



RFP No. 110658

PROFESSIONAL, TECHNICAL AND EXPERT SERVICES

City of Portland, Oregon
June, 8 2009

REQUEST FOR PROPOSALS

for

Web Audit & Assessment Services

PROPOSALS DUE: Monday June 22 by 5:00 p.m.

Electronic Proposals are encouraged. Please email in PDF format to:
laurelb@ci.portland.or.us

Hard copy Proposals shall be sealed and clearly marked with RFP # and Project Title.

Submit one (1) original and four (4) complete copies of the Proposal to:

City of Portland
Office of Management & Finance
1120 SW 5th Ave, Room 1250
Portland, OR 97204

Refer questions to:

Laurel Butman
Phone: (503) 823-6806
Fax: (503) 823-5384
Email: laurelb@ci.portland.or.us

GENERAL INSTRUCTIONS AND CONDITIONS

DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS – The City of Portland seeks to extend contracting opportunities to Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (M/W/ESBs) 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 ESBs. No goal is set for the use of M/WBE firms, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

ENVIRONMENTALLY PREFERABLE PROCUREMENT - In accordance with the City's Sustainable City Principles and the City's Sustainable Procurement Strategy, it is the policy of the City of Portland to encourage the use of products or services that help to minimize the human health and environmental impacts of City operations. Therefore, Proposers are encouraged to incorporate environmentally preferable products or services into their responses wherever possible. "Environmentally preferable" means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service. To view the above City policies go to www.portlandonline.com and navigate to "Charter, Code & Policies Documents".

INVESTIGATION- The Proposer shall make all investigations necessary to inform it regarding the service(s) to be performed under this Request for Proposal.

SPECIAL CONDITIONS - Where special conditions are written in the Request for Proposal, 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 conference, 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 Bureau or Office managers, 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 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 found in the City's best interest to do so. In the City's discretion, litigation between the City and a Proposer shall be cause for proposal rejection, regardless of when that litigation comes to the City's attention and regardless how the consultant's Proposal may have been scored. Proposals may also be rejected if they use subcontractors or subconsultants who are involved in litigation with the City. Proposers 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 BUSINESS LICENSE - Successful Proposer consultant shall obtain a current City of Portland Business License prior to initiation of contract and commencement of the work.

WORKERS COMPENSATION INSURANCE – the successful consultant 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- Proposers must be certified as Equal Employment Opportunity Affirmative Action Employers as prescribed by Chapter 3.100 of the Code of the City of Portland. The required documentation must be filed with the Bureau of Purchases, City of Portland, prior to contract execution.

EQUAL BENEFITS PROGRAM – Proposers must provide benefits to their employees with domestic partners equivalent to those provided to employees with spouses as prescribed by Chapter 3.100 of the Code of the City of Portland. The required documentation must be filed with the Bureau of Purchases, City of Portland, prior to contract execution.

CONFLICT OF INTEREST - A Proposer filing a proposal thereby certifies that no officer, agent or employee of the City who has a pecuniary interest in this request for proposal has participated in the contract negotiations on the part of the City, that the proposal is made in good faith without fraud, collusion or connection of any kind with any other proposer of the same call for proposals, and that the proposer is competing solely in its own behalf without connection with or obligation to, any undisclosed person or firm.

CONFIDENTIALITY – All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act (ORS 192.410 et seq.), except such portions of the proposals for which Proposer requests exception from disclosure consistent with federal or Oregon Law. Any portion of a proposal that the Proposer claims constitutes a trade secret or is confidential must meet the requirements of ORS 192.501, ORS 192.502, 646.461 or other state or federal law.. 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.

If a request to inspect the proposal is made, the City will notify the Proposer of the request. 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 Purchasing Agent 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 Terms 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

CONTRACT REQUIREMENTS

SECTION A

GENERAL INFORMATION

1. INTRODUCTION

The Office of Management & Finance provides administrative support and coordination to PortlandOnline, the official website of the City of Portland. Beginning in April 2009, the City began a refresh process of both design elements and content management tools and applications on PortlandOnline. An audit of PortlandOnline is a necessary first step to help identify key areas for improvement and focus the priorities of the refresh.

2. BACKGROUND

In 2003, all City of Portland bureaus came under one web site, www.PortlandOnline.com. Prior to that point, over 49 separate web sites existed. PortlandOnline now boasts over 120,000 pieces of web content, over 2 million page views per month, top Google and Yahoo rankings, and several digital government awards. Over 600 editors post content using the in-house content management system (CMS).

