

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

CONTRACT NO. \_\_\_\_\_

**SHORT TITLE OF WORK PROJECT:  
UIC CAT-3 Package #4**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and Kennedy/Jenks Consultants, Inc., hereafter called Contractor. The City's Project Manager for this contract is Patty Nelson.

**Effective Date and Duration**

This contract shall become effective on April 29, 2011. This contract shall expire, unless otherwise terminated or extended, on May 31, 2015.

**Consideration**

- (a) City agrees to pay Contractor a sum not to exceed \$262,106 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

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**CONTRACTOR DATA AND CERTIFICATION**Name (please print): Kennedy/Jenks Consultants, Inc.Address: 200 SW Market St #500, Portland, OR 97201Employer Identification Number (EIN) 94-2147007**[INDEPENDENT CONTRACTORS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN) - LEAVE BLANK IF NO EIN]**City of Portland Business License # 414828Citizenship: Nonresident alien ☐ Yes ☒ NoBusiness Designation (check one): ☐ Individual ☐ Sole Proprietorship ☐ Partnership ☒ Corporation  
☐ Limited Liability Co (LLC) ☐ Estate/Trust ☐ Public Service Corp. ☐ Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject you to 20 percent backup withholding.

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**STANDARD CONTRACT PROVISIONS FOR  
PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)****1. Access to Records**

The Contractor shall maintain, and the City of Portland ("City") and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

**2. Audits**

- (a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.
- (b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.
- (c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.



### 3. **Effective Date and Duration**

The passage of the contract expiration date (as recorded on reverse side) shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

### 4. **Order of Precedence**

This contract consists of the terms and conditions of this contract, the Request for Proposals (RFP) issued by the City, if any, and the Contractor's proposal in response to the RFP. In the event of any apparent or alleged conflict between these various documents, the following order of precedence shall apply to resolve the conflict: a) this contract's terms and conditions, b) the City's RFP, and c) the Contractor's proposal in response to the RFP.

### 5. **Early Termination of Agreement**

(a) The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

(b) The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(c) Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

### 6. **Payment on Early Termination**

(a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Agreement** hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.

(b) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.

(c) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.

(d) In the event of early termination all of the Contractor's work product will become and remain property of the City.

### 7. **Remedies**

(a) In the event of termination under subsection 5(c), **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess.

(b) The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

(c) In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 5(c), **Early Termination of Agreement** and section 6(b), **Payment on Early Termination** hereof.

### 8. **Subcontracts and Assignment**

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

### 9. **Compliance with Applicable Law**

In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations including the City's Equal Benefits Ordinance and its administrative rules, all of which are incorporated by this reference. Failure to comply with the Ordinance permits the City to impose sanctions or require remedial actions as stated in Section 13.1 of the administrative rules. Contractor shall complete the INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT, which is attached hereto and by this reference made a part hereof.

#### (a) **Indemnity - Claims for Other than Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses arising out of death, or bodily injury to persons, or property damage caused by the negligence of the City.



**(b) Indemnity - Claims for Professional Liability**

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this agreement. Nothing in this section requires the Contractor or its insurer to indemnify the City for any claims or losses caused by the negligence of the City.

**(c) Indemnity - Standard of Care**

If Contractor's services involve engineering or consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

**10. Insurance**

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

- (a) Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

- (b)   X   Required and attached or Waived by City Attorney: \_\_\_\_\_

- General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Portland, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract:

- (c)   X   Required and attached or Waived by City Attorney: \_\_\_\_\_

Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or nonowned vehicles, as applicable:

- (d)   X   Required and attached or Waived by City Attorney: \_\_\_\_\_

Professional Liability insurance with a combined single limit of not less than \$1,000,000 per claim, incident, or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract. If insurance coverage is provided on a "claims made" basis, the successful Proposer shall acquire a "tail" coverage or continue the same coverage for three years after completion of the contract, provided coverage is available and economically feasible. If such coverage is not available or economically feasible, contractor shall notify City immediately.

