



IRFP NUMBER 00001551

PROFESSIONAL, TECHNICAL, AND EXPERT SERVICES

City of Portland, Oregon
December 4, 2020

**INTERMEDIATE REQUEST FOR PROPOSALS
For
Charter Commission Facilitator**

PROPOSALS DUE: January 5, 2021 by 4:00 p.m.

A NON-MANDATORY PRE-SUBMITTAL MEETING has been scheduled for December 18, 2020 at 9:00 am PST, via Microsoft Teams. For an invite please contact Mark Ariza @ Mark.Ariza@portlandoregon.gov.

ELECTRONIC SUBMITTAL INSTRUCTIONS:

Submit proposals electronically by uploading the required proposal documents below to the City's Procurement Services vendor portal, BuySpeed found at: <https://procure.portlandoregon.gov/>. Refer to Electronic Submittal Instructions found within BuySpeed.

Proposal Submittal Checklist	
ONE (1) COMPLETE WRITTEN PROPOSAL	
ONE (1) COMPLETE REDACTED FOR PUBLIC DISCLOSURE COPY OF THE PROPOSAL (or a written statement of no redaction)	
ATTACHMENT 1 - PROFESSIONAL TECHNICAL & EXPERT (PTE) SERVICES PARTICIPATION DISCLOSURE FORM 1	
REFERENCES	
ADDENDA – INCLUDE ALL ADDENDA ISSUED FOR THIS RFP	

REFER ALL QUESTIONS TO:

Mark Ariza, Senior Procurement Specialist
Bureau of Revenue and Financial Services, Procurement Services
Phone: (503) 823-5680
Email: Mark.Ariza@portlandoregon.gov

GENERAL INSTRUCTIONS AND CONDITIONS

CORPORATE RESPONSIBILITY AND SOCIAL EQUITY CONTRACTING REQUIREMENTS – The City of Portland seeks to extend contracting opportunities to Certification Office for Business Inclusion and Diversity (COBID) certified firms in order to promote their economic growth and to provide additional competition for City contracts. Therefore, the City has established an overall 20% utilization goal in awarding PTE contracts to State of Oregon Certification Office for Business Inclusion and Diversity ("COBID") on all City PTE contracts.

CITY SUSTAINABILITY OBJECTIVES – The City has a history of striving to be more sustainable in its operations and planning. Starting with the City's Sustainable City Principles (1994) the City has established a variety of policies to guide its work on sustainability, including: the Sustainable Procurement Policy, Green Building Policy, Climate Action Plan, and the Stormwater Management Manual (to view these and related City policies, go to the Portland Policy Documents Website:

<https://www.portlandoregon.gov/citycode/index.cfm?&c=26818>). As applicable to City procurement, these policies guide the City to buy products and services that reduce the City's negative environmental, human health, and social impacts, while maintaining fiscal health in the short and long term. As such, the City seeks to do business with firms that will actively contribute to the City's sustainability objectives.

ENVIRONMENTAL CLAIMS – Upon request, the vendor must provide and make publicly available verifiable evidence supporting every environmental claim made about the products or services provided to the City. Environmental claims for which verifiable evidence must be provided include any claim provided on products, product packaging, product or service sales literature and websites, and information provided to respond to this solicitation.

INVESTIGATION – The Proposer shall make all investigations necessary to be informed regarding the service(s) to be performed under this request for proposal.

SPECIAL CONDITIONS – Where special conditions are written in the Request for Proposal ("RFP"), these special conditions shall take precedence over any conditions listed under the Professional, Technical, and Expert Service "General Instructions and Conditions".

CLARIFICATION OF REQUEST FOR PROPOSAL – Proposers who request a clarification of the RFP requirements must submit questions in writing to the person(s) shown in the REFER QUESTIONS TO section on the cover of this RFP, or present them verbally at a scheduled pre-submittal meeting, if one has been scheduled. The City must receive written questions no later than the date stated herein. The City will issue a response in the form of an addendum to the RFP if a substantive clarification is in order.

Oral instructions or information concerning the Request for Proposal given out by City bureaus, employees, or agents to prospective Proposers shall not bind the City.

ADDENDUM – Any change to this RFP shall be made by written addendum issued no later than 72 hours prior to the proposal due date. The City is not responsible for any explanation, clarification, or approval made or given in any manner except by addendum.

COST OF PROPOSAL – This Request for Proposal does not commit the City to pay any costs incurred by any Proposer in the submission of a proposal or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the services to be furnished under the Request for Proposal.

CANCELLATION – The City reserves the right to modify, revise, or cancel this RFP. Receipt and evaluation of proposals or the completion of interviews do not obligate the City to award a contract.

LATE PROPOSALS – Proposals received after the scheduled closing time for filing will be rejected as non-responsive and returned to the Proposer unopened.

REJECTION OF PROPOSALS – The City reserves the right to reject any or all responses to the Request for Proposal if it is found to be in the City's best interest to do so. In the City's discretion, litigation between the City and a Proposer may be cause for proposal rejection, regardless of when that litigation comes to the City's attention and regardless how the Proposer's proposal may have been scored. Proposals may also be rejected if they use subcontractors who are involved in litigation with the City. Proposers who are concerned about possible rejection on this basis should contact the City before submission of a proposal for a preliminary determination of whether its proposal will be rejected.

CITY OF PORTLAND TAX REGISTRATION NUMBER – Successful Proposer shall obtain a current City of Portland Tax Registration Number prior to initiation of contract and commencement of the work.

WORKERS' COMPENSATION INSURANCE – Successful Proposer shall be covered by Workers' Compensation Insurance or shall provide evidence that State law does not require such coverage.

CERTIFICATION AS AN EEO AFFIRMATIVE ACTION EMPLOYER – Successful Proposers must be certified prior to contract execution, as Equal Employment Opportunity Affirmative Action Employers as prescribed by Chapter 5.33.076 of the Code of the City of Portland.

EQUAL BENEFITS PROGRAM – Successful Proposers must certify prior to contract execution, that they provide benefits to their 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.

LOCAL CONTRACTING – If the final evaluation scores are otherwise equal, the City prefers goods or services that have been manufactured or produced by a Local Business. The City desires to employ local businesses in the purchase, lease, or sale of any personal property, public improvements, or services. The City wants the residents of the State of Oregon and SW Washington to benefit from optimizing local commerce and services, and the local employment opportunities they generate. [City of Portland [Resolution #36260](#)]

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

PUBLIC RECORDS – Any information provided to the City pursuant to this RFP shall be public record and subject to public disclosure pursuant to Oregon public records laws (ORS 192.410 to 192.505). Any portion of a proposal that the proposer claims as exempt from disclosure must meet the requirements of ORS 192.501(2) and ORS 192.502(4) and/or ORS 646.461 et seq. The fact that a proposer marks and segregates certain information as exempt from disclosure does not mean that the information is necessarily exempt. The City will make an independent determination regarding exemptions applicable to information that has been properly marked and redacted. Information that has not been properly marked and redacted may be disclosed in response to a public records request. When exempt information is mixed with nonexempt information, the nonexempt information must be disclosed.

If the City refuses to release the records, the proposer agrees to provide information sufficient to sustain its position to the District Attorney of Multnomah County, who currently considers such appeals. If the District Attorney orders that the records be disclosed, the City will notify the proposer in order for the proposer to take all appropriate legal action. The proposer further agrees to hold harmless, defend, and indemnify the City for all costs, expenses, and attorney fees that may be imposed on the City as a result of appealing any decision regarding the proposer's records.

The Chief Procurement Officer has the authority to waive minor irregularities and discrepancies that will not affect the competitiveness or fairness of the solicitation and selection process.

These Professional, Technical and Expert Services Request for Proposal "General Instructions and Conditions" are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be or may become available under ORS Chapter 279.

PART I SOLICITATION REQUIREMENTS

SECTION A GENERAL INFORMATION

1. PROJECT BACKGROUND

The City of Portland, Office of Management and Finance, is seeking proposals from individuals, firms, teams or Consultants, hereafter called “Proposer(s),” to facilitate the Charter Commission. Proposers should have demonstrated experience in group development and facilitation including with groups that have members of the public present.

Convened at least once every ten years, the Charter Commission reviews and recommends amendments to the City’s Charter. The Charter Commission is comprised of 20 Portlanders appointed by City Council. The upcoming Charter Commission will be appointed by December 15, 2020 and are appointed to two-year terms. The City Council may reappoint Commissioners to additional terms if needed.