Current tools/features in the PortlandOnline content management system include:

- Blogs
- Rotating pictures/slide shows
- Embedded video
- Ability to have content in multiple places without duplication
- RSS feeds
- Ability to tag content based on geography and topic
- Email subscriptions and notifications
- Online forms, polls, surveys
- Secure payment gateway
- Single user ID and password for all services

The refresh project, which began in April 2009, is a collaborative project with City Bureaus, Council offices, and community stakeholders to improve user friendliness, accessibility, functionality, and usability. Content management tool features will be reviewed internally and externally for their continued applicability. Better integration of social media will be addressed. The project will also refresh the design of PortlandOnline in a way that provides consistent City branding while preserving flexibility for sub-branding for City bureaus and projects. To accomplish a new design approach, the City will hold a design contest.

The Guiding Principles of the refresh are as follows:

Our City web system exemplifies...

- a focus on customers that transforms the way we do business online
- a user friendly experience through excellent navigation and display
- content that is service-centric rather than organization-centric
- ease of use and efficient search functions
- a visually appealing look and feel
- use of modern tools for an interactive experience
- a commitment to improving on what we have today
- reducing stale, duplicative, and bureaucratically written information

3. SCOPE OF WORK

The City of Portland, Office of Management & Finance, hereafter called "City", is seeking proposals from individuals, firms, teams or consultants, hereafter called "Proposer(s)," with demonstrated experience in website layout and usability, content management systems, ADA compliance, and/or use of social media. The City proposes to engage one or more Proposers for each of the following four service areas:

- 1) Information flow/architecture of PortlandOnline

- 2) Functionality of CMS tools and training
- 3) ADA accessibility
- 4) Use of social media

Deliverables will include audits and assessments based on industry best practices, citing specific examples in PortlandOnline, and recommendations for improvements, protocols, and policies in each area.

4. PROJECT FUNDING

The anticipated cost for each of the service areas described herein is \$2500-\$5000 per service area. 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. Proposers may propose for more than one area of service or may choose to focus on a single area.

5. TIMELINE FOR SELECTION

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

Written proposals due at 5 p.m.	June 22, 2009
Selection committee recommendation	June 24, 2009
Contract negotiation with successful Proposer	June 30, 2009
Notice to proceed – work begins	July 2009

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

SECTION B

WORK REQUIREMENTS

1. TECHNICAL OR REQUIRED SERVICES

The successful Proposer(s) shall be expected to work closely with designated City personnel to perform the tasks associated with one or more of the below areas of service:

1. Information Flow/Architecture:

- o Assess and recommend improvements to PortlandOnline's information architecture, focusing on the category structure and navigation.
- o Develop recommendations for overall site organization, usability, and navigation.
- o Conduct an assessment of page layout, content relevance, and searchability.
- o Develop layout recommendations and protocols for content managers to assist in determining and prioritizing content, as well as ensuring that content is easy to find, well labeled, and what users were looking for.
- o Cite multiple examples from PortlandOnline in the recommendations.

2. Functionality:

- o Conduct an audit and assessment of PortlandOnline's CMS tools and layout features.
- o Develop recommendations on what functions are essential, what are not, and how the system could be improved for the end user.
- o Assess PortlandOnline's CMS training classes, support resources, and editor interface.
- o Develop recommendations for training curriculum and protocols and how the CMS could be made more user-friendly for content managers.

3. ADA Accessibility:

- o Conduct an audit and assessment, using assistive technology and other methods, of PortlandOnline's ADA compliance, as defined by Section 508 Standards and w3c guidelines at these sites:
 - o www.access-board.gov/508.htm
 - o www.ada.gov/publicat.htm#anchor-website
- o Develop recommendations for satisfying accessibility guidelines (both in code and for content managers), citing multiple examples from PortlandOnline.

4. Social Media:

- o Conduct an audit and assessment of social media tools in the context of PortlandOnline and the City of Portland.
- o Recommend ways for integrating social media into City web services.
- o Draft or review policy guidelines that employ best practices while maintaining compliance with City code and state laws, addressing areas such as information security and preferred technology methods.
- o Create a draft training curriculum for City content managers and communications staff who may be using social media tools on behalf of the City, including methods for prioritizing the use of social media tools with limited staff resources.
- o Facilitate virtual and in-person conversations between City staff and business, youth, and community leaders regarding the City's use of social media.

