status report shall consist of the tasks performed in the past month and the tasks to be performed in the next month for the duration of the Project. Include any unresolved issues in monthly status report. Break down work by tasks and compare percentage complete with percentage budget spent. Status report shall also include Certification Office for Business Inclusion and Diversity (COBID) utilization report.
 - 2.2.1.5.
 - Monthly invoice and status reports shall be provided electronically using Microsoft Office Products by the 15th of each month for the work completed in the previous month. See Compensation Section for specific invoice requirements.
 - 2.2.1.6.
 - Submit invoice. Invoice should include prior billed fees, fees this month, total billed fees, fees remaining, percent complete, and percent remaining for each task.

- 2.2.1.7.
 - Manage the Project schedule and budget as well as technical resources and coordinate with PWB’s Project Manager or designee as needed. Project schedule updates shall be provided electronically with the monthly status report for months in which the Project schedule was revised.
- 2.2.1.8.
 - Conduct monthly review meetings with designated PWB staff to discuss current project status and to solicit input/feedback from PWB staff regarding current work activities for the duration of the Project phases. The Contractor shall schedule each meeting at the beginning of each month. Meetings may be conducted in person at the PWB’s office, via phone or video conferencing, to be mutually agreed upon between the Contractor and the PWB Project Manager or their designee. Specific deliverables from the Contractor include the development and delivery of the following:
 - 2.2.1.8.1. ○ Monthly Issue Log
 - 2.2.1.8.2. ○ Monthly updated Risk Log
 - 2.2.1.8.3. ○ Business Improvement Process Flows
 - 2.2.1.8.4. ○ Design Documentation, including data model
 - 2.2.1.8.5. ○ Interface Plan, Design and Specifications
 - 2.2.1.8.6. ○ Data dictionary
 - 2.2.1.8.7. ○ Data conversion plan
 - 2.2.1.8.8. ○ Test Plan
 - 2.2.1.8.9. ○ Test Scripts
 - 2.2.1.8.10. ○ Test Result Report
 - 2.2.1.8.11. ○ Training Plan
 - 2.2.1.8.12. ○ Training Materials
 - 2.2.1.8.13. ○ Deployment and Cutover Plan
 - 2.2.1.8.14. ○ Deployment Known Issues List
 - 2.2.1.8.15. ○ System Administration manual
 - 2.2.1.8.16. ○ User Documentation
 - 2.2.1.8.17. ○ Post Deployment Report
 - 2.2.1.8.18. ○ Post Implementation Support Plan
 - 2.2.1.8.19. ○ Detailed schedule including significant milestones
 - 2.2.1.8.20. ○ Cost breakdown per Fiscal Year and task
- 2.2.2. Conduct biweekly (every second week) or periodic meetings with PWB Project Manager by phone, Zoom or Teams to discuss current progress and Project status. Frequency of the meetings to be mutually agreed upon between the PWB Project Manager and the Contractor for the duration of the Project phases.
 - 2.2.2.1.
 - Prepare meeting agenda and summaries. The agenda and meeting summaries shall be prepared electronically in Microsoft Word format. Agendas shall be provided to PWB’s Project Manager within one (1) week prior to the scheduled meeting. Meeting summaries shall be provided to PWB’s Project Manager within one (1) week after the scheduled meeting date. Meeting agendas and summaries shall be required for monthly review meetings, biweekly (every second week) meetings, and periodic meetings. *Deliverables shall be provided by the Contractor in electronic format, pdf, and Word, unless otherwise directed by the PWB Project Manager or their designee.*
- 2.2.3. Prepare draft executive reports on progression of the Project to be reviewed by the PWB Project Manager and PWB’s Project Management Team. This report shall be suitable for distribution to a variety of audiences including, but not limited to PWB and BES Management Teams, Technology Executive Steering Committee, Project Oversight Committee, Elected Officials. *Deliverables shall be provided in electronic format, pdf, and Word, unless otherwise directed by the PWB Project Manager or their designee.*

- 2.2.3.1. • Meeting agendas
- 2.2.3.2. • Meeting summaries
- 2.2.3.3. • Workplan, including budget and schedule that includes timelines and resource allocations by role.
- 2.2.3.4. • Monthly status reports and invoices

The purpose of this task is to perform public engagement and outreach for all phases of the Project. As part of the work for this project, the Contractor shall be required to:

- 2.2.4. Develop and implement a public outreach plan, with PWB approval, which complements and supports outreach efforts and goals of the PWB, including language translation plans to meet the needs of multi-lingual customers. *Public Outreach Plan that includes a minimum 2 drafts, then a final. Deliverables will be provided in electronic format, pdf, and Word, unless otherwise noted.*
- 2.2.4.1. • Provide a public outreach coordinator to assist PWB staff.
- 2.2.4.2. • Establish and maintain Project internal and external website including producing relevant content, in support of PWB staff efforts.
- 2.2.4.3. • Establishment and maintenance of internal and external websites
- 2.2.5. RF Propagation Review
- 2.2.6. Risk Management Monitoring

Task 3 - Public Outreach Planning - Procure

The purpose of this task is to define an outreach program intended to engage key stakeholders to provide an understanding of the goals, scope, and progress of the Project.

2.3 Budgeted: \$161,842.50

2.3.1. Public Communication Plan Development

- 2.3.1.1. • Engage the public and stakeholders to gather and understand their priorities per PWB’s outreach strategies;
- 2.3.1.2. • Conduct an opinion poll (optional, at PWB’s discretion). PWB is considering incorporating the opinion poll into the public involvement process to facilitate feedback. The deliverable for this task shall be development of questions to be used in the opinion poll, performing the opinion poll, and reporting on the results. This is envisioned to happen every other year during the duration of this Contract, starting in 2022 or at the beginning of the design phase. Coordination of the PWB’s Public Information Officer or their designee may be required.
 - 2.3.1.2.1. ○ Opinion Poll (Optional)
 - 2.3.1.2.2. ○ Opinion Poll Summary and Report
 - 2.3.1.2.3. ○ Meeting agendas and minutes
- Public Outreach Plan
- Equity Plan Document. The goal of the Equity Plan will be to align implementation of the AMI program with the 2021-2025 Portland Water Bureau Plan to Advance Diversity, Equity, and Inclusion. The approach will include a series of three interactive workshops with representative stakeholders from Operations, Equity and Public Involvement. The workshops will first focus on exploring equity interfaces for the implementation, including benefits (e.g., improved ability of customers to control water usage and cost) and impacts (e.g., loss of meter reader positions). The workshops will then shift to identifying specific actions and timelines, integrating planned equity initiatives with the overall implementation effort. The equity interfaces and planned actions will be summarized in a brief Equity Plan for the project.

Task 4 - AMI RFP Development – Procure and Negotiation

The purpose of this task is to provide procurement and contract management assistance in the selection of full-scale AMI system.