The Charter Commission is an independent body. The Commission’s powers and duties include the following: (1) review and recommend amendments to the Charter; (2) determine its own rules of procedures; (3) while the Mayor or Council may request that the Charter Commission review specific sections of the Charter, the work and recommendations of the Charter Commission shall not be limited to such specific services; and (4) provide a written report of its findings to the City Council.

All Charter amendments proposed by the Charter Commission supported by an affirmative vote of at least fifteen members of the Charter Commission, after a public hearing process prescribed by the Council, shall be submitted to the voters of the City of Portland at the next primary or general election that is at least 120 days after the date the recommendations are presented to City Council. All Charter amendments proposed by the Charter Commission supported by an affirmative vote of a majority, but less than fifteen members of the Charter Commission shall be considered as recommendations to the City Council. The Council may, but is not required to, refer such amendments to the voters of the City of Portland.

2. SCOPE OF WORK

The Charter Commission’s work will involve extensive community engagement and Charter Commission meetings are subject to public meeting laws and shall include public testimony. The City also anticipates the Charter Commission to receive significant media attention and community advocacy.

Generally, the role of the Contractor will be to a) support the City in establishing the Charter Commission; and b) support the Charter Commission so that it can: solidify as a group, determine its approach to the work, and create policies and procedures that support its success. The successful Proposer will have familiarity with the City of Portland and an understanding of Portland’s diverse communities.

The City proposes to engage the successful Proposer for the following services:

- a. Support the Charter Commission in creating group cohesion and utilizing Commissioners’ strengths and skills by establishing group norms and structure, with the goal of setting clear expectations, capacity building of Commissioners and overall relationship building.
 - Help set direction and vision for the work
 - Help the group establish ground rules with one another and with the public

- b. Advise the City on best practices for remote, virtual and in person Charter Commission meetings.
- c. Create a robust onboarding process for Charter Commissioners, including a retreat or approved alternative.
- d. Facilitate the development of a work plan for at least 24 months with a focus on community outreach, anti-racism and equity. The City will also provide community engagement support, either as a consultant or staff, who will help lead the development of a community engagement strategy. The work plan and engagement strategy will overlap but are separate deliverables.
- e. Facilitate Charter Commission meetings. While the Charter Commission will determine its meeting schedule and frequency, we anticipate one to two full Commission meetings per month.
- f. Facilitate Charter Commission subcommittee meetings. While the Charter Commission will determine how many subcommittees, we anticipate anywhere between four and eight subcommittees.
- g. Transfer knowledge and skills to the City and Charter Commission to increase their capacity to meaningfully engage with each other and the communities of Portland around charter review.

A detailed description of desired services is specific in section B. 1. TECHNICAL OR REQUIRED SERVICES.

3. PROJECT FUNDING

The anticipated cost for the services described herein is \$85,000. The Proposer's proposal shall include the Proposer's true estimated cost to perform the work irrespective of the City's budgeted funds for this work.

4. TIMELINE FOR SELECTION

The following dates are proposed as a timeline for this project:

Pre-submittal meeting at 10:00 a.m.	December 18, 2020
Written proposals due at 4:00 p.m.	January 5, 2021
Evaluation Period	January 13, 2021 - January 22, 2021
Announcement of short list Proposers, if deemed necessary	January 29, 2021
Interviews or additional review, if deemed necessary	February 13, 2021 - February 23, 2021
Selection committee recommendation	February 24, 2021
Contract negotiation with successful Proposer	February 24, 2021 – March 10, 2021
Notice to proceed – work begins	March 24, 2021

The City reserves the right to make adjustments to the above noted schedule as necessary.

SECTION B WORK REQUIREMENTS

1. TECHNICAL OR REQUIRED SERVICES

- a. The successful Proposer shall perform the tasks listed below for this project, under the direction of the Strategic Project Manager, a City employee.
- b. Create and facilitate an onboarding process, to include a retreat. Onboarding will include required trainings for public advisory bodies, which will be provided by the City. Your role is to

facilitate the creation of a shared vision, rules of procedure, roles and responsibilities, standards for communications, conflict resolution approaches, etc.

- c. Facilitate the development of the Charter Commission Work Plan. The Project Manager will be responsible for managing Work Plan implementation.
- d. Facilitate Charter Commission meetings and Charter Commission subcommittee meetings.
- e. Create and facilitate an evaluative process for the Charter Commission's work.
- f. Collaborate with the Project Manager to deliver required reports. The Project Manager and/or Charter Commissioners will be responsible for drafting any required Commission reports.

2. WORK PERFORMED BY THE CITY / OTHERS

The City has assigned a project manager to oversee the successful Proposer's work and provide support as needed. The Project Manager manages the deliverables, scope, schedule and budget. The Project Manager will work closely with the contractor to produce all deliverables. Specific duties the City will perform include:

- a. Working with Proposer to create direction, vision and onboarding for the Charter Commission;
- b. After consulting with Charter Commission members on their priorities, assisting in building the Charter Commission work plan;
- c. Leading, participating and assisting in the analysis and monitoring of the progress of the Charter Commission;
- d. Communicating with and updating city officials; and
- e. Providing logistical and administrative support, including meeting minutes.

3. PROJECT REVIEWS

On a day-to-day basis, the progress of the work will be managed by the City's Project Manager. At minimum, regularly bi-monthly check-ins will occur between Contractor and Project Manager with input/feedback from the Charter Commission, as needed, to ensure that work progress and adjustments can be made in a fluid manner. Members of the Charter Commission will serve as an oversight body for the Proposer's work.

4. DELIVERABLES AND SCHEDULE

Deliverables shall be considered those tangible resulting work products that are to be delivered to the City such as reports, draft documents, data, interim findings, drawings, schematics, training, meeting presentations, final drawings, and reports. Unless otherwise specified by the City, the successful Proposer shall prioritize submitting applicable deliverables electronically, and any paper-based deliverables shall be printed double-sided and in bindings or report covers that are fully recyclable, preferably using materials containing post-consumer waste (PCW) recycled content.

Deliverables for this project shall include

- a. Onboarding schedule and materials
- b. Retreat program and materials
- c. Charter Commission work plan
- d. Facilitated Charter Commission meetings and Charter Commission subcommittee meetings
- e. Submit monthly subcontractor payment and utilization reporting electronically by the 15th of each month with invoice (reference Part II, Section C.5 of the RFP).
- f. Evaluation process and facilitated evaluation meetings

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.

5. PLACE OF PERFORMANCE

Contract performance will take place primarily at the successful Proposer's facility. On occasion and as appropriate, work will be performed at City facilities, a third-party location, or any combination thereof. Charter Commission meetings are expected to take place virtually for the duration of the public health emergency. As needed and in accordance with public health guidelines, this may change over the course of the contract.

5.1 COVID-19 Requirements (11.18.20)

Refer to Sample Services Contract.

6. PERIOD OF PERFORMANCE

The City anticipates having the successful Proposer begin work immediately upon contract execution with submittal of final deliverables to the City occurring by February 2023.

7. ACH PAYMENTS

It is the City's policy to pay its vendor invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, vendors shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at: <https://www.portlandoregon.gov/brfs/45475>. Upon verification of the data provided, the Payment Authorization Agreement will authorize the City to deposit payment for services rendered directly into vendor accounts with financial institutions. All payments shall be in United States currency.

8. PUBLIC SAFETY

Public safety may require limiting access to public work sites, public facilities, and public offices, sometimes without advance notice. The Proposer shall anticipate delays in such places and include the cost of delay in the proposed cost. The successful Proposer'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 successful Proposer'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.

9. BUSINESS COMPLIANCE

The successful Proposer(s) must be in compliance with the laws regarding conducting business in the City of Portland before an award may be made. The Proposer shall be responsible for the following:

Certification as an Equal Employment Opportunity (EEO) Affirmative Action Employer

The successful Proposer(s) must be certified as Equal Employment Opportunity Employers as prescribed by Chapter 5.33.076 of the Code of the City of Portland prior to contract award. To certify go to the website at: <https://procure.portlandoregon.gov>.

Non-Discrimination in Employee Benefits (EB)

The successful Proposer(s) must be in compliance with the City's Equal Benefits Program as prescribed by Chapter 5.33.077 of the Code of the City of Portland prior to contract award. To certify go to the website at: <https://procure.portlandoregon.gov>.

Business Tax Registration

The successful Proposer(s) must be in compliance with the City of Portland Business Tax registration requirements as prescribed by Chapter 7.02 of the Code of the City of Portland prior to contract award. Details of compliance requirements are available from the Revenue Bureau Tax Division, 111 SW Columbia Street, Suite 600, Portland, Oregon 97201, (503) 823-5157, website: <http://www.portlandoregon.gov/revenue/29320>.