- (e) On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.
- (f) Certificates of insurance. As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time contractor returns signed contracts. The certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause and 10-day non-payment clause that provides that the insurance shall not terminate or be cancelled without 30 days or 10 days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**11. Ownership of Work Product**

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

**12. Nondiscrimination**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.



**13. Successors in Interest**

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

**14. Severability**

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

**15. Waiver**

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

**16. Errors**

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

**17. Governing Law**

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

**18. Amendments**

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Chief Procurement Officer to be valid. Any amendment that increases the original contract amount by more than 25% must be approved by the City Council to be valid.

**19. Business License**

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement. Additionally, the 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.

**20. Prohibited Interest**

(a) No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement.

**21. Payment to Vendors and Subcontractors**

The Contractor shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. The Contractor shall not take or fail to take any action in a manner that causes the City or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

**Merger Clause**

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE, SHALL BE EFFECTIVE ONLY IN SPECIFIC INSTANCES AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

**OPTIONAL PROVISIONS (selected by City Project Manager)****22. Arbitration: / ☒ / Not Applicable / ☐ / Applicable (consult with City Attorney's Office before finalizing as applicable)**

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any



litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Agreement for undisputed portions of work.

23. Progress Reports: / X / Applicable / \_\_\_ / Not Applicable

The Contractor shall provide monthly progress reports to the Project Manager. If applicable, the STATEMENT OF THE WORK should list what information the Contractor must include in monthly progress reports.

24. Contractor's Personnel: / X / Applicable / \_\_\_ / Not Applicable

The Contractor shall assign the following personnel to do the work in the capacities designated: If applicable, list selected personnel in the STATEMENT OF THE WORK. The Contractor shall not change personnel assignments without the prior written consent of the City.

25. Subcontractors: / X / Applicable / \_\_\_ / Not Applicable

The City requires Contractors to use the Minority, Women and Emerging Small Business (M/W/ESB) subcontractors identified in their proposals, and as such the Contractor shall assign these subcontractors as listed in the STATEMENT OF THE WORK to perform work in the capacities designated. The Contractor shall not change subcontractor assignments without the prior written consent of the Chief Procurement Officer.

### STATEMENT OF THE WORK AND PAYMENT SCHEDULE

#### SCOPE OF WORK

Design of stormwater improvements to manage stormwater while bringing existing Underground Injection Control (UIC) facilities, commonly known as "sumps" into compliance with Oregon Department of Environmental Quality (DEQ) regulations. This project will design stormwater improvements for the UIC Catatory 3, Package 4 group of UIC's in SE Portland. Design will be completed in accordance with the City of Portland's Stormwater Management Manual and Bureau of Environmental Services (BES) Sewer and Drainage Design Manual. Selection of alternatives will be consistent with procedures described in the Correction Action Plan.

Contractor shall perform the tasks set forth in the attached Exhibit A - Scope of Work.

#### CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT
Brad Moore	Project Manager
Aaron Eder	Project Engineer
Dave Elkin	Landscape Architect

Any changes to the above-listed personnel shall be requested by Contractor and approved by the City in writing.

#### SUBCONTRACTORS

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

NAME	ROLE ON PROJECT
GreenWorks PC	Landscape design
3D Infusion	CAD

Any changes to the above-listed subcontractors shall be requested by Contractor and approved by the City in writing.



The City will enforce all diversity in workforce and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Contractor in its Proposal. For contracts valued \$100,000 or more, the Contractor shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subcontractors employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandonline.com/shared/cfm/image.cfm?id=119851>.

## **COMPENSATION**

Contractor shall be paid the not to exceed amount of \$262,106. The "not to exceed amount" is the maximum amount of compensation due the Contractor for all the work required by the contract. Errors in estimating the number of hours necessary to perform the work is the sole responsibility of the Contractor.

The Contractor will be paid based on its hourly rates, costs incurred in paying its subcontractors, if any, plus any authorized expenses, as set forth in more detail below and in the attached **Exhibit B - Fee Schedule**. Any change to task amounts shown on Exhibit B shall be requested by Contractor and approved by the City's Project Manager in writing.

### **Hourly Rates**

The billing rates shall not exceed those set forth in the attached **Exhibit B - Fee Schedule**.