2.4 Budgeted: \$125,450.00

2.4.1. **AMI / Install / Meter:** Assistance with Drafting and Review of Procurement Documents

- 2.4.1.1. • Draft and review procurement documents with assistance from PWB staff and City Procurement. Final draft, approval, and release of solicitation documents to be completed by the City's procurement experts;
- 2.4.1.2. • Design - create reports, plans, and specifications for the proposed solution(s). This shall include the creation of detailed requirements/project scope for AMI solution Request for Proposals (RFP) and Customer Portal RFP or selected procurement solution methods.
- 2.4.1.3. • Provide PWB staff with a list of performance and/or feature tradeoffs, to include pressure, temperature, acoustic, leak detection and relative costs.

2.4.2. **AMI / Install / Meter:** Water AMI Technology Specifications

- 2.4.2.1. • Prepare Water AMI technology specifications;

2.4.3. **AMI / Install / Meter:** Draft Water Meter Specifications

- 2.4.3.1. • Prepare water meter specifications;

2.4.4. **AMI / Install / Meter:** Draft Installation Specifications

- 2.4.4.1. • Prepare installation specifications;

2.4.5. **AMI / Install / Meter:** Meter Data Management / Analytics Software Specifications

- 2.4.5.1. • Prepare Meter Data Management software specifications;
- 2.4.5.2. • Prepare Interface Specifications

2.4.6. **AMI / Install / Meter:** Assist with Drafting of Solicitation Documents

- 2.4.6.1. • Drafting solicitation documents, with assistance from PWB; / The Contractor shall produce and assist in the development of all solicitation package(s) and any other solicitation documents required for Full Scale AMI implementation

2.4.7. **AMI / Install / Meter:** Submission Evaluation Criteria

- 2.4.7.1. • Develop evaluation criteria in partnership with PWB; / Develop evaluation criteria for solicitation responses

2.4.8. **AMI / Install / Meter:** Procurement Support

- 2.4.8.1. • Develop and implement project controls for scope, schedule, and budget, including how changes will be evaluated and approved and required notification and documentation.
- 2.4.8.2. • Bid Services – Assist with bidding and solution selection. Program Manager shall work with PWB to maximize bid competition, transparency, and value.

2.4.9. **AMI / Install / Meter:** Proposal Submission Evaluation

- 2.4.9.1. • Coordinating and scheduling vendor presentations;

2.4.10. **AMI / Install / Meter:** On-site Vendor Presentation (Optional)

- 2.4.10.1. • Interviewing, with PWB, and vetting up to three short-listed vendors (i.e., confirming the vendors financial health and checking references)

2.4.11. **AMI / Install / Meter:** Recommendation Report

- 2.4.11.1. • Issue recommendation report regarding vendor selection;

2.4.12. **AMI / Install / Meter:** Negotiation Meetings

- 2.4.12.1. • Provide technical and procurement support during contract and scope of work negotiations;

- 2.4.12.2. • Assist with contract negotiations and pricing with selected vendor(s)
- 2.4.12.3. • Update AMI Implementation Schedule
- 2.4.12.4. • Update Long Term AMI Support and Staffing Plan.

Task 5 - Customer Portal - Procure and Negotiation

The purpose of this task is to provide procurement and contract management assistance during deployment of the customer portal.

2.5 Budgeted: \$115,110.00

- 2.5.1. **Customer Portal:** Customer Portal Software Specifications
 - 2.5.1.1. • Design - create reports, plans, and specifications for the proposed solution(s). This shall include the creation of detailed requirements/project scope for AMI solution RFPs and Customer Portal RFP.
 - 2.5.1.2. • Develop a functional list that includes both the must haves and the wants for a customer portal.
- 2.5.2. **Customer Portal:** Assist with Drafting of Solicitation Documents
 - 2.5.2.1. • Produce or assist in the development of all solicitation package(s) and any other solicitation documents for the customer portal.
- 2.5.3. **Customer Portal:** Submission Evaluation Criteria
 - 2.5.3.1. • Develop evaluation criteria for solicitation responses. Develop criteria for selection process of customer portal.
- 2.5.4. **Customer Portal:** Procurement Support
 - 2.5.4.1. • Collect information from PWB, stakeholders and public; create list of must haves and wants in a portal
 - 2.5.4.2. • Develop solicitation documents to procure a customer portal
 - 2.5.4.3. • Draft and complete a Change Management/Customer Communications Plan
- 2.5.5. **Customer Portal:** Proposal Submission Evaluation
 - 2.5.5.1. • Consultant will develop an evaluation matrix for the proposal submissions
- 2.5.6. **Customer Portal:** Coordinate Vendor Presentation
 - 2.5.6.1. • Consultant will coordinate vendor presentations
- 2.5.7. **Customer Portal:** Recommendation Report
 - 2.5.7.1. • Consultant will develop a report of the recommendations from the evaluation
- 2.5.8. **Customer Portal:** Negotiation Meetings
 - 2.5.8.1. • Identify necessary interfaces with other systems and data points.
 - 2.5.8.2. • Estimate resources needed to maintain the ongoing use of the Customer Portal
 - 2.5.8.3. • Assist with contract negotiations of functionality, terms, and pricing with selected vendor.

Task 6 - Vendor Engagement

The purpose of this task is to provide guidance and coordinate communications with prospective vendors through the selection process.

2.6 Budgeted: \$40,800.00

- 2.6.1. Vendor Engagement: AMI / Install / Meter
 - 2.6.1.1. • Coordinate pre-bid meeting with vendors
 - 2.6.1.2. • Manage RFP clarification process with vendors
 - 2.6.1.3. • Facilitate proposal review in conjunction with PWB
 - 2.6.1.4. • Facilitate PWB's selection of short-listed candidates
 - 2.6.1.5. • Review and scoring of short-listed vendor presentations
- 2.6.2. Vendor Engagement: **Customer Portal**

- 2.6.2.1.
 - Implementation Services -implementation/construction administration and inspection for all phases of Project. PWB to issue and hold implementation contracts including, but not limited to, those with the AMI meter vendor(s) and Customer Portal vendor
- 2.6.3. Provide Recommendation Report

Manage (Phase 3 - Readiness and Start-up)

The Contractor shall act as a subject matter expert and perform project management functions during this phase. Contractor, with guidance and final approval from PWB, shall lead business requirements meetings with contractors, develop acceptance tests, and lead project meetings. The Contractor shall lead PWB through business process redesigns as well as organizational change management related to the AMI implementation. The duties shall include, but are not limited to, the following:

Task 7 - Project Management & Meetings - Startup

The purpose of this task is to support the Startup Phase of the Project through specific meetings and workshops that the Contractor will undertake with PWB to ensure smooth coordination of the various parties including PWB, Contractors and various Vendors

3.7. Budgeted: \$195,467.70

3.7.1. *On-Sites - Required*

3.7.3. Project Management (Coordination & Progress meetings)

- 3.7.3.1.
 - Organize, facilitate, and schedule meetings;
- 3.7.3.2.
 - Prepare a detailed project plan (including a communications, resource, and risk management plan) for review and approval by PWB;

3.7.4. Leadership Meetings

3.7.5. Steering Committee Meetings / Council Meetings

- 3.7.5.1.
 - Contractor will draft technical memorandums/reports on progression of project suitable for distribution to a variety of audiences including, but not limited to PWB and BES Management Teams, Technology Executive Steering Committee, Project Oversight Committee, Elected Officials;
- 3.7.5.2.
 - Contractor will coordinate and lead Steering Committee meetings with PWB Project Manager;
- 3.7.5.3.
 - Contractor will support PWB Project Manager and PWB management in preparation of key milestone presentations for City Council.