SECTION C PROJECT PROVISIONS

1. SAMPLE CONTRACT

The City of Portland Services Contract is the City's standard contract and will be used as a result of this selection process. A sample contract is attached as Exhibit B.

2. ATTACHMENTS

Exhibit A PTE Participation Disclosure Form 1

Exhibit B Sample City of Portland Services Contract

PART II PROPOSAL PREPARATION AND SUBMITTAL

SECTION A PRE-SUBMITTAL MEETING/CLARIFICATION

1. PRE-SUBMITTAL MEETING

A pre-submittal meeting and/or site visit is scheduled for this Request for Proposal on December 18, 2020, 10:00 am PST via Microsoft Teams. For an invite please contact Mark Ariza @ Mark.Ariza@portlandoregon.gov.

This is a **non-mandatory** meeting; therefore, proposal submission will not be contingent upon attendance at this meeting

2. IRFP CLARIFICATION

Questions and requests for clarification regarding this Request for Proposal must be directed in writing, via email, to the person listed below. **The deadline for submitting such questions/clarifications is seven (7) days prior to the proposal due date.** An addendum will be issued no later than 72 hours prior to the proposal due date to all recorded holders of the RFP if a substantive clarification is in order.

Mark Ariza, Senior Procurement Specialist
Bureau of Revenue and Financial Services, Procurement Services
Phone: (503) 823-5680
Email: Mark.Ariza@portlandoregon.gov

SECTION B PROPOSAL SUBMISSION

1. PROPOSALS DUE

Proposals must be received no later than the date and time specified on the cover of this solicitation. It is the Proposer's responsibility to ensure that proposals are received prior to the specified closing date and time, and at the location specified. Proposals received after the specified closing date and/or time

shall not be considered. The City shall not be responsible for the proper identification and handling of any proposals submitted to an incorrect location.

2. PROPOSAL

Proposals must be clear, succinct and **not exceed 25 pages**. Section dividers, title page, table of contents, cover letter, and the PTE Participation Disclosure Form 1 do not count in the overall page count of the proposal. Proposers who submit more than the pages indicated may not have the additional pages of the proposal read or considered.

All submittals will be evaluated on the completeness and quality of the content. Only those Proposers providing complete information as required will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.

3. PROPOSAL SUBMISSION

For purposes of this proposal submission, the Proposer shall submit: **one (1) original copy of their proposal and all separately attached documents and responses in PDF, or MS Word format** through the City's Online Procurement Center (BuySpeed) at:

<https://procure.portlandoregon.gov/>

a. Online proposal submission procedure

Disclaimer: The following instructions are provided as a guideline to Proposers submitting proposals online through BuySpeed. These instructions are advice only and the City does not warrant that following these instructions will guarantee that a Proposer's proposal is submitted correctly. Proposers bear complete and total responsibility for ensuring their proposal is properly submitted and received on time.

Instructions:

1. If you haven't already, register or complete the registration process in BuySpeed.
2. Log in to BuySpeed, go to the "Bids" tab.
3. Find the "Bid" (RFPs and all Solicitations and Notices in BuySpeed are called "Bids") your firm wishes to propose on. See the "Open Bids" section.
4. Click the "Create Quote" link. (All proposals and bids are considered "Quotes" in BuySpeed)
5. Click Yes or No depending on if you want to be on the Bidder's List.
6. In the "General" Tab, click "Save & Continue" (You will see a validation Error, this is normal, and will be corrected later)
7. Go to the "Items" tab, **enter in a value of 1.00 dollar in the pricing box of the first line item. Make sure that "No Bid" box is unchecked for each line items. Do not enter any pricing or other data in the other item boxes, only enter 1.00 dollar in the first line item in the items tab.**
8. Click "Save & Continue"
9. Skip the "Questions", "Subcontractors", and "Notes" tabs
10. Go to the "Terms and Conditions" Tab. Check "Yes".
11. Click "Save & Continue"
12. Go to the "Attachments" tab. Click "Add File".
13. In the Add File screen click "Browse". Find the file you wish to attach and upload it to our system. **If your Proposal is confidential or contains confidential information check the "Confidential" box.**
14. Click "Save & Exit".

15. Repeat steps 12-14 to upload any additional documents
16. Go to the "Summary" tab. Review the summary information.
17. Click "Submit Quote", confirm submission by clicking "OK" when prompted.

The entire proposal must be attached and properly submitted through the City's Online Procurement Center **before** the time and date specified on the cover page of this RFP. Proposers are advised to allow extra time prior to the closing date and time to create a "Quote" and upload their proposal documents into BuySpeed.

b. Confidential Information: additional "redacted copy" of proposal required

If the Proposer requests redactions to their proposal in accordance with the language below, the Proposer shall also submit one (1) additional "non-confidential" copy of the proposal in unprotected MS Word format with the requested redactions **highlighted**. If no redactions are requested in a proposal, please state that clearly in the Cover Letter.

REDACTION FOR PUBLIC RECORDS: Any portion of a proposal that the proposer claims as exempt from disclosure must meet the requirements of ORS 192.501(2), ORS 192.502(4) and/or ORS 646.461 et seq. **Proposers are required to submit a redacted copy of their proposal and all attachments.** "Redaction" means the careful editing of a document to obscure confidential references; a revised or edited document thereby obscuring the exempt information but otherwise leaving the formatted document fully intact. **The redacted copy must be a complete copy of the submitted proposal, in which all information the Proposer deems to be exempt from public disclosure has been identified.**

When preparing a redaction of your proposal submission, a proposer must plainly mark the redactions by obscuring the specific areas your firm asserts are exempt from public disclosure. In addition, a summary page identifying the pages where redactions occur shall be included with the proposal submission (summary is not included in page limitations). **If a proposer fails to submit a redacted copy of their proposal as required, the City may release the proposer's original proposal without redaction.** If the entire proposal is marked as constituting a "trade secret" or being "confidential", at the City's sole discretion, such a proposal may be rejected as non-responsive.

Unless expressly provided otherwise in this RFP or in a separate written communication, the City does not agree to withhold from public disclosure any information submitted in confidence by a proposer unless the information is otherwise exempt under Oregon law. The City agrees not to disclose proposals until the City has completed its evaluation of all proposals and publicly announces the results.

Please refer to the GENERAL INSTRUCTIONS AND CONDITIONS for more information about confidential information within public records.

4. COST OF RESPONDING

All costs incurred by the Proposer in preparation of proposals to this solicitation, including presentations to the City and/or for participation in an interview shall be borne solely by the Proposer; the City shall not be liable for any of these costs. At no time will the City provide reimbursement for submission of a proposal unless so stated herein.

5. ORGANIZATION OF PROPOSAL

Proposers must provide all information as requested in this Request for Proposal (RFP). Proposals must follow the format outlined in this RFP. Additional materials in other formats or pages beyond the stated page limit(s) may not be considered. The City may reject as non-responsive, at its sole discretion, any proposal or any part thereof, which is incomplete, inadequate in its response, or departs in any substantive way from the required format. Proposals shall be organized in the following manner:

- a. Cover Letter
- b. Project Team
- c. Proposer's Capabilities
- d. Project Approach and Understanding
- e. Corporate Responsibility
- f. Proposed Cost
- g. Supporting Information
- h. A completed PTE Participation Disclosure Form 1 (Exhibit A)

SECTION C EVALUATION CRITERIA

1. COVER LETTER

By Submitting a proposal, the Proposer is accepting the General Instructions and Conditions of this Request for Proposal (reference second page of the IRFP), the stated insurance coverage and limitations, and the Standard Contract Provisions of the Professional, Technical, and Expert Services contract. Any exceptions to the requirements or requests for waivers MUST be included in the proposal Cover Letter or they will not be considered.

- a. The Cover Letter must include the following:
- b. RFP number and project title
- c. Full legal name of proposing business entity
- d. Structure or type of business entity
- e. Name(s) of the person(s) authorized to represent the Proposer in any negotiations
- f. Name(s) of the person(s) authorized to sign any contract that may result
- g. Contact person's name, mailing or street addresses, phone and fax numbers and email address
- h. Statement that no redactions are requested, if applicable

A legal representative of the Proposer, authorized to bind the Proposer in contractual matters must sign the Cover Letter.

If your firm has a current City of Portland Business Tax registration, has completed the City's Equal Employment Opportunity (EEO) and Equal Benefits (EB) certifications online, include in the Cover Letter your firm's City of Portland Business Tax number and a statement that your firm's EEO and Equal Benefits certifications are complete.