### **Adjustment of Hourly Rates Due to Inflation**

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

Rate increases are subject to the following limitations:

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

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

### **BES Multiplier Policy**

The multiplier applied to salaries shall not exceed 3.1. The multiplier shall include the following non-reimbursable expenses: fringe benefits, payroll bonuses, autos and other defined perquisites, telecommunications, facsimile services, overhead expenses including but not limited to local and long distance telephone, parking, delivery/courier, general business and professional liability insurance, advertising costs, postage, internal copying, lease of office equipment, mileage and other local travel costs, information technology (including computer time and CAD services and other related highly specialized equipment), all other direct costs not identified as reimbursable, other indirect costs and profit.

### **Standard Reimbursable Costs**

The following costs will be reimbursed without mark-up.

- **Out-of-Town Travel**. Travel (transportation, lodging and per diem) of Contractor and/or experts when specified in the contract or requested by BES, directly attributed to specific tasks and when to a location outside a 100 mile radius of Contractor's project office. Travel costs will be reimbursed in accordance with the City's Travel Expense Guidelines which are based on the General Services Administration (GSA) per diem rates.
- **Photocopying/Reproduction Costs**. Reproduction of required drawings, reports, specifications, bidding documents, in excess of the number required as part of the contract excluding the cost of reproduction for Contractor's or sub's own use.

### **Subconsultant Costs**

Compensation for subconsultants shall be limited to the same restrictions imposed on the Contractor. The markup on subconsultant services for this contract is 5%.



**Progress Payments**

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

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any invoice, 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.

**Payment Terms: Net 30 Days**



## INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

## SECTION A

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

Contractor Signature \_\_\_\_\_ Date \_\_\_\_\_ Entity \_\_\_\_\_

**If entity does not have Workers' Compensation Insurance, City Project Manager and Contractor complete the remainder of this form.**

## SECTION B

ORS 670.600 Independent contractor standards. As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

City Project Manager Signature \_\_\_\_\_

Date \_\_\_\_\_

## SECTION C

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:

- ☐ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
- ☐ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- ☐ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- ☐ D. Labor or services are performed only pursuant to written contracts;
- ☐ E. Labor or services are performed for two or more different persons within a period of one year; or
- ☐ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature \_\_\_\_\_

Date \_\_\_\_\_



**CONTRACTOR SIGNATURE:**

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

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

I, the undersigned, agree to perform work outlined in this contract in accordance to the STANDARD CONTRACT PROVISIONS, the terms and conditions, made part of this contract by reference, and the STATEMENT OF THE WORK made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer and is in compliance with the Equal Benefits Program as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

**KENNEDY/JENKS CONSULTANTS, INC.**

BY: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Contract No. \_\_\_\_\_

Contract Title: UIC CAT-3 Package #4**CITY OF PORTLAND SIGNATURES:**By: n/a  
Bureau Director

Date: \_\_\_\_\_

By: n/a  
Chief Procurement Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Elected Official

Date: \_\_\_\_\_

Approved:

By: \_\_\_\_\_  
Office of City Auditor

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Office of City Attorney

Date: \_\_\_\_\_



## Exhibit A – Scope of Work

The City of Portland, Bureau of Environmental Services (BES) operates and maintains a number of stormwater sump systems. With regulatory changes these facilities have been reclassified as Underground Injection Control (UICs). The Oregon Department of Environmental Quality (DEQ) regulates these facilities and requires that a minimum separation be provided between the bottom of the sump facility and the top of the normal groundwater level. BES has identified UICs that are out of compliance with DEQ requirements as part of the Bureau's UIC program. This project will evaluate 26 UICs and develop stormwater designs to bring these facilities/sites into compliance with DEQ regulations.

In November 2008, Category 3 UICs were evaluated and grouped for pre-design packages. A total of 190 UICs were identified as Category 3 UICs that did not meet vertical separation requirements between the bottom of the UIC and seasonal high ground water. There are five packages within Category 3 UICs to address the identified 190 UICs. This project will address Package 4.