3.7.6. Startup Business Requirement Meetings

Task 8 - Data Collector Deployment Coordination - Startup

The purpose of this task is to monitor and oversee the deployment of data collectors in adherence with PWB specifications during the Startup Phase of the Project.

3.8. Budgeted: \$46,532.40

3.8.7. Data Collector Deployment Coordination

- 3.8.7.1.
 - Coordinate data collector activities including deployment, inspection, and approval of installations;

Task 9 - System Integration Coordination

The purpose of this task is to support the integration of specific AMI system software with PWB's internal systems.

3.9. Budgeted: \$99,715.20

- 3.9.1. System Integration Support - MIS and City's CIS
- 3.9.2. System Integration Support - AMI/MDM Systems and City CIS
- 3.9.3. System Integration Support - Customer Portal

Task 10 - Public Outreach Development

The purpose of this task is to develop an outreach program to key stakeholders to provide an understanding of the goals, scope, and progress of the Project.

3.10. Budgeted: \$106,781.76

3.10.1. Public Outreach Program Development - Communication Plan

- 3.10.1.1. • Develop a communications plan and public outreach strategy for review and approval by PWB;

3.10.2. Public Outreach Program Development - Materials Development

- 3.10.2.1. • Implement communications plan once approved;

Task 11 - User Acceptance Testing

The purpose of this task is to coordinate Initial and Final User Acceptance Testing to ensure that the specified systems effectively support PWB's operation.

3.11 Budgeted: \$97,593.60

3.11.1. Solution Walkthrough

3.11.2. User Acceptance Testing - Integration Testing Design / Use Case Development

- 3.11.2.1. • Develop end user acceptance test scenarios and documents.

3.11.3. User Acceptance Testing - Integration Testing Support

3.11.4. User Acceptance Testing - I-UAT Design/Use Case Development

3.11.5. User Acceptance Testing - I-UAT Support

3.11.6. User Acceptance Testing - F-UAT Design/ Use Case Development

3.11.6.1 Develop final user acceptance testing and draft reports to capture results

Task 12 - Change Management Planning

The purpose of this task is to define areas of impact that the Project will have on various stakeholders and develop plans to optimize processes and organizational structure to enhance the value these stakeholders receive from the system.

3.12 Budgeted: \$85,833.45

3.12.1. Business Process Redesign

- 3.12.1.1. • Facilitate business process change workshops;

- 3.12.1.2. • Document new business process workflows for review and approval by PWB;

- 3.12.1.3. • Recommend metrics needed to maintain effectiveness;

- 3.12.1.4. • Develop organizational and stakeholder change management plan that will include project team, impacted workgroups, community engagement and communication for review and approval by PWB.

- 3.12.1.5. • Develop and implement project controls for scope, schedule, and budget, including how changes will be evaluated and approved and required notification and documentation.

- 3.12.1.6. • Assist PWB with developing a pre- and post-implementation staffing plan.

- 3.12.1.7. • Provide recommendations about vendor's business requirements, materials, and installation processes.

- 3.12.1.8. • Support interface development.

- 3.12.1.9. • Coordinate and attend system and product training.

- 3.12.1.10. • Assist PWB with a functional training plan for field services workers that shall maintain the meters and AMI system.

3.12.2. Quality Assurance Inspection Setup

3.12.3. Change Management Plan

- 3.12.3.1.
 - Develop Change management Plan for PWB review.
 - Development and implementation of Equity Plan with PWB approval.

Manage (Phase 4a - Proof of Concept)

In this Phase, the Contractor will work with PWB to ensure that the Contractor is ready to ramp up production in a controlled manner. A subset of PWB's services will be selected as a site for the Proof of Concept before approval is granted to roll out the system on a full scale. Contractor will oversee the POC and evaluate the Contractor's performance in support of PWB. Specific Tasks and Deliverables from the Contractor include:

Task 13 - Project Management & Meetings - POC

The purpose of this task is to outline the specific meetings and workshops that the Contractor will undertake with PWB to implement the Proof of Concept Phase with the selected vendor(s).

4a.13 Budgeted: \$114,131.88

- 4a.13.1. *On-Sites - Required*
- 4a.13.3. Project Management (Coordination & Progress meetings)
- 4a.13.4. Leadership Meetings
- 4a.13.5. Steering Committee Meetings / Council Meetings
 - 4a.13.5.1.
 - Contractor will draft technical memorandums/reports on progression of project suitable for distribution to a variety of audiences including, but not limited to PWB and BES Management Teams, Technology Executive Steering Committee, Project Oversight Committee, Elected Officials;
 - 4a.13.5.2.
 - Contractor will coordinate and lead Steering Committee meetings with PWB Project Manager;
 - 4a.13.5.3.
 - Contractor will support PWB Project Manager and PWB management in preparation of key milestone presentations for City Council.

Task 14 - POC Evaluation

The purpose of this task is to determine the effectiveness of the AMI system and installation processes in meeting the needs of PWB and confirm the effective integration with PWB's internal software and systems.

4a.14. Budgeted: \$23,762.74

- 4a.14.1. Draft Proof of Concept Evaluation report

Task 15 - Data Collector Deployment Coordination - POC

The purpose of this task is to monitor and oversee the deployment of data collectors in adherence with PWB specifications during the POC Phase of the Project.

4a.15. Budgeted: \$20,891.23

- 4a.15.1. Network Deployment Coordination and draft report

Task 16 - Contract Management - POC

The purpose of this task is for the Contractor to oversee the management of the contract(s) in coordination with PWB by monitoring vendor performance relative to scope, timeliness, budget, and risk management of the POC Phase. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4a.16. Budgeted: \$43,072.56

- 4a.16.1. Manage Project Scope and report on adherence or deviations.
- 4a.16.2. Manage Project Budget and report monthly about status of budget.
- 4a.16.3. Manage Contract Schedule and report deviations to City's Project Manager
- 4a.16.4. Monitor Risk Management and report risks to City's Project Manager
- 4a.16.5. Manage Contractual Deficiencies and report progress to City's Project Manager

Task 17 - Public Outreach Coordination - POC

The purpose of this task is to develop and implement an outreach program to key stakeholders to provide an understanding of the goals, scope, and progress of the POC Phase of the Project.

4a.17. Budgeted: \$49,489.75

4a.17.1 Public Outreach Support

Task 18 - Change Management - POC

The purpose of this task is to develop and implement the Change Management Plan at the POC Phase to test its impact on various stakeholders and implement plans to optimize processes and organizational structure to enhance the value these stakeholders receive from the system.