2. PROJECT TEAM (20 points)

Please provide the following: [the criteria may include:]

- a. Approximate number of people to be assigned to the project.
- b. Extent of company's principal member's involvement.
- c. Names of key personnel who will be performing the work on this project, and:
 - i. their roles and responsibilities on this project
 - ii. current assignments and location
 - iii. directly relevant experience on similar or related projects
 - iv. unique qualifications that demonstrate facilitation skills and experience working with large diverse advisory bodies, committees or groups
 - v. demonstrated performance record of key personnel
 - vi. percentage of their time that will be devoted to the project

Provide a professional resume for each key personnel, including key personnel of any

Subcontractor(s) proposed to be assigned to the project. Resumes shall include educational background, professional development, and demonstrate that the individual(s) meets the qualification and experience requirements for performing the work outlined in this RFP.

The City of Portland has adopted the following six core values: anti-racism, equity, fiscal responsibility, collaboration, communication, and transparency. Please provide a statement how the proposer's work is in alignment with those values, and specifically how the approach will center anti-racism and equity.

- d. Proposals must identify a proposed project manager who would be responsible for the day-to-day management of project tasks and would be the primary point of contact with your firm.
Describe the project manager's experience with similar projects and with managing and leading interdisciplinary teams. List other projects the proposed project manager is currently assigned to.
- e. Team qualifications and experience on similar or related projects:
 - i. qualifications and relevant experience of prime contractor
 - ii. qualifications and relevant experience of sub-contractors, if any

3. PROPOSER'S CAPABILITIES (20 Points)

- Describe your firm's legal structure, areas of expertise, length of time in business, number of employees, and other information that would be helpful in characterizing the firm. [if desired for subcontractors, add: Provide the same information for any subcontractors to be utilized on the project.]
- Provide the address of the firm's home office and the address of the office that will manage the project, if applicable.
- Describe similar projects performed within the last 5 years, which best characterize firm's capabilities, work quality and cost control.
- For each project mentioned, include the name, address and phone number of a person who can be contacted regarding your performance on the project. When submitting projects for which your firm worked in an auxiliary capacity or in a joint venture or partnership, include the name of the lead firm.
- Describe similar projects with other government agencies or community organizations.
- Describe firm's resources available to perform the work for the duration of the project and other on-going projects.
- Describe firm's internal procedures and/or policies associated or related to work quality and cost control.
- Describe firm's management and organizational capabilities.
- Describe or provide a detailed description of firm's approach to overall management and integration of all activities required by the scope of work, including the management objectives and techniques that demonstrate how the work requirements will be met.

4. PROJECT APPROACH AND UNDERSTANDING (25 points)

Given what you know about the Charter Commission and its scope of work, identify three important factors you think are critical to ensuring the success of the Charter Commission.

The Charter Commission will be comprised of a diverse group of community members with different levels of experience participating on a high-visibility community board. How would your firm approach the Charter Commission process so that everyone can participate fully?

For each phase of work, the project approach should:

- Describe the proposed work tasks and activities and provide a narrative description of how the firm proposes to execute the tasks during each phase of the project.
- Identify the team members who will work on each task.
- Describe the proposed work products that will result from each task or activity.
- Identify points of input and review with City staff.
- Based on your firm's expertise and experience with similar projects, demonstrate how your firm will effectively complete the proposed project.
- Identify the time frame estimated to complete each task.

5. CORPORATE RESPONSIBILITY (20 points)

Through the adoption of The Portland Plan, the Social Equity Contracting Strategy, and Sustainable Procurement Policy, the Portland City Council has shown its commitment to contracting with socially and environmentally responsible businesses. The City values and supports diversity and is dedicated to advancing equity in public contracting by increasing opportunities for State of Oregon Certification Office for Business Inclusion and Diversity ("COBID").

The Social Equity Contracting Strategy promotes COBID economic growth and encourages partnering and mentoring between large and small COBID firms on City contracts. Proposing firms are encouraged to use the State's COBID website (<https://oregon4biz.diversitysoftware.com/>) for identifying potential COBID subcontractors.

All Proposers shall address the following in their proposals:

a. State of Oregon Certification (4 points)

Please indicate in your response if your firm is currently COBID certified in the State of Oregon.

b. Disadvantaged, Minority, Women and Emerging Small Business Subcontracting (8 points)

- Please list the total project amount on the PTE Participation Disclosure Statement (Form 1). Include in the Form all scopes of work being performed, the specific dollar amount, the firm name, and the State COBID certification of the firm performing the work.
- Points will be awarded based upon the dollars contracted with State of Oregon COBID certified firms utilized as subcontractors. The listed dollar amounts and specific firms must flow through to the final contract.
- Meeting the aspirational goal of 20% will be awarded 50% of the available points for this criterion. Additional points will be awarded based on a mathematical calculation for utilization exceeding the goal or deducted based on the same formula for utilization not meeting the goal.
- COBID Subcontracting Evaluation Formula:
The Utilization % ÷ 40% x 8 points = the Score

Example: if the Utilization % = 20%, then the Score would be: (20% ÷ 40% x 8 points) = 4 points

Note - Proposed Utilization % includes COBID certified utilization at only the Subcontractor level.

***Note: Failure to submit Form 1 with your proposal may result in the proposal being found non-responsive and may be rejected.**

c. Workforce Diversity and Community Involvement (3 points)

- Describe your firm's workforce demographics and any measurable steps taken to ensure a diverse internal workforce (e.g., women and people of color).

- How do you approach internal on the job training, mentoring, technical training, and/or professional development opportunities for women and people of color?
- Describe your firm's employee compensation structure, (e.g., living wages, healthcare coverage, employee leaves, dependent care, etc.).
- Describe your firm's commitment to community service, (e.g., charitable programs, scholarships, economic development, etc.)

d. Sustainable Business Practices (5 points)

- List the top three actions/ongoing practices your firm has implemented to reduce the environmental impacts of your operations (e.g., energy efficiency, use of recycled content or non-toxic products, use of public transit or alternative fuel vehicles, waste prevention and recycling, water conservation, green building practices, etc.). Reference implementation dates, timelines, and any performance metrics that characterize your achievements.
- Does your firm hold any third-party certifications related to sustainable business operations (e.g. [Sustainability at Work](#), [B-Corp certification](#), etc.)? If so, reference the name of the certification, a link to the certification requirements and who administers the certification.

The City expects thoughtful consideration of all of the above Corporate Responsibility criteria in the preparation of proposals. The City will enforce all COBID certified commitments submitted by the successful Proposer. The successful Proposer will be required to submit subcontractor payment and utilization information electronically to ensure that subcontractors are utilized to the extent proposed and submitted in the original proposal. The successful Proposer and their subcontractors will be required to utilize the City's automated compliance audit process for prime contractors and subcontractors. More information on this process may be viewed on the City Procurement website at: <https://www.portlandoregon.gov/brfs/75932>. The successful Proposer will not be permitted at any time to substitute, delete, or add a subcontractor without the prior written approval of the Chief Procurement Officer. This form may be obtained from the Procurement Services website at: <https://www.portlandoregon.gov/brfs/article/536319>.

6. PROPOSED COST (15 points)

The proposal shall include the Proposer's **true estimated cost or fixed-price estimate** for the proposed project approach irrespective of the City's anticipated cost, and shall include the hourly rates of each person associated with the project as well as the estimated number of hours each staff member will be expected to work on each task.

7. SUPPORTING INFORMATION

Supporting material must include a minimum of 3 and no more than 5 references and may include other information pertinent to the project or work to be performed. References must include the contact person's name, agency, address, phone number, their role in the project (e.g., project manager, etc.), name of the project, and when the work was done.

Résumés: Provide a professional resume for each key person, including key personnel of any Subcontractor(s) proposed to be assigned to the project. Résumés shall include educational background, professional development, and demonstrate that the individual(s) meets the qualification and experience requirements for performing the work as outlined in this RFP.

PART III PROPOSAL EVALUATION

SECTION A PROPOSAL REVIEW AND SELECTION

1. EVALUATION CRITERIA

An Evaluation Committee (Committee) will be appointed to evaluate the proposals received. For the purpose of scoring proposals, each Committee member will evaluate each proposal in accordance with the criteria listed in Part II, Section C. The Committee may seek the assistance of outside expertise, including, but not limited to, technical advisors. The Committee will require a minimum of ten (10) working days to evaluate and score the proposals.

The choice of how to proceed, decisions to begin or terminate negotiations, determination of a reasonable time, decisions to open negotiations with a lower scoring Proposer, and any decision that a solicitation should be cancelled are all within the sole discretion of the City.