The initial planning work for Category 3, Package 4 was completed in March 2010 by BES. This package identified a total of 26 UICs in Southeast Portland for evaluation and design to meet DEQ requirements. All corrective action for designated Category 3 UICs must be complete by 2015 to meet the City's agreement with DEQ. The 26 UIC sites are shown on a map and summarized in a table, both attached at the end of this document. The 26 UIC sites are indicated in the following table:

Site ID	UIC ID	Address	Site ID	UIC ID	Address
1	ANA 841	9956 SE Harold St	15	ADT 688	12532 SE Ellis St
2	ADW 233	5500 SE 104 <sup>th</sup> Ave	16	ADU 744	12524 SE Schiller St
3	ADW 229	5436 SE 109 <sup>th</sup> Ave	17	ADU 758	12908 SE Mitchell St
4	ADV 191	11080 SE Harold St	18	ADU 755	13000 SE Harold St
5	ADW 230	5440 SE 111 <sup>th</sup> Ave	19	ADU 753	13030 SE Mitchell St
6	ANA 889	11305 SE Harold St	20	ADU 754	13030 SE Mitchell St
7	AMY 402	11246 SE Harold St	21	AMV 613	5640 SE 137 <sup>th</sup> Ave
8	ADW 264	5450 SE 114 <sup>th</sup> Pl	22	ADT 730	14037 SE Foster Rd
9	ADU 734	5423 SE 121 <sup>st</sup> Ave	23	ADW 304	11741 SE Foster Rd
10	ADU 735	5500 SE 121 <sup>st</sup> Ave	24	ACQ 013	11716 SE Foster Rd
12	ADT 687	12246 SE Ellis St	25	ADW 303	11501 SE Foster Rd
13	ADT 696	12319 SE Ramona St	26	ADW 312	11540 SE Foster Rd
14	ADT 691	12506 SE Reedway St	27	ADV 121	6200 SE 102 <sup>nd</sup> Ave

(NOTE: Site ID 11 was eliminated due to private ownership)

The City of Portland will provide the following:

- Planning Document for UIC Category 3, Package 4, dated March 2010
- Correction Action Plan document
- Preliminary survey of UIC Sites
- Geotechnical data (preliminary infiltration rates, field investigations upon request post 30% design phase)
- Environmental data (level 1 provided initially, additional investigation upon request post 30%)

### 100 PROJECT MANAGEMENT (Task Lead: Brad Moore, Kennedy/Jenks)

**Objective:** To meet the project objectives and to plan, organize, direct, control and report activities necessary to deliver the respective products and objectives on time and within budget.

#### 110 - Project Management Plan

Prepare a Project Management Plan that includes:

- Scope of work / work plan
- Project schedule



- Project budget
- Project coordination procedures
- Project status report
- Invoicing and billing procedures
- Communication and reporting
- Change management procedures
- Project monitoring procedures
- Decision-making protocol and documentation systems for recording decisions
- QA/QC procedures and forms

The project management plan will be prepared in draft form for review and comment by the City. The final project management plan will incorporate City review comments and will be used as the basis for management of the project.

#### **120 - Project Schedule**

Develop and maintain the design schedule for the project in a format compatible with MS Project. The design schedule will outline all tasks required to develop, program and design the project. Activities performed by both the City, and the Consultant will be shown. Activity data shall include a description, duration, and activity links, and will be prepared at the task and subtask level of detail. A baseline schedule will be developed and included in the Draft Project Management Plan for review and comment by the City. A final baseline schedule will be included with the final Project Management Plan. Updated schedules will be provided reflecting baseline compared with current status on a monthly basis.

#### **130 - Status Reports**

K/J will provide monthly status reports in the format provided and agreed to in the Project Management Plan, including a budget spreadsheet and schedule updates and other reports as required by the City Project Manager throughout the project. This will include a Monthly Subconsultant Payment and Utilization Report in the City-prescribed format.

#### **140 - Coordination with City Project Manager**

K/J will attend meetings as requested by the City Project Manager to answer technical design questions and provide technical support. Weekly coordination meetings are assumed for this task.

#### **150 - Public Meetings**

K/J will prepare graphics and attend two public/neighborhood meetings in support of public involvement activities. Public meeting #1 is anticipated to occur at the conclusion of the review and evaluation phase (prior to design) to review and accept input for proposed facilities. Public meeting #2 is anticipated to occur at the conclusion of 60% design to inform the public on final design features.

#### **160 - Meeting Summaries**

K/J will participate in monthly and progress review meetings of the project team and prepare written summaries for these meetings. These meetings are expected to include BES Project Manager, BES Design Lead, K/J Project Manager and K/J Design Lead.