4a.18. Budgeted: \$91,886.88

4a.18.1 Change Management Plan

4a.18.1.1 • Implementation

4a.18.1.2 • Continued Implementation of the Equity Plan

Task 19 - Quality Assurance and Approvals - POC

The purpose of this task is for the Contractor, in conjunction with PWB, to develop, implement, monitor, and provide feedback on a set of Quality Assurance KPIs for the POC Phase of the Project. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4a.19. Budgeted: \$155,477.38

4a.19.1. Project Performance Dashboard

4a.19.2. Quality Assurance Program

4a.19.3. Pre-Installation Approvals

4a.19.4. Installation Data Management Review

4a.19.5. Post Installation Approvals

4a.19.6. Progress Claim Approvals

4a.19.7. Incomplete (Task) Management Approvals

4a.19.8. Provide Validation Reports of Full-Scale AMI Meter Deployment as billing cycles are completed.

4a.19.9. AMI System Comprehensive System Validation Services.

Task 20 – Materials Handling & Tracking - POC

The purpose of this task is for the Contractor to ensure that effective systems are in place to manage the smooth flow of materials in the POC Phase of the Project.

4a.20. Budgeted: \$25,385.76

4a.20.1. Materials Handling

4a.20.2. Product forecast, product order tracking as required.

Task 21 – Field Inspection Coordination - POC

The purpose of this task is to coordinate daily work, summarize results weekly, communicate results in KPIs and follow-up on issues identified with Contractors during the POC Phase.

4a.21. Budgeted: \$39,327.12

4a.21.1. Field Inspections

Task 22 – Field Inspections COBID - POC

The purpose of this task is to inspect 100% of installations in the POC. A variety of installation types will be targeted, some inspections will be conducted post-installation and others will be conducted during installation. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4a.22. Budgeted: \$82,436.72

4a.22.1. Field Inspections

Task 23 – Data Integration - POC

The purpose of this task is for the Contractor to work in conjunction with PWB and the selected vendor(s) to develop a plan to integrate systems to enable the accurate and effective flow of required data between the vendor-supplied software and PWB's software and systems.

4a.23. **Budgeted: \$21,952.44**

4a.23.1. Draft integration plan for information systems

4a.23.2. Propose validation methods for validating successful data integration.

Manage (Phase 4b – Installation and Deployment)

In this Phase, the Contractor will work with PWB to ensure that the Contractor is effectively implementing the Project throughout the remainder of PWB's service base. The Contractor will oversee the POC, evaluate, and recommend corrective action as needed regarding the Contractor's performance in support of PWB. Specific Tasks and Deliverables from the Contractor include:

Task 24 – Project Management & Meetings – Install

The purpose of this task is the on-going management of the Install Phase of the Project through specific meetings, metrics, and workshops that the Contractor will undertake with PWB with the selected vendor(s). A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4b.24. **Budgeted: \$405,561.86**

4b.24.1. *On-Sites – Required*

4b.24.3. Project Management (Coordination & Progress meetings)

4b.24.4. Leadership Meetings

4b.24.5. Steering Committee Meetings / Council Meetings

4b.24.6.1

- Contractor will draft technical memorandums/reports on progression of project suitable for distribution to a variety of audiences including, but not limited to PWB and BES Management Teams, Technology Executive Steering Committee, Project Oversight Committee, Elected Officials.

4b.24.7.1

- Program Management activities for Full Scale Deployment of AMI meters

4b.24.7.2.

- Contractor will coordinate and lead Steering Committee meetings with PWB Project Manager;

4b.24.7.3.

- Contractor will support PWB Project Manager and PWB management in preparation of key milestone presentations for City Council.

Task 25 – Data Collector Deployment Coordination - Install

The purpose of this task is to monitor and oversee the deployment of data collectors in adherence with PWB specifications during the Install Phase of the Project. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4b.25. **Budgeted: \$15,918.12**

4b.25.1 Network Deployment Coordination

Task 26 – Contract Management – Install

The purpose of this task is for the Contractor to oversee the management of the contract(s) in coordination with PWB by monitoring vendor performance relative to scope, timeliness, budget, and risk management of the Install Phase. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4b.26. **Budgeted: \$145,597.74**

4b.26.1. Project Scope Management

4b.26.2. Project Budget Management

4b.26.3. Contract Schedule Management

4b.26.4. Risk Management Monitoring

4b.26.5. Contractual Deficiency Management

- 4b.26.5.1.
 - Develop and implement project controls for scope, schedule, and budget, including how changes will be evaluated and approved and required notification and documentation.
- 4b.26.5.2.
 - Create project control methods to manage change orders (subject to PWB's approval) and other project tasks;
- 4b.26.5.3.
 - Act as a liaison between PWB and installation vendors;
- 4b.26.5.4.
 - Guide work of contractors as PWB's Owner Representative;
- 4b.26.5.5.
 - Manage, prepare, and coordinate amendments with PWB as required to complete with vendors for this project;

Task 27 – Public Outreach Coordination – Install

The purpose of this task is to develop and implement an outreach program to key stakeholders to provide an understanding of the goals, scope, and progress of the Install Phase of the Project.

4b.27. Budgeted: \$45,699.02

4b.27.1. Public Outreach Support

Task 28 – Change Management - Install

The purpose of this task is to develop and implement the Change Management Plan through the Installation Phase including plans to optimize processes and organizational structure to enhance the value these stakeholders receive from the system.

4b.28. Budgeted: \$82,771.68

4b.28.1. Change Management Plan – Implementation

- 4b.28.1.1.
 - Support of PWB staff as they transition to new roles and work assignments. Support may be provided via trainings, meetings, focus interviews, distribution of pertinent literature, and any other means necessary.
- 4b.28.1.2.
 - Change Management Plan.
- 4b.28.1.3.
 - PWB Transition Plan regarding new roles and work assignments for PWB staff.

Task 29 – Quality Assurance & Approvals - Install

The purpose of this task is for the Contractor, in conjunction with PWB, to develop, implement, monitor, and provide feedback on a set of Quality Assurance KPIs for the Install Phase of the Project. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4b.29 Budgeted: \$677,029.48

4b.29.1. Project Performance Dashboard.

4b.29.2. Quality Assurance Program.

4b.29.3. Pre-Installation Approvals.

4b.29.4. Installation Data Management Review

4b.29.5. Post Installation Approvals

4b.29.6. Progress Claim Approvals

4b.29.7. Incomplete (Task) Management Approvals

- 4b.29.7.1.
 - Work with PWB staff to develop effective installation data control processes;
- 4b.29.7.2.
 - Provide data quality validation service on incoming meter/AMI data from vendors/installers.
- 4b.29.7.3.
 - Act as check on incoming invoices from the vendor ensuring compliance with the specifications.
- 4b.29.8. Provide Validation Reports of Full-Scale AMI Meter Deployment as billing cycles are completed.
- 4b.29.9. AMI System Comprehensive System Validation Services.