The proposal evaluation process consists of a series of Evaluation Levels that will lead to the identification of a Successful Proposer. Each proposal response will be evaluated in accordance with the following evaluation criteria:

Evaluation Level #1 – Written Scoring: Responses meeting the mandatory and responsiveness requirements will be further evaluated as part of Evaluation Level #1. One hundred possible points are available at Level #1. This step consists of a detailed review and scoring by the Committee of the proposals as follows:

Level #1 Evaluation Criteria		
Criteria	Maximum Level #1 Score	Point Distribution by Subsection
1. Cover Letter		REQUIRED
2. Project Team	20	
3. Proposer's Capabilities	20	
4. Project Approach and Understanding	25	
5. Corporate Responsibility	20	
State of Oregon Certification (COBID)		4
DMWESB Subcontracting		8
Workforce Diversity & Community Involvement		3
Sustainable Business Practices		5
6. Proposed Cost	15	
Total:	100	

Evaluation Level #2 – Interview Scoring: If oral interviews or presentations are determined to be necessary, this next step will consist of oral presentations to further clarify the Proposer's proposal(s). The number of proposals on the "short list" depends on whether the Committee believes such proposals have a reasonable chance of scoring well enough to be awarded a contract. Proposers invited to participate in Evaluation Level #2 (oral interviews) will be given additional information regarding the City's desired content a reasonable time before the scheduled Evaluation Level #2 oral

interviews/presentations are held. The scoring criteria of the Level #2 evaluations are subject to change. Level #2 evaluation criteria will be as follows:

Level #2 Evaluation Criteria		
Criteria	Maximum Level #2 Score	Point Distribution by Subsection
1. Oral Interviews/Presentation	100	
Total:	100	

All communications shall be through the contact(s) referenced in Part II, Section A.2 of the RFP. At the City's sole discretion, communications with members of the evaluation committee, other City staff, or elected City officials for the purpose of unfairly influencing the outcome of this RFP may be cause for the Proposer's proposal to be rejected and disqualified from further consideration.

The City has the right to reject any or all proposals for good cause in the public interest, and the Chief Procurement Officer may waive any evaluation irregularities that have no material effect on upholding a fair and impartial evaluation and selection process.

NOTE: In the City's discretion, litigation between the City and a Proposer may be cause for proposal rejection, regardless of when that litigation comes to the City's attention and regardless how the Proposer's proposal may have been scored. Proposals may also be rejected if they use subcontractors or Subcontractors who are involved in litigation with the City. Proposers who are concerned about possible rejection on this basis should contact the City before submission of a proposal for a preliminary determination of whether its proposal will be rejected.

4. SCORING PROCESS

For Evaluation Level #1, the sum of all points earned by a Proposer from all proposal evaluators will be the Overall Score for Level #1. The Evaluation Committee may choose to focus on only a limited number of proposals by developing a "short list" to move on to Evaluation Level #2 based on the scores from the written proposals. Or they may choose to proceed directly to contract negotiation and award.

If Proposers move to Evaluation Level #2, then the proposal scores from Level #1 will not be used during the oral interview/presentation process and they will be scored based on the Level #2 criteria alone. Following completion of the Evaluation Level #2 scoring, each Proposer's Evaluation Level #2 score will be added to their Evaluation Level #1 score to determine their Total Overall Score. The highest scoring proposal(s), based on their Total Overall Score, may be identified as the Successful Proposer(s).

5. CLARIFYING PROPOSAL DURING EVALUATION

At any point during the evaluation process, the City is permitted, but is not required, to seek clarification of a proposal. However, a request for clarification does not permit changes to a proposal.

SECTION B CONTRACT AWARD

1. CONTRACTOR SELECTION

Following the Evaluation Committee's final determination of the highest scored Proposer, the City will issue a Notice of Intent to Negotiate and Award and begin contract negotiations. The City will attempt to reach a final agreement with the highest scoring Proposer. However, the City may, in its sole discretion, terminate negotiations and reject the proposal if it appears agreement cannot be reached. The City may then attempt to reach a final agreement with the second highest scoring Proposer and may

continue on, in the same manner, with remaining proposers until an agreement is reached. A Contractor selection process will be carried out under Portland City Code Chapter 5.68.

The selection of the Successful Proposer shall be based on negotiated costs and conformance to the City's terms and conditions. Negotiations will follow with the Successful Proposer, and if successful, the contractor and City will enter into a service contract for the work. If agreement concerning the negotiated costs, schedule, and scope of work cannot be reached with the Successful Proposer within a time period deemed reasonable to the City, the City may, at its sole discretion, terminate such negotiations and begin negotiations with the next highest scored proposer from the Short List.

2. CONTRACT DEVELOPMENT

The proposal and all responses provided by the successful Proposer may become a part of the final contract. Any information included as part of this contract shall be a public record and not exempt from disclosure, including items redacted from the proposal. The form of contract shall be the City's Contract for PTE Services.

For contracts over \$1,000,000, the evaluation committee's recommendation for contract award will be submitted to the Portland City Council for approval.

3. REVIEW

REVIEW: Following the Notice of Intent to Negotiate and Award, the public may view proposal documents. However, any proprietary information so designated by the Proposer as a trade secret or confidential and meeting the requirements of ORS 192.501, 192.502 and/or ORS 646.461 et seq., will not be disclosed unless the Multnomah County District Attorney determines that disclosure is required. At this time, Proposers not awarded the contract may seek additional clarification or debriefing, request time to review the selection procedures or discuss the scoring methods utilized by the evaluation committee.

EXHIBIT A

CITY OF PORTLAND PROFESSIONAL TECHNICAL & EXPERT (PTE) SERVICES PARTICIPATION DISCLOSURE FORM 1

CITY PTE DISCLOSURE REQUIREMENTS

The City's disclosure program was adopted to document the utilization of State of Oregon COBID certified Disadvantaged, Minority owned, Women owned, and Emerging Small Businesses (D/M/W/ESBs) on City projects.

This Request for Proposal (RFP) requires the Proposer to submit a PTE Participation Disclosure Form 1. The Proposer must disclose the following information:

- 1) Contact information for all contract participants.
- 2) State of Oregon D/M/W/ESB designations (**verify current certification status at:** <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>).
- 3) The dollar amount or percentage of the Proposer's self-performing work.
- 4) The dollar amount or percentage of each Subcontractor's work.
- 5) The proposed scope or category of work that each Subcontractor will be performing.
- 6) ALL Subcontractors are to be listed on this Form, not certified firms only.
- 7) Total percentage of contract amount allocated to Oregon State COBID certified D/M/W/ESB subcontractor firms.

Report all amounts in United States Dollars (USD). The use of 'TBD', 'N/A', or similar symbols is not acceptable. All requested information must be provided.

If the Proposer will not be using any subcontractors, the Proposer is still required to enter its own information in the appropriate section, and to indicate "**NONE**" in the subcontractor section of the accompanying form, and to submit the form with their proposal.

FAILURE TO SUBMIT THE PTE PARTICIPATION DISCLOSURE FORM 1 WITH THE PROPOSAL MAY RESULT IN THE PROPOSAL BEING FOUND NON-RESPONSIVE AND REJECTED FROM CONSIDERATION.

CITY OF PORTLAND

PTE PARTICIPATION DISCLOSURE FORM 1

This Request for Proposals (RFP) requires the Proposer to submit this PTE Participation Disclosure Form 1. **Failure to submit this form with the proposal may result in the proposal being found non-responsive and rejected.** Proposers must disclose the following information:

Please print all information clearly.

Project Name: _____ RFP Number: _____

Proposer Name: _____
Contact Name: _____ Phone: _____ Email: _____

Proposer's Total Cost: \$ _____ Self-Performing Amount: \$ _____

Combined percentage of total subcontract amounts allocated to State of Oregon COBID certified participation (<i>Subcontractors only</i>):	%
--	---

SUBCONTRACTOR INFORMATION (please print) ¹	COBID Cert. ²	Subcontractor Scope/Type of Work	Subcontract % / \$ ³
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
NOTE: <ol style="list-style-type: none">If the Proposer will not be using any Subcontractors, the Proposer is required to indicate "NONE" in the Subcontractor Information section of this form and submit this form with their proposal.The Proposer and ALL Subcontractors must be listed on this form. Leave COBID column blank if firm is not currently certified through the State of Oregon Office of Minority, Women, and Emerging Small Business: https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp.Report all amounts in US Dollars (USD). Using 'TBD', 'N/A', or similar acronyms is <u>not acceptable</u>.Do not enter EIN's or Social Security Numbers (SSN) on this form.			