#### **170 - Design Decision Log**

K/J will prepare and maintain a Design Decision Log which will be updated as decisions are made and maintained in electronic format to facilitate distribution and information exchange.

#### **Phase 100 Deliverables:**

- Draft and final project management plan.
- Project schedule updates, as necessary.
- Monthly status reports.
- QA/QC Review Forms (with each Major Deliverable)
- Design Decision Log.



## **200 REVIEW AND EVALUATION (Task Lead Brad Moore, Kennedy/Jenks)**

**Objective:** To review project background and work completed to date, observe site conditions in the field, verify basis of design, confirm design approach, summarize findings and determine additional information (if any) necessary for preliminary and final design.

### **210 - Review and Evaluate Existing Information**

Review Project Technical Memoranda and related information previously prepared by BES.

### **220 - Conduct Site Visits**

Conduct two site visits with BES staff. A summary of the site visits will be included in the Basis of Design TM. Prior to conducting site visits, K/J will prepare a field inventory sheet in draft form for review by the City. The final version of the field inventory sheet will incorporate City review comments and will be completed for each site.

### **230 - Prepare Technical Memorandum Basis of Design**

K/J will prepare a Basis of Design Technical Memorandum based on review of office information and site visits. This memorandum will include a summary of findings from review of office information and the site visits, additional information section, a site plan showing UIC location, facility types and locations, storm inlets, basin limits, basin area, design flow and proposed approach to addressing the UIC. The approach selected will be consistent with procedures described in the Correction Action Plan. The additional information section will identify information needed to complete design. The Basis of Design Technical Memorandum will be prepared first in draft form for City review. The final version will address and incorporate City review comments.

#### **Phase 200 Deliverables:**

- **Basis of Design Technical Memorandum**

## **300 DESIGN SERVICES (Task Lead: Aaron Eder, Kennedy/Jenks)**

**Objective:** Develop preliminary design and final design for the project inclusive of final bid documents for construction. Design will be completed in accordance with the City of Portland (COP), BES Implementation Procedures for Capital Projects, BES Sewer and Drainage Design Manual, and the COP Stormwater Management Manual to bring existing UIC's into compliance with DEQ regulations.

### **Design Package Submittals**

K/J will prepare and submit design packages at major 30%, 60%, 90% and final design stage. Design submittals will include:

- Transmittal Memorandum
- QA/QC Check Sheets
- Plans
- Specifications
- Design Calculations
- Engineers Estimate
- Updated project schedule
- Completed comment/response forms (for submittals after 30%)

Ten hardcopies and 1 digital copy will be provided at each submittal stage. (Digital submittals will be made in pdf format and MS Word/Excel documents will be provided upon request.)

The Transmittal Memorandum will include a description of the submittal, identification of any major changes since previous submittal, identification of any key issues or questions that need to be addressed as part of



the review, and verification that the submittal has been reviewed for compliance with the contract by the Project Manager prior to submittal.

The QA/QC Check Sheets include K/J QA/QC and BES QA/QC Check List. BES QA/QC Check List includes all requirements for the relevant design phase, as outlined in the BES Engineering Services Quality Manual (Manual 2). These check sheets will be completed by the Project Manager prior to submittal to the City verifying requirements have been met.

Project schedule updates will be prepared as described in Task 120, with current updates provided with each design submittal.

Review comments will be returned with submittal with responses noted reflecting how or if the comments were addressed. If there are outstanding questions to resolve comment, these will be flagged and K/J will follow up as needed to resolve prior to submittal of revised documents.

Design review meetings will also be held to review documents and address comments. Meeting notes will be developed and distributed documenting meeting discussion and outcome.

### **310 – Prepare Base Mapping**

Prepare base mapping for all sites starting with field survey provided by City. Basemaps to include existing utilities, topographic features (e.g. curb, structures, edge of pavement, landscaping, sidewalk, driveways, etc). This mapping will form the basis for development of subsequent drawings submittals.