- 4b.29.10. Full Scale AMI Deployment Billing Cycle Validation Reports
- 4b.29.11. Complete AMI Solution Validation Report

Task 30 – Materials Handling & Tracking - Install

The purpose of this task is for the Contractor to ensure that effective systems are in place to manage the smooth flow of materials in the Installation Phase of the Project.

4b.30. Budgeted: \$77,680.43

- 4b.30.1 Materials Handling
- 4b.30.2 Product forecast, product order tracking as required.
- 4b.30.2.1
 - Assist PWB with the development of an installation materials management plan;

Task 31 – Field Inspections Coordination - Install

The purpose of this task is to coordinate daily work, summarize results weekly, communicate results in KPIs and follow-up on issues identified with Contractors during the Install Phase.

4b.31. Budgeted: \$150,850.71

- 4b.31.1. Field Inspection Coordination

Task 32 – Field Inspections COBID - Install

The purpose of this task is to ensure products have been installed correctly and are working properly. The value of this effort is based on a maximum number of hours that will be allocated to various installation types to address the highest risk installations based on service type and contractor experience. A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

4b.32. Budgeted: \$666,018.73

- 4b.32.1. Field Inspections

Task 33 – Data Integration Full Implementation

The purpose of this task is to for the Contractor to work in conjunction with PWB and the selected vendor(s) to develop a full-scale plan to integrate systems to enable the accurate and effective flow of required data between the vendor-supplied software and PWB’s software and systems.

4b.33. Budgeted: \$107,182.01

- 4b.33.1. Draft integration plan for information systems
- 4b.33.2. Propose validation methods for validating successful data integration.

Manage (Phase 5 - Close Out)

The Contractor shall work with the contractors and PWB to transition system responsibility from the contractor(s) to PWB during the phase.

Task 34 – Close Out Activities

The purpose of this task is for the Contractor to enable PWB’s staff to take over management of the Project by facilitating document development and hand-over from the vendor(s). A series of KPIs will be established in agreement with PWB to monitor the progress of this Phase of the Project.

5.34. Budgeted: \$165,254.92

- 5.34.1. *On-Sites - Required*
- 5.34.3. System Acceptance
 - 5.34.3.1.
 - Review AMI system operations manuals to ensure accuracy and practicality;
 - 5.34.3.2.
 - Provide post implementation “known issues” list and coordinate transition to vendor support for resolution
 - 5.34.3.3.
 - Coordinate exit of contractor(s)
 - 5.34.3.4.
 - Ensure PWB’s compliance and understanding of warranties;

- 5.34.3.5. • Submittal of Operations and Maintenance Manuals as needed;
- 5.34.3.6. • Work with PWB and Contractors to develop training and materials necessary for City staff to manage the new system and related work.;
- 5.34.3.7. • Coordinate training provided by Contractors to City staff
- 5.34.3.8. • If requested by PWB, perform training;
- 5.34.3.9 • End of project close out/summary report
- 5.34.4. Project Close Out and Reporting
- 5.34.4.1. • Draft final project summary report;
- 5.34.4.2. • Advise in determining the final acceptance and completion of the work and confirm transfer of all system documentation from selected vendor including specifications and any other design documents, full user documentation, and robust system administration documentation.

- 5.34.5. Lessons Learned
- 5.34.6. Transition Program to Operations

Task 35: Mitigation Task – PWB’s (Owner’s) Allowance

5.35. Budgeted: \$956,572.57

This task is for future work or optional work on the Project as yet to be defined. It shall be available to cover unique issues as they come up. The Mitigation Task budget is considered as PWB owned or Owner’s Allowance and not to be expended by the Contractor. Only through written authorization via an amendment to the Contract and a revised budget detail that replaces and updates Appendix 1, Budget Detail will these funds become available. The amendment must be approved and signed by all approving authorizes. No additional work under may begin, or funds be expended, until there is a signed amendment. The Contractor shall complete Form Exhibit B-3: Change Order and submit to the PWB’s Project Manager for review when requesting Mitigation funds. The PWB’s Project Manager will coordinate with the PWB Contract Administration Branch (CAB) Manager by submitting the internal pre-approval request form and attaching Form Exhibit B-3: Change Order. PWB CAB will work with the PWB Project Manager and Contractor to complete an Amendment to the Contract once approval has been provided internally to use the Mitigation funds. The City’s formal Contract Amendment process will follow. Copies distributed for record to all parties once signed by both parties approving authority.

Work Performed by Portland Water Bureau (PWB)

The PWB has assigned a Project Manager to oversee the Contractor’s work and provide support as needed. Specific duties the PWB’s Project Manager and designated staff will complete are included below. The PWB Project Manager for this Contract is **Marci Rees**. The PWB will provide the following to the Contractor.

- Support efforts to ensure that the scope, messaging, and imagery are consistent with those generally put forth by PWB.
- Identify and secure meeting locations, dates, and times.
- Assist Contractor as necessary including supplying appropriate background material and access to staff as required.
- Review monthly invoices and status reports and Project Work Plan, participate in meetings.
- Review agenda and meeting notes and provide comments/feedback within two (2) weeks of receipt of the meeting notes.
- Participate in development of all specifications.
- Prioritize list of specifications and requirements.
- Perform evaluation of proposals and make recommendations.
- Provide standard City of Portland and PWB bid templates as a starting point for development of bid solicitation documents.

- Review and provide feedback and approval on all vendor specifications.
- PWB acknowledges providing the necessary information to the Contractor, staff involvement, timely decision-making and feedback as required. A Project of this nature is a team effort that requires both Contractor and PWB resources at all levels to be engaged in required workshops, report reviews, recommendation discussions and incremental decision making.

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. The 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.

The City will enforce all social equity Contracting and Disadvantaged, Minority, Women and Emerging Small Business (D/M/W/ESB) subcontracting commitments submitted by the Contractor in its Proposal. For Contracts valued \$50,000 or more, the Contractor shall submit subcontractor payment and utilization information electronically, reporting ALL subcontractors employed in the performance of this agreement. More information on this process may be viewed on the City Procurement website at: <https://www.portlandoregon.gov/brfs/75932>. Contact the PTE Contract Compliance Specialist for submission guidelines.

COMPENSATION

The maximum that the Contractor can be paid on this Contract is **\$5,464,248** (hereafter the "not to exceed" amount.). The "not to exceed" amount includes all payments to be made pursuant to this Contract, including reimbursable expenses, if any. Nothing in this Contract requires the City to pay for work that does not meet the Standard of Care or other requirements of the Contract. The actual amount to be paid Contractor may be less than that amount.

The City will pay Contractor based on these invoices for acceptable work performed and approved until the "not to exceed" amount is reached. Thereafter, Contractor must complete work based on the Contract without additional compensation unless there is a change to the scope of work.

Any estimate of the hours necessary to perform the work is not binding on the City. The Contractor remains responsible if the estimate proves to be incorrect. Exceeding the number of estimated hours of work does not impose any liability on the City for additional payment. If work is completed before the "not to exceed" amount is reached, the Contractor's compensation will be based on the Contractor's bills previously submitted for acceptable work performed and approved.