SUBCONTRACTOR INFORMATION (please print)	COBID Cert.	Subcontractor Scope/Type of Work	Subcontract % / \$
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			
Firm Legal Name: Email: Phone #:			

**CITY OF PORTLAND
PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES
CONTRACT No. 3000XXXX**

Charter Commission Facilitator

This Contract is made effective _____ ("Effective Date"), by and between the **City of Portland**, a municipal corporation of the State of Oregon (hereafter called "City"), and _____, a(n) _____ corporation, (hereafter called "Contractor"), 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."

The initial Term of this Contract shall be from the Effective Date through _____. The not-to-exceed value of this Contract shall be \$ _____ for the initial Term.

Recitals:

WHEREAS, to further its government operations, the City of Portland desires a Charter Commission Facilitator (the "Project"); and

WHEREAS, Contractor, in its proposal dated _____, represents that it has the knowledge, experience, and expertise to _____;

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

1.1 These definitions apply to the entire Contract including Exhibits, subsequent Amendments, and Task Orders:

"Amendment" means a written document required to be signed by both Parties when in any way altering the terms and conditions, term, or cost provisions of the Contract or changing, adding to, or substantially altering a Statement of Work.

"Business Day" means a calendar day of twenty-four hours, excluding weekends and City recognized holidays, beginning at midnight and ending at midnight twenty-four hours later.

"Calendar Day" means a calendar day of twenty-four hours, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

"Change Order" means a document, agreed and signed by both Parties, that changes an existing Statement of Work or Task Order.

"Confidential Information" means any information that is disclosed in written, graphic or machine-recognizable form and is marked, designated, labeled or identified at the time of disclosure as being Confidential or its equivalent, or, if the information is in verbal form, it is identified as Confidential or proprietary at the time of disclosure. 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) 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 Oregon Public Records laws and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) information which is exempt under Oregon Public Records Laws; (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.

“Deliverable(s)” means the means the Products or Services or documents or other tangible work products described in the Statement of Work or a Task Order, to be provided to the City by Contractor.

“Delivery of Products” means a Product has been received at the location specified in this Contract.

“Final Acceptance” means the City has determined that all Deliverables conform to the Acceptance Criteria or the City's specified requirements.

“Force Majeure Event” means an exceptional, inevitable, and irresistible occurrence beyond the reasonable control of the affected Party, such as, riots, epidemics, war, government regulations, labor disputes, fire, natural phenomena, interruptions of communications service by communications carrier, or other causes beyond such Party's reasonable control.

“Intellectual Property Right(s) (IPR)” 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.

“Master Terms and Conditions” means the body of text from the preamble through the signature page of this Contract.

“Material Breach” 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.

“Product(s)” means the tangible Deliverables to be provided under this Contract.

“Project” means the overall collection of Deliverables, Services, and activities required under this Contract, any of which Contractor may be providing in whole or in part.

“Services” means both ordinary and professional services as required to be performed by Contractor under this Contract for the City as set forth in the Statement of Work.

“Specifications” means the most current cumulative statement of capabilities, functionality, and performance requirements for the Deliverables and/or Work Products as set out in the Change Orders, the Statement of

Work, Documentation, Contractor's representations, Contractor's Proposal and Proposal Clarifications, and the City's Request for Proposals.

"Statement of Work" (SOW) means the written detailed specifications of the Product(s) and Services(s) to be delivered to the City by Contractor as set forth in Exhibit A, Statement of Work, to this Contract, including any Change Orders, subject to the terms and conditions of this Contract.

"Subcontractor" 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.

"Term" means the period of time that this Contract is in effect as stated on page one.

"Warranty" means the statements to the City from the Contractor as detailed in Section 3.

"Work Product" includes but is not limited to research, reports, recommendations, computer programs, code, and applications, models, documentation, manuals, drawings, recordings, photographs, artwork and any data or information in any form. Such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author.

2. GENERAL PROVISIONS

2.1 In the event there is a conflict between the terms and conditions of one portion of this Contract with another portion of this Contract, the conflict will be resolved by designating which portion of the Contract documents takes precedence over the other for purposes of interpretation, except where a clear statement of precedence other than that set forth in this Section is included in the document. In this Contract the order of precedence shall be:

1. Amendments to this Contract
2. Master Terms and Conditions
3. Change Orders
4. Exhibit A, Statement of Work
5. Exhibit B, Contractor's Proposal
6. Exhibit C: Sample Change Order

2.2 **Point of Contact.** Contractor shall be the sole point of contact for the City with regard to this Contract.

2.3 **Oregon Venue/Choice of Law.** 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.

2.4 **Term.** This Contract shall begin on the Effective Date and end upon the expiration of the initial term as set forth on the first page of this Contract unless terminated or extended under the applicable Contract provisions.

2.5 **Invoicing and Payment.** Payment(s) shall be made in accordance with the payment schedule set forth in Exhibit A: Statement of Work.

2.5.1 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.

2.5.2 The City makes payments to most vendors via electronic fund transfers through the Automated Clearing House (ACH) network. To initiate payment of invoices, Contractor shall execute the City's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the ACH Vendor Payment Authorization Agreement will authorize the City to deposit payment for services rendered or goods provided directly into specified Contractor accounts with specified financial institutions. All payments shall be made in United States currency.

2.6 Independent Contractor. 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.

2.7 Ownership of Work Product. All Work Products produced by Contractor under this Contract are the exclusive property of the City. If for any reason a Work Product is deemed not to be a "work made for hire," 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.

2.8 Modifications.

2.8.1 Amendment of the Contract. 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.

2.8.2 Change Orders to a Statement of Work. 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 Work Products or Services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall 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 price.

2.9 Written Notifications. All notices to, and other written communication between, the Parties to this Contract shall be deemed received five (5) Business Days after being sent by first class mail, or upon receipt when sent by courier services, by e-mail, or by fax transmission with telephone confirmation of receipt. All notices and written communications shall be sent to the Parties set forth below, or to such other places as they may designate by like notice from time to time:

For City:
Julia Meier

For Contractor:

City of Portland
1120 SW 5th Ave, Room 901
Portland, OR 97204

Copy to:

City of Portland
Technology Contracts Management
Procurement Services
1120 Southwest Fifth Avenue, Room 750
Portland, OR 97204

Each Party shall provide written notice to the other Party of any changes to the above contacts within thirty (30) Calendar Days.

2.10 Access to Records. Contractor shall maintain, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of Contractor which are directly pertinent to this 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.

2.11 Audits.

2.11.1 The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the three (3) year period established by Section 2.10, 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.

2.11.2 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.

2.11.3 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 2.12, Termination and Section 2.13, Remedies.

2.12 Termination. 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 deemed appropriate in its sole discretion.

2.12.1 The City and Contractor, by mutual written agreement, may terminate this Contract at any time.

2.12.2 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.

2.12.3 Either Party may terminate this Contract due to a Force Majeure event as set forth in Section 2.20, Force Majeure.

2.12.4 Bankruptcy. 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.

2.12.5 Void Assignment. In the event that Contractor assigns its obligations under this Contract to any third party in a manner other than as set forth in Section 2.14, Assignment, the City shall have the option to terminate this Contract, and promptly receive a pro rata refund for fees paid for products and/or Services delivered and/or performed by the third party.

2.12.6 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.

2.13. Remedies.

2.13.1 In the event of termination by the City due to a Material Breach by Contractor, then the City may complete the work 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 Contractor shall pay to the City the amount of the reasonable excess.

2.13.2 In the event of Material Breach of this Contract by the City, then Contractor's remedy shall be limited to termination of the Contract and receipt of payment for Services performed in accordance with the Contract prior to the termination date.

2.13.3 The remedies provided to the City herein for a breach by Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

2.14 Assignment. Neither Party shall assign, transfer, subcontract, 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.

2.15 Delegation of Obligations/Subcontractors. Contractor shall not subcontract any work, assign any rights (including, without limitation, in connection with the sale of all or substantially all of Contractor's assets or stock), or delegate any obligations under this Contract, or cancel or change any previously approved subcontract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors 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 Work Products and/or Services authorized under this Contract.

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

2.17 Payment of Taxes/Contractor Shall Withhold. 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 assure that any Subcontractor shall comply with the foregoing obligations for its employees.

2.18 City Reporting Requirements. 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, and Emerging Small Business (M/W/ESB) participation and Subcontractor/Supplier Payment. Contractor shall submit a monthly report of ALL Subcontractors employed in the performance of this Contract. The City will enforce all diversity in workforce and M/W/ESB subcontracting commitments.

2.19 No Third Party to Benefit. 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.

2.20 Force Majeure.

2.20.1 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.

2.20.2 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.

2.20.3 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.

2.20.4 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.