### **330 - 30% Design Documents**

Using the Basis of Design technical memorandum as the starting point, K/J will prepare and submit 30% documents. 30% drawings will be developed for each UIC site showing design of storm improvements to bring existing UIC into compliance with DEQ regulations. Design will take into consideration existing conditions (preliminary survey, preliminary geotech, level 1 environmental assessment, detailed records research, utilities, property lines) and provide a design that meet design requirements bringing the UIC into compliance. Plans will be developed showing existing conditions as well as designed storm water improvements to bring UIC into compliance. Plans will show the designed size and type of facility, location, and preliminary restoration requirements. A specification table of contents will be provided at the 30% design stage. Additional survey or site specific geotechnical or environmental information needed for completion of design shall be identified and requested in the transmittal memorandum.

### **360 - 60% Design Documents**

K/J will prepare and submit the 60% design package which incorporates review comments from the 30% design phase and additional design efforts to date. Plans will provide additional detail and refinement needed to confirm the proposed approach. Where utilities are not able to be avoided, utility conflicts will be identified and included on a Utility Conflict Log. Utility log shall include plan sheet reference showing conflict, utility owner, utility information (size, type), conflict description and required approach (e.g. protect and support, required relocation information, etc). Where improvements can not be constructed within existing public right-of-way, additional area needed to complete work on private property will be identified on the plan. In addition, property needs will be summarized in the transmittal memorandum. Property needs will include identification of the UIC site requiring the property, the property impacted, the type of easement needed (temporary or permanent), the size of the easement (consistent with what is shown on plans) and duration easement needed. The 60% Submittal shall include plans, inclusive of required details, preliminary traffic control plans, erosion control plans, utility relocation, property needs (e.g. temporary and/or permanent easements), site restoration, construction and general notes and special specifications. Special Specifications shall be developed from the 2010 Standard Specifications and the BES Special Provision Template, providing project specific information for the construction of the project.

### **390 - 90% Design Documents**

K/J will prepare and submit 90% documents reflect incorporation of review comments and design efforts to date. The 90% documents will represent a complete bid package for review. Specifications shall include a bid tabulation form. Supporting documentation for bid quantities shall be submitted for review. Quantity take-offs should be formatted to match bid documents. The Engineer's Estimate shall also include



supporting information reflecting basis of estimate and completion of the BES Project Cost Estimate Level of Confidence Form. Required utility relocates and permits will be identified in transmittal memorandum.

### **395 - Final Signed and Initial Plan Sets (Vellum) for routing**

K/J will prepare and submit a final bid package, inclusive of final stamped bid book and plans. Final package shall incorporate comments received to date as well as final design efforts. Plans shall be prepared on vellum for routing. Provide one print ready set along with 3 half size sets (plans and specs), and one electronic copy (Word, CADD and pdf).

### **399 - Final Design Technical Memorandum**

K/J will prepare and submit a Final Design Technical Memorandum. A draft version will be provided to City for review and comment. The final version will incorporate the City's review comments and a signed hard copy provided and pdf and MS Word format document submitted to the City. The Final Design Technical Memorandum will include:

- Project Description
- Basis of Design & Design Calculations and Modeling Results
- Construction Scope of Work
- Cost estimate and level of confidence
- Summary of required utility relocations
- Summary of property needed (easements)
- Construction Schedule

### **Phase 300 Deliverables**

- 330 – 30% Design Submittal
- 360 – 60% Design Submittal
- 390 – 90% Design Submittal
- 395 – Final Design Submittal: Stamped Bid Documents
- 399 – Final Design Technical Memorandum

## **400 BID PHASE SERVICES**

**Objective:** Assist BES during bidding, with clarifications, questions/answers and addenda, if necessary.

### **410 - Answer Questions**

Attend a pre-bid meeting to answer questions related to design

### **420 - Prepare Addenda if necessary**

### **Phase 400 Deliverables**

- Written responses to questions provided to BES Project Manager
- Update documents, prepare addenda if needed and provide to BES Project Manager

## **500 SERVICES DURING CONSTRUCTION**

**Objective:** Assist BES staff and provide design support during construction.

### **510 - Review Submittals**

### **520 - Prepare Change Orders, if necessary**

### **Phase 500 Deliverables**

- Submittal review in paper
- Change Orders, if necessary



### Fee Estimate

Kennedy/Jenks Consultants

1.00      1.05

KJ Contingency:

% K&J Markup:

GRAND TOTAL