No cost reallocation of funding between Contract tasks will be authorized only through an Amendment to the Contract and provided the total "not to exceed" original Contract amount is not exceeded. Only through written authorization via an amendment to the Contract and a revised budget detail that replaces and updates Appendix 1, Budget Detail, is this available. The amendment must be approved and signed by all approving authorizes. The Contractor shall complete Form Exhibit B-3: Change Order and submit to the PWB's Project Manager for review when requesting No cost reallocation of funding between Contract tasks. The PWB's Project Manager will coordinate with the PWB Contract Administration Branch (CAB) Manager by submitting the internal pre-approval request form and attaching Form Exhibit B-3: Change Order. PWB CAB will work with the PWB Project Manager and Contractor to complete an Amendment to the Contract once approval has been provided internally. The City's formal Contract Amendment process will follow. Copies distributed for record to all parties once signed by both parties approving authority.

PAYMENTS

On or before the 15th of each month, the Contractor shall submit to the City's Project Manager an invoice for work performed by the Contractor during the preceding month. The invoice shall contain the City's Contract Number and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, and tasks performed. The Contractor shall also attach photocopies of claimed reimbursable expenses, if applicable. The Contractor shall stamp and approve all subcontractor invoices and note on the subcontractor 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 subcontractors – matching the subcontractor invoices. Prior to initial billing, the Contractor shall develop a billing format for approval by the City. No alcohol purchases are authorized or will be approved by PWB under this Contract. The City shall pay all amounts to which no dispute exists within 30 calendar days of receipt of the invoice. Payment of any bill, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved. The Contractor shall make full payment to its subcontractors within **10 business days following receipt of any payment made by the City to Contractor.**

Compensation to the Contractor shall be based on the following:

- Invoices submitted to the Portland Water Bureau Finance Department via email and includes the appropriate required information as outlined below in the Contract and includes all supporting documentation relating to charges expressed on the invoice. The invoice shall be emailed to wbaps@portlandoregon.gov.
- Detailed monthly Project Progress Reports submitted to the Portland Water Bureau Project Manager as required under the scope of work. The monthly Project Progress Report shall be emailed to the Portland Water Bureau Project Manager.

The Contractor is required to follow Generally Accepted Accounting Principles (GAAP). Personal expenditures or expenditures not related to the Project or part of the Contract are not eligible for reimbursement. On or before the 15th of each month, the Contractor shall submit to the Water Bureau Accounts Payable Department an invoice for work performed by the Contractor during the preceding month.

The Contractor shall enter all pertinent information below on their invoice in order for the City to review and authorize processing of invoices for payment. Invoices shall be emailed to: wbaps@portlandoregon.gov.

- A. Contract Number, Water Bureau's Project Title, and the Phase (if phases have been identified)
- B. Invoice date
- C. Date range during which the services are being invoiced for work provided
- D. Invoice number. The last invoice submitted on the Project must be clearly labeled "Final Invoice"
- E. PWB Project Manager's name
- F. Original Contract total, not to exceed amount broken out by: Phase & Task (as applicable)
- G. Reflect additional funds associated with a Contract amendment(s) and show the revised/current Contract amount
- H. Paid-to-date amount showing the amount submitted prior to the current invoice (regardless of payment status)
- I. Amount being invoiced for the current invoice
- J. Balance remaining on the Contract after receipt of payment for the current invoice
- K. Contractor shall describe all services performed with particularity and by whom it was performed (Contractor's individuals or subcontractor, labor category, direct labor rate, hours worked during the period) and shall itemize and explain all expenses for which reimbursement is claimed. If reimbursable expenses are authorized, identify by line item categories
- L. The Contractor shall stamp and approve all subcontractor invoices and note on subcontractor invoice what they are approving as "billable" under the Contract.
- M. The billing from the Contractor must clearly roll up labor and reimbursable costs for the prime and subcontractors – matching the subcontractor invoices

Prior to initial billing, the Contractor shall develop a billing format for approval by the City. Submission of the draft billing document shall be emailed to the PWB Project Manager and CAB for final review and approval.

PAYMENT TERMS: Net 30 Days

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

The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the City to the Contractor. The City will pay Contractor invoices via check. All payments shall be in United States currency.

CONFIDENTIALITY AND NON-DISCLOSURE

All deliverables under the Contract are considered confidential until and unless determined otherwise by the Water Bureau. Final decisions about what is or is not confidential will be made by the Water Bureau Administrator.

Confidential Information. Contractor acknowledges that it and its employees, subcontractors or agents may, in the course of performing the Services under this Contract, be exposed to or acquire information that is confidential to Water Bureau or Water Bureau's clients. Any and all information of any form obtained by the Contractor or its employees or agents in the performance of this Contract shall be deemed to be confidential information of PWB ("Confidential Information").

Non-Disclosure. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose

CONTRACTOR PERSONNEL

The Contractor shall assign the following personnel to do the work in the capacities designated. The Contractor’s hourly rates identified shall remain constant throughout the term of the Contract. This applies to any and all Contracts and Contract Amendments and subcontractors’ rates. The Contractor may request an Hourly Rate increase prior to the City’s new Fiscal Year for each year the Contract is active. The request shall be made no later than May 15 of each calendar year for the City’s following Fiscal Year. The City’s Fiscal Year is from July 1 through June 30 of each year. This does not guarantee that the request will be approved. Any increases will be at the discretion of the City and based on the City’s available budget. In no way shall the cost of hours billed by the Contractor exceed the total Contract amount throughout the term of this Contract.

NAME	ROLE	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
Mr. Joel Carty	President & Principal Consultant	\$195.00	\$198.90	\$202.88	\$206.94	\$211.08	\$215.30	\$219.61
Ms. Darlene McNichol	Senior Director of AMI Consulting	\$175.00	\$178.50	\$182.07	\$185.71	\$189.42	\$193.21	\$197.07
Mr. Brayden Doody	VP Program Management	\$190.00	\$193.80	\$197.68	\$201.63	\$205.66	\$209.77	\$213.97
Mr. David Hanes	Director of Consulting Services	\$160.00	\$163.20	\$166.46	\$169.79	\$173.19	\$176.65	\$180.18
Mr. Dan Donovan	Director of Consulting Services	\$160.00	\$163.20	\$166.46	\$169.79	\$173.19	\$176.65	\$180.18
Mr. Jake Mather	Director of Program Management	\$160.00	\$163.20	\$166.46	\$169.79	\$173.19	\$176.65	\$180.18
Mr. Kyle Giedraitis	Manager	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Ms. Joumana Chebbani	Consultant	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Ms. Diane McMahon	Quality Assurance Manager	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Mr. Jamie Wagler	Consultant	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Mr. Logan Tacoma	Consultant	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Mr. Mark Wedgewood	Consultant	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
Contractor’s Non-key Personnel Resources	VP of Program Management	\$190.00	\$193.80	\$197.68	\$201.63	\$205.66	\$209.77	\$213.97
	Senior Director	\$175.00	\$178.50	\$182.07	\$185.71	\$189.42	\$193.21	\$197.07
	Director	\$160.00	\$163.20	\$166.46	\$169.79	\$173.19	\$176.65	\$180.18
	Manager	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
	Consultant	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92
	Quality Assurance Manager	\$150.00	\$153.00	\$156.06	\$159.18	\$162.36	\$165.61	\$168.92