2.21 Confidentiality.

2.21.1 Maintenance of Confidentiality. 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 Confidential Information exclusively for the City's benefit and in furtherance of the goods and/or services provided by Contractor. 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 Confidential Information. Contractor shall (1) limit disclosure of the Confidential Information to those directors, officers, employees and agents of Contractor who need to know the Confidential Information in connection with the City Project, (2) exercise reasonable care with respect to the 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 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 City's intellectual property without the City's prior written consent.

2.21.2 **Scope.** This Contract shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. This Contract shall not apply to Confidential Information which (1) is or later becomes part of the public domain without breach of this Contract and through no wrongful act of Contractor, (2) Contractor rightly receives from a third party, or (3) was developed independently by and was reduced to writing by Contractor prior to the earlier of the date of this Contract or the date of any access or exposure to any Confidential Information. Contractor's obligations under this Contract shall survive termination.

2.21.3 **Equitable Remedies.** Contractor acknowledges that unauthorized disclosure of City Confidential Information or misuse of a City system or network will result in irreparable harm to the City. In the event of a breach or threatened breach of this Contract, the City may obtain equitable relief prohibiting the breach, in addition to any other appropriate legal or equitable relief.

2.21.4 **Contractor's Confidential Information.** During the term of the Contract, Contractor may disclose to the City, certain confidential information pertaining to Contractor's business ("Confidential Information"). Contractor shall be required to mark "CONFIDENTIAL" with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked or 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 at the time of disclosure or within a reasonable time thereafter. The City shall not be deemed to have breached this Section if (a) Confidential Information later becomes part of the public domain through no act or omission of the City; (b) is required to be disclosed under operation of law; or (c) the City lawfully receives Confidential Information from a third party with no breach of any duty of confidentiality.

2.22 **Public Records Request.** 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 submits 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 Law. Subject to the following conditions, the City agrees not to disclose any information Contractor submits to the City that includes a written request for confidentiality and as described above, specifically identifies the information to be treated as Confidential. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.

2.23 **News Releases and Public Announcements.** 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.

2.24 **Dispute Resolution.** Contractor shall cooperate with the City to assure that all claims and controversies which arise during Contractor's performance of Services under this Contract and which might affect the quality of such Services will be resolved as expeditiously as possible in accordance with the following resolution procedure:

2.24.1 Any dispute between the City and Contractor arising prior to completion of Contractor's Services or the earlier termination of the Contract shall be resolved, if possible by the Contract Manager or their designee on behalf of the City and the Vice President of Operations on behalf of Contractor.

2.24.2 If the Contract Manager or the Contract 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 Bureau of Technology Services' Chief Technology Officer on behalf of the City and the Vice President of Operations on behalf of Contractor for resolution, if possible.

2.24.3 Unless ordered by the City to suspend 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 and shall comply with any mutually agreed upon Change Order that the City may issue regarding the acceleration of all or any portion of the Services. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute, in accordance with the provisions of the Contract.

2.25 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.

2.26 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.

2.27 Survival. All obligations relating to confidentiality; indemnification; publicity; proprietary rights; limitation of liability; and obligations to make payments of amounts that become due under this Contract prior to termination (except that payments for services not performed by the date of termination shall be prorated) 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.

2.28 Business Tax Registration or Waiver. Contractor shall complete City of Portland business tax registration as required by PCC 7.02 prior to beginning work under this Contract. Additionally, Contractor shall pay all fees or taxes due under the Business Tax 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.

2.29 EEO Certification. Contractor shall be certified as Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 5.33.076 of the Code of the City of Portland and maintain their certification throughout the term of this Contract.

2.30 Nondiscrimination. In carrying out activities under this Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Contractor shall take actions to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Actions shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor shall post in conspicuous places, available to employees and applicants

for employment, notices provided by City setting forth the provisions of this nondiscrimination clause. Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, familial status, sexual orientation, or national origin. Contractor shall incorporate the foregoing requirements of this paragraph in all of other agreements for work funded under this Agreement, except agreements governed by Section 104 of Executive Order 11246.

2.31 Prohibited Interest. No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof. No City officer or employee who participated in the award of this Contract shall be employed by Contractor during the period of the Contract.

2.32 Notice of Change in Financial Condition. Contractor must maintain a financial condition commensurate with the requirements of the Contract. If, during the Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform, or changes the ownership or control, the City shall be immediately notified in writing. Failure to notify the City of such a change in financial condition or change in ownership or control is sufficient grounds for terminating the Contract.

3. WARRANTIES

3.1 General Warranties. Contractor makes the following warranties:

3.1.1 Capacity. Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.

3.1.2 Authority to Conduct Business. 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 shall obtain all necessary licenses and permits required in connection with this Contract.

3.1.3 Disclosure of Litigation. 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.

3.1.4 Conflict of Interest. 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.

3.1.5 Compliance with Applicable Law. 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.

3.1.6 Compliance with Civil Rights Act. 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>.

3.1.7 Respectful Workplace Behavior. The City of Portland 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 with the City of Portland as well as contractors, vendors or consultants who provide services to the City of Portland. By signing this Contract/Agreement, the Contractor with terms and conditions HR 2.02 as further described at: <http://www.portlandonline.com/Auditor/Index.cfm?c=27929>

3.1.8 Compliance with Grant Requirements. In connection with its activities under this Contract, Contractor warrants it shall comply with all applicable Grant Terms and Conditions, including but not limited to the terms contained at: <http://www.portlandoregon.gov/bibs/article/455735>.

3.2 Warranty of Compliance with Non-Discrimination Laws and Regulations. Contractor warrants it shall comply with the following requirements:

3.2.1 Compliance with Regulations: Contractor shall comply with the regulations relative to nondiscrimination in Federally-assisted programs as set forth in Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as "the Regulations"), which are herein incorporated by reference and made a part of this Contract.

3.2.2 Nondiscrimination: Contractor, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when this Contract covers a program set forth in Appendix B of the Regulations.

3.2.3 Solicitations for Subcontractors, Including Procurements of Materials and Equipment: 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 and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, sexual orientation, age, religion, disability, marital status, or family relationships.

3.2.4 Information and Reports: Contractor shall provide all information and reports required by he Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or any state or federal agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information Contractor shall so certify to the City or the any state or federal agency as appropriate, and shall set forth what efforts it has made to obtain the information.

3.2.5 Sanctions for Noncompliance: 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:

- a. withholding of payments to Contractor under this Contract until Contractor complies, and/or
- b. cancellation, termination, or suspension of this Contract, in whole or in part.

3.2.6 Incorporation of Provisions: Contractor shall include the provisions of paragraphs (2.9.1) through (2.9.6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

3.2.7 Contractor shall take such action with respect to any subcontractor procurement as the City or any state or federal agency may direct as a means of enforcing such provisions including sanctions for

noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request the City to enter into such litigation to protect the interests of the City, and, in addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

3.2.8 Contractor shall have the responsibility to inquire as to which agencies, if any, have a regulatory interest in this Contract and comply with any resulting regulations or requirements.

3.2.9 Required Reporting: Any person who believes that he/she has been the object of unequal treatment or discrimination under Title VI and related statutes may file a complaint with the City of Portland's Title VI Program Manager, 1120 SW 5th Avenue, Room 1204, Portland, Oregon 97204, or title6complaints@portlandoregon.gov.

3.3 Product(s) and Service(s) Warranties. Contractor makes the following warranties:

3.3.1 No Third Party Conflict or Infringement. As of the Effective Date, Contractor warrants the execution, delivery, 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 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.

3.3.2 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; that work will be free from errors and from defects in workmanship and materials; and that Deliverables and Work Products shall conform to the Specifications. 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 to the City.

3.4 No Waiver of Warranties or Representation. Delivery of Products shall not be construed to represent Acceptance nor shall Delivery of Products relieve Contractor from its responsibility under any representation or Warranty. If the City makes a payment for a Product prior to Final Acceptance, the payment does not grant a waiver of any representation or Warranty by Contractor.

4. INDEMNIFICATION AND INSURANCE

4.1 Hold Harmless and Indemnification.

4.1.1 Contractor shall indemnify, defend, save, and hold harmless the City of Portland, its officers, agents, and employees from all claims, demands, suits, and actions, and from all losses, damages, liabilities, costs and expenses of whatsoever nature (including all attorneys' fees and costs), resulting from or arising out of the activities, errors or omissions of Contractor or its officers, employees, Subcontractors, or agents, including intentional acts, related to the Products and Services under this Contract. Such indemnification shall include any and all claims and losses with respect to risks such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, and downtime.

4.1.2 Infringement of Intellectual Property Rights. Contractor shall, at its own expense, hold harmless and defend the City of Portland, its directors, officers, employees, agents and affiliates from and against any and all claims, demands, suits, or actions, and indemnify the City of Portland, its

officers, agents, and employees from all losses, damages, liabilities, costs, and expenses (including all attorneys' fees and costs), arising out of or in connection with any actual or alleged violation or infringement by the Services or a Deliverable or Work Product of any Intellectual Property Right of any person or entity whosoever, including any copyright, patent, trade name, trademark, or misappropriation of the trade secrets of any third party. 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. No settlement that prevents the City's continuing use of the Deliverable or Work Product shall be made without the City's prior written consent. If any third party claim causes the City's use of the Deliverable or Work Product to be endangered, restricted or disrupted, Contractor shall (i) cause the Deliverable or Work Product to be replaced, at no additional charge, with a compatible functionally equivalent and non-infringing product; (ii) cause the Deliverable or Work Product to be modified to avoid the infringement; (iii) obtain a license for the City to continue using the Deliverable or Work Product and pay any additional fee required for such license; or (iv) if, after Contractor uses all due diligence or standard of care none of the foregoing alternatives is possible, Contractor will refund to the City fees actually paid by the City and any direct damages documented by City for the affected Deliverable or Work Product.

4.1.3 Contractor agrees to hold harmless and indemnify the City of Portland, its officers, agents, and employees against any taxes, premiums, assessments, and other liabilities (including penalties and interest) that the City may be required to pay arising from 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.

4.2 **Insurance.** Work shall not commence until all insurance requirements listed below have been met and certificates have been approved by the City Attorney and filed with the Auditor. All required insurance must be issued by 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.

4.2.1 **Insurance Certificate.** As evidence of the required insurance coverage, Contractor shall furnish compliant insurance certificates, including required endorsements, to the City prior to execution of the Contract. The certificates shall list the City as Certificate Holder. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance. If the insurance is canceled or terminated prior to completion of this Contract, Contractor shall provide a new policy with the same terms. Contractor agrees to 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, plus tail coverage if required as set forth in Section 4.2.4.4. Failure to maintain insurance as required by this Contract may be considered a Material Breach of this Contract by the City.

4.2.2 **Additional Insureds.** The coverage shall apply as to claims between insureds on the policy. The insurance shall be without prejudice to other coverage. For liability coverage, the insurance certificate shall list the City as Certificate Holder and name as additional insureds "the City of Portland, Oregon, and its officers, agents and employees," and an endorsement to the liability policy shall confirm the naming of the City as an additional insured. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

4.2.3 **Insurance Costs.** Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

4.2.4 Required Coverage:

4.2.4.1 Commercial General Liability. Contractor shall provide and maintain commercial general liability and property damage insurance in the minimum amount of \$2,000,000.00 (two million U.S. dollars) per occurrence that protects Contractor and the City and its officers, agents and employees from any and all claims, demands, actions and suits for damage to property or personal injury arising from Contractor's work under this Contract.

4.2.4.2 Automobile Liability. Contractor shall carry automobile liability insurance with a combined single limit of not less than \$2,000,000.00 (two million U.S. dollars) each occurrence for bodily injury and property damage. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by Contractor.

4.2.4.3 Workers' Compensation. Contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656. Contractor shall maintain 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 Auditor for the entire period during which work is performed under this Contract. Contractors who are non-subject workers meeting one of the exceptions in ORS 656.027 may not be required to carry workers' compensation insurance. Any contractor requesting an exemption from the workers' compensation coverage listed above must make that request in writing to the City Attorney, stating its Contractor's qualification for exemption under ORS 656.027.

4.2.5 Insurance Requirements for Subcontractors. Should Contractor subcontract any part of this Contract, Contractor will require those Subcontractors or Affiliates if not covered under Contractor's insurance, to obtain and keep in force for the duration of this Contract, insurance equal to the minimum values indicated above.

5. SECURITY

5.1 Contractors 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.

5.2 City of Portland, Bureau of Technology Services Security Standards. Specifically, 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.

5.3 Additionally, 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.

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

This Contract, together with all Exhibits, Attachments, and those documents which by their reference have been incorporated herein, constitutes the entire Contract between the City and Contractor and supersedes all proposals, oral and written agreements, between the Parties on this subject.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed.

CITY OF PORTLAND

(CONTRACTOR)

Chief Procurement Officer	Date	Authorized Signature	Date
Printed Name		Printed Name and Title	
<i>Approved as to Form</i>		Address:	
Office of City Attorney	Date	Phone:	

Exhibit A: Statement of Work

1. SCOPE OF WORK

2. CONTRACTOR PERSONNEL

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

NAME	ROLE ON PROJECT

3. SUBCONTRACTORS

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

NAME	ROLE ON PROJECT

The City will enforce all diversity in workforce and Minority, Women and Emerging Small Business (M/W/ESB) contracting commitments submitted by the Contractor in its Proposal. For contracts valued \$50,000 or more, the Contractor shall submit a Monthly Subcontractor Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. A copy of the Subcontractor Change Request Form can be found on Procurement Services' website under Contractor Resources.

4. STATUS REPORTS

Contractor shall summarize activities under this Contract in written weekly/monthly status reports submitted to the City Project Manager. The status reports are due on the first day of the week/month and shall include summaries of all activities and Deliverables completed in the prior week/month. The report shall include a list of any delayed items, a description of the problem, schedule impact, and a method of resolution. The item shall be carried over onto subsequent reports until the problem is resolved. A Sample Status Report is included as Schedule A-1 to this Exhibit A.

5. COMPENSATION

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. Errors in estimating the number of hours necessary to perform the work is the sole responsibility of the Contractor.

6. PAYMENT TERMS: Net-30 from date of invoice.

Hourly Rates

The billing rates shall not exceed those set forth below:

7. Subcontractor Costs

Compensation for subcontractors shall be limited to the same restrictions imposed on the Contractor. The maximum markup on subcontractor services shall not exceed 10%.

8. Progress Payments

On or before the 15th of each month, the Contractor shall submit to the City's Project Manager an invoice for work performed by the Contractor during the preceding month. The invoice shall contain the City's Contract Number and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, and tasks performed. The Contractor shall also attach photocopies of claimed reimbursable expenses. The Project Coordinator 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.

The City shall pay all amounts to which no dispute exists within thirty (30) Calendar Days of the invoice date. 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 ten (10) Business Days following receipt of any payment made by the Bureau to Contractor.

9. COVID-19 Requirements

The Parties acknowledge and agree that this Contract will be executed and performed during the COVID-19 pandemic. While Oregon is under a declaration of emergency associated with the COVID-19 pandemic, Contractor shall comply with all applicable requirements and guidance issued by federal, state and local authorities pertaining to COVID-19 (including but not limited to CDC, OHSA, Governor Brown, Oregon Health Authority, and Multnomah County Health Department). The applicable guidance and requirements include, but are not limited to, those pertaining to Oregon phased reopening and sector activities, reduction in gathering sizes appropriate to the type of location and activity, complying and implementing

health protocols, maintaining social distancing, and wearing face coverings. Contractor shall have a satisfactory safety plan and protocols addressing COVID-19 precautions related to Contractor's activities under this Contract. Contractor shall monitor for updated guidance and requirements and update its plan and protocols accordingly. Contractor shall provide a copy of Contractor's safety plan and protocols to City upon City's request. Contractor is solely responsible for implementing its safety plan and protocols and addressing any COVID-19 related claims pertaining to its activities and provision of Services under this Contract.

9.1 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.

Exhibit C: Statement of Work
Sample Change Order
Contract No. _____

	BUREAU NAME	LOGO

CHANGE ORDER

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

Complete Summary Table below.

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 Plan
<input type="checkbox"/>	Deliverables		Statement of Work Acceptance 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		

The following are typical Change Order options. Please select and complete the applicable options. Attach modified documents where needed.

1. Additional time is necessary and the Project Schedule for the Statement of Work or a specific Deliverable is hereby extended through (insert new end date) or modified as shown on the attached Project Schedule.
2. Additional work or a change in work or Specifications is necessary: (identify changes to the Statement of Work, Deliverables and/or the Acceptance Test Plan)

3. A price adjustment is necessary for the following Deliverables. These changes will NOT affect the total not-to-exceed value of the Contract. (identify price changes, showing the original price and the modified price)

4. An Amendment to the Contract is requested for the following reasons: (Any change to the total value of the Contract, the term or ending date of the Contract, or the 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

Authorized Signature	Date	Authorized Signature	Date
Printed Name		Printed Name	
City Project Manager		Title	
Title			