SUBCONTRACTORS

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

NAME	DMWESB CERTIFICATION TYPE	ROLE ON PROJECT	ESTIMATED SUBCONTRACT PERCENTAGE	ESTIMATED SUBCONTRACT AMOUNT
CMTS Inc.	DBE, MBE COBID #: 10170	Field Inspections	62%	\$717,588.37
The Formation Lab, LLC	MBE, WBE, DBE, ESB; COBID #: 12434	Public Outreach, Change Management & Equity Plan	25%	\$293,654.83
Asset Management Professionals LLC;	ESB, MBE COBID #: 10297	Project Management	7%	\$85,502.00
Donaldson Consulting LLC;	DBE, MBE, WBE COBID #: 5374	Public Outreach, Change Management	6%	\$66,650.00
Subtotal, before Mitigation / Contingency & Mark-up			100%	\$1,163,395.20
Mitigation / Contingency				\$91,102.20
Subtotal including Mitigation / Contingency				\$1,254,497.40
5% Mark-up				\$62,724.87
Total				\$1,317,222.27

SUBCONTRACTORS HOURLY RATES

The following hourly rates below apply to the Contractor's subconsultants. Compensation for subcontractors shall be limited to the same restrictions imposed on the Contractor. Compensation for subcontractors shall be subject to the same billing restrictions and requirements as those of the Contractor. Contractor may bill subcontractor services at cost plus a 5% mark-up and shall not be subject to any cost increase. Other direct expenses, as stated under Standard Reimbursable Costs, shall be billed at cost without mark-up. Allowable subcontractor services can only be marked-up once. For example, the Contractor is not allowed to mark-up on a second-tier subcontractor's services if it has already been marked-up by the Contractor's subcontractor. Mark-up is not allowed when using intergovernmental resources to complete work and will not be accepted.

COMPANY NAME	POSITION TITLE/CLASSIFICATION	HOURLY RATE
The Formation Lab, LLC	Senior Consultant	\$248.00
	Consultant	\$178.00
CMTS Inc.	Lead Field Inspector	\$98.96
	Inspector	\$92.06
Asset Management Professionals LLC	Senior Consultant	\$190.00
	Consultant	\$150.00
Donaldson Consulting LLC	Senior Consultant	\$250.00
	Consultant	\$175.00

SOCIAL EQUITY CONTRACTING AND DISADVANTAGED, MINORITY, WOMEN AND EMERGING SMALL BUSINESS

Total subcontracting to COBID certified firms on this contract is estimated at **\$1,254,497.40** or **23%** of the Contract Amount. Note that this COBID value includes a portion of the Mitigation Task / Contingency amount, and is net of the allowable 5% mark-up on the COBID services.

The City will enforce all social equity Contracting and subcontracting commitments of COBID certified firms indicated in the table above. Contractor shall not add, eliminate, or replace any subcontractor assignments without the prior written consent of the Chief Procurement Officer, via an amendment to the Contract. Failure to use the identified COBID certified subcontractors without prior written consent is a material breach of contract. Any changes must be reported and submitted to the PTE Contract Compliance Specialist. All changes to this Contract, including changes to the subcontractor participation, must be made by written amendment, and approved by the Chief Procurement Officer to be valid.


For Contracts valued \$50,000 or more, the Contractor shall submit subcontractor payment and utilization information electronically in the Contract Compliance Reporting System, reporting ALL subcontractors employed in the performance of this agreement. More information on this process may be viewed on the City Procurement website at: <https://www.portlandoregon.gov/brfs/75932>.

APPENDIX 1, BUDGET DETAIL

Automated Meter Reading and Advanced Metering Infrastructure Project Project Budget - Amendment 3							
Project Tasks & Deliverables			Personnel/Title/Rate				
			Organization	Diameter Services	COBID - 1	Disbursement - Diameter Services	Total
Project Phase	Task Reference	Task Name	Role	PRIME	COBID	PRIME	
Phase 2 Procure	Task 1	Meetings - Procure		\$ 89,200.00	\$ 3,691.87	\$ -	\$ 92,891.87
Phase 2 Procure	Task 2	Project Management - Procure		\$ 92,320.00	\$ 39,957.79	\$ -	\$ 132,277.79
Phase 2 Procure	Task 3	Public Outreach Planning - Procure		\$ 19,620.00	\$ 142,222.50	\$ -	\$ 161,842.50
Phase 2 Procure	Task 4	AMI RFP Development - Procure & Negotiation		\$ 115,600.00	\$ -	\$ 9,850.00	\$ 125,450.00
Phase 2 Procure	Task 5	Customer Portal - Procure & Negotiation		\$ 110,460.00	\$ -	\$ 4,650.00	\$ 115,110.00
Phase 2 Procure	Task 6	Vendor Engagement		\$ 40,800.00	\$ -	\$ -	\$ 40,800.00
Phase 3 Start Up	Task 7	Project Management & Meetings - Startup		\$ 151,097.70	\$ -	\$ 44,370.00	\$ 195,467.70
Phase 3 Start Up	Task 8	Data Collector Deployment Coordination - Startup		\$ 37,658.40	\$ -	\$ 8,874.00	\$ 46,532.40
Phase 3 Start Up	Task 9	System Integration Coordination		\$ 99,715.20	\$ -	\$ -	\$ 99,715.20
Phase 3 Start Up	Task 10	Public Outreach Development		\$ 26,928.00	\$ 79,853.76	\$ -	\$ 106,781.76
Phase 3 Start Up	Task 11	User Acceptance Testing		\$ 97,593.60	\$ -	\$ -	\$ 97,593.60
Phase 3 Start Up	Task 12	Change Management Planning		\$ 37,903.20	\$ 47,930.25	\$ -	\$ 85,833.45
Phase 4a Proof of Concept	Task 13	Project Management & Meetings - POC		\$ 77,925.96	\$ -	\$ 36,205.92	\$ 114,131.88
Phase 4a Proof of Concept	Task 14	POC Evaluation		\$ 23,762.74	\$ -	\$ -	\$ 23,762.74
Phase 4a Proof of Concept	Task 15	Data Collector Deployment Coordination - POC		\$ 20,891.23	\$ -	\$ -	\$ 20,891.23
Phase 4a Proof of Concept	Task 16	Contract Management - POC		\$ 43,072.56	\$ -	\$ -	\$ 43,072.56
Phase 4a Proof of Concept	Task 17	Public Outreach Coordination - POC		\$ 16,979.33	\$ 32,510.42	\$ -	\$ 49,489.75
Phase 4a Proof of Concept	Task 18	Change Management POC		\$ 16,230.24	\$ 75,656.64	\$ -	\$ 91,886.88
Phase 4a Proof of Concept	Task 19	Quality Assurance & Approvals - POC		\$ 155,477.38	\$ -	\$ -	\$ 155,477.38
Phase 4a Proof of Concept	Task 20	Materials Handling & Tracking - POC		\$ 25,385.76	\$ -	\$ -	\$ 25,385.76
Phase 4a Proof of Concept	Task 21	Field Inspection Coordination - POC		\$ 39,327.12	\$ -	\$ -	\$ 39,327.12
Phase 4a Proof of Concept	Task 22	Field Inspection COBID - POC		\$ -	\$ 75,674.12	\$ 6,762.60	\$ 82,436.72
Phase 4a Proof of Concept	Task 23	Data Integration - POC		\$ 21,952.44	\$ -	\$ -	\$ 21,952.44
Phase 4b Installation and Deployment	Task 24	Project Management & Meetings - Install		\$ 220,911.67	\$ -	\$ 184,650.19	\$ 405,561.86
Phase 4b Installation and Deployment	Task 25	Data Collector Deployment Coordination - Install		\$ 15,918.12	\$ -	\$ -	\$ 15,918.12
Phase 4b Installation and Deployment	Task 26	Contract Management - Install		\$ 145,597.74	\$ -	\$ -	\$ 145,597.74
Phase 4b Installation and Deployment	Task 27	Public Outreach Coordination - Install		\$ 29,671.38	\$ 16,027.64	\$ -	\$ 45,699.02
Phase 4b Installation and Deployment	Task 28	Change Management - Install		\$ 40,750.39	\$ 42,021.29	\$ -	\$ 82,771.68
Phase 4b Installation and Deployment	Task 29	Quality Assurance & Approvals - Install		\$ 677,029.48	\$ -	\$ -	\$ 677,029.48
Phase 4b Installation and Deployment	Task 30	Materials Handling - Install		\$ 77,680.43	\$ -	\$ -	\$ 77,680.43
Phase 4b Installation and Deployment	Task 31	Field Inspections Coordination - Install		\$ 101,239.24	\$ -	\$ 49,611.47	\$ 150,850.71
Phase 4b Installation and Deployment	Task 32	Field Inspections COBID - Install		\$ -	\$ 666,018.73	\$ -	\$ 666,018.73
Phase 4b Installation and Deployment	Task 33	Data Integration Full Implementation		\$ 107,182.01	\$ -	\$ -	\$ 107,182.01
Phase 5 Close Out	Task 34	Close Out Activities		\$ 141,712.02	\$ -	\$ 23,542.90	\$ 165,254.92
	Subtotal			\$ 2,917,593.34	\$ 1,221,565.01	\$ 368,517.08	\$ 4,507,675.43
Phase 5 Close Out	Task 35	Mitigation Task / Contingency		\$ 860,915.31	\$ 95,657.26	\$ -	\$ 956,572.57
	Grand Total			\$ 3,778,508.65	\$ 1,317,222.27	\$ 368,517.08	\$ 5,464,248.00
	Allowable Markup (5%) on Subconsultant				\$ 62,724.87		
	Sub Total, Net of Markup			\$ 3,778,508.65	\$ 1,254,497.40	\$ 368,517.08	\$ 5,401,523.13
	D/M/W/ESBs (%)				23.0%		

**Exhibit A-1
Sample Forms**

STATUS REPORT

	BUREAU NAME	Bureau Logo
Contractor		Project Title
Contract No.		Report Date
Contract Date		Submitted by:

1. Key Status Indicators:

Description	No	Yes	Explanation
Has scope changed?			
Will target dates slip?			
Are there resource problems?			
Any other issues?			

2. Major Activities Completed For Reporting Month (Key Accomplishments):

Activity	Comment(s)

3. Major Activities Planned For Reporting Month and Not Completed:

Activity	Comment(s)

4. Major Activities Planned For Next Week:

Activity	Comment(s)

5. Status of Key Team Deliverables:

Deliverable	Comment(s)

6. Major Issues Requiring Immediate Attention:

Issue	Resolution

7. Weekly Summary of Performance by Individual

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

Individual's Name:

Scheduled Activities	complete	incomplete	Comment(s)

Exhibit B: FINAL ACCEPTANCE CERTIFICATE

(08/19)

On this ____ day of _____, 20__, the City certifies Final Acceptance of (name Deliverable(s)), in accordance with Contract No. _____. This Certificate of Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverables (or combination of Products) described herein.

-- OR --

FINAL ACCEPTANCE CERTIFICATE WITH EXCEPTIONS

On this ____ day of _____, 20__, the City certifies Final Acceptance of (name of Deliverable(s)), in accordance with Contract No. _____. This Certificate of Final Acceptance is issued subject to the following exceptions:

- 1.
- 2.
- 3.

Exceptions must be completed by _____. If Exceptions are not completed by _____, the City may revoke Final Acceptance of the Deliverables.

This Certificate of Final Acceptance is issued subject to and in accordance with the Contract, all defined terms having the meanings as set forth in the Contract, and without prejudice to any claims which subsequently may arise in connection with Defects in the Deliverable(s) described herein.


CITY OF PORTLAND

Authorized Signature Date

Printed Name

Title

Exhibit C: CHANGE ORDER

	BUREAU NAME	LOGO

CHANGE ORDER

Contractor		Project Title	
Contract No.		Change Order No.	*SAMPLE*
Contract Date		Change Order Date	

Select	Type	Description and Reason for Change	Modification to:
<input type="checkbox"/>	Time		Project Schedule and/or Contract
<input type="checkbox"/>	Scope or Specifications		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Deliverables		Statement of Work Acceptance Test Plan
<input type="checkbox"/>	Price		Statement of Work and/or Contract
<input type="checkbox"/>	Terms and Conditions		Request Amendment to Contract
<input type="checkbox"/>	Other		

1. Additional time is necessary and the Project Schedule for the Statement of Work or a specific Deliverable is hereby extended through **(DATE)** or modified as shown on the attached Project Schedule.

2. Additional work or a change in work or Specifications is necessary. **For example, changes to the Statement of Work, Deliverables and/or the Acceptance.**

3. A price adjustment is necessary for the following Deliverables. These changes will NOT affect the total not-to-exceed value of the Contract. **For example, price changes that show the original price and the modified price.**

4. An Amendment to the Contract is requested for the following reasons. **For example, any change to the total value of the Contract, the term or ending date of the Contract, or the Contract terms and conditions requires an Amendment.**

5. An Amendment to the Contract that requires use of Mitigation Funds (Owner’s Allowance) is necessary and requested for the following reasons. **For example, any change to the total value of the Contract, the term or ending date of the Contract, or the Contract terms and conditions requires an Amendment.**

The Change Order is subject to the terms and conditions of the above-referenced Contract.

The rest of the Statement of Work shall remain unchanged and in full force and effect.

CITY OF PORTLAND

CONTRACTOR

 PWB Workgroup Director Date

 Authorized Signature Date

 Printed Name

 Printed Name

City Project Manager
 Title

President & Principal Consultant
 Title