2. WORK PERFORMED BY THE CITY

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

- Provide complete background information, including the historical, political, technological, and legal context necessary to complete each of the above tasks.
- Provide access to PortlandOnline CMS tools, training and editor interface as needed.
- Provide access to past online survey results of PortlandOnline users.

3. 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. The successful Proposer is encouraged to provide any deliverables in accordance with the City's Sustainable Paper Use Policy. The policy can be viewed at:

<http://www.portlandonline.com/omf/index.cfm?c=37732> .

Deliverables and schedule for the four service areas of this project shall include:

1. Information Flow/Architecture:

A report detailing the recommended information architecture for overall site organization and navigation; recommendations for page layout guidelines and posting protocols for content managers, citing multiple examples from PortlandOnline in the report. Wire frames and page templates are optional.

2. Functionality:

A report detailing the assessment and recommendations for the content management system tools and features, determining what is essential, what is unnecessary, and what features should be added to ensure a good end user experience, as well as recommendations for training protocols and how the CMS could be made more user-friendly for content managers.

3. ADA Accessibility:

A report detailing the accessibility assessment and recommendations for maintaining ADA compliance, citing specific examples from PortlandOnline. This report will inform design decisions and be used to develop protocols for content managers.

4. Social Media:

A report detailing the assessment and recommendations for integrating social media into City services and outreach, including policy guidelines, best practices, training curriculum for content managers and communications staff, risk/security issues, and methods for streamlining social media tools across City offices and bureaus, citing specific examples from PortlandOnline. Included in this report will be stakeholder feedback from virtual and in-person conversations with the City's Chief Technology and Security Officers, City staff and community stakeholders involved with the project on the City's use of social media.

All deliverables are expected by September 30, 2009, but proposals containing earlier completion dates are acceptable and encouraged. All deliverables and resulting work products from this contract will become the property of the City of Portland.

4. PLACE OF PERFORMANCE

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

5. PERIOD OF PERFORMANCE

The City anticipates having the successful Proposer begin work immediately upon contract execution with submittal of deliverables to the City occurring by September 30, 2009. Contract official end date will be December 31, 2009.

6. 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 requires.

7. INSURANCE

The successful Proposer(s) shall agree to maintain continuous, uninterrupted coverage of all insurance as required by the City. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without a 30-day written notice from the successful Proposer or its insurer(s) to the City.

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

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

Professional Liability Insurance covering acts, errors or omissions arising out of the performance or failure to perform professional services related to the Services under this Agreement will be maintained. The coverage shall be placed with an insurer with an AM Best Rating of A-VII or better and shall include the following coverage parts:

Technology Products & Services E&O -Information Security & Privacy Liability for Service Provided to Others

Such insurance shall cover any and all errors, omissions or negligent acts in the delivery of Products, Services and Licensed Programs under this Agreement. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) and intellectual property infringement, such as copyrights, trademarks, service marks and trade dress.

Such insurance shall include limits of coverage of the local currency equivalent of not less than USD \$100,000.(One Hundred Thousand U.S. dollars) and shall remain in effect for not less than three (3) years following the date of termination of this Agreement. Evidence of coverage must be sent to the City for three years following termination of this agreement.

Certificates of Insurance: As evidence of the insurance coverages, the successful Proposer shall furnish acceptable insurance certificates to the City at the time signed contracts are returned to the City. The certificate will specify all of the parties who are Additional Insureds and will include the 30-day cancellation clause as identified above. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The successful Proposer shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

SECTION C

1. INDEX

2. SAMPLE CONTRACT

3. PROJECT DATA

ATTACHMENTS

PRICING FORM – WEB AUDIT & ASSESSMENT SERVICES
(Must be included with the proposal)

The Professional, Technical and Expert Services IT Contract is the City's standard contract and will be used as a result of this selection process. A sample contract is attached.

Background on this project is available at www.portlandonline.com/support
It is recommended that Proposers scrutinize the City's web site: www.portlandonline.com to inform their proposals.

PART II

PROPOSAL PREPARATION AND SUBMITTAL

SECTION A

PRE-SUBMITTAL MEETING/CLARIFICATION

1. PRE-SUBMITTAL MEETING

There will be no pre-submittal meeting or site visit scheduled for this project.

2. RFP CLARIFICATION

Questions and requests for clarification regarding this Request for Proposal must be directed in writing, via email or fax, to the person listed below. **The deadline for submitting such questions/clarifications is June 15, 2009.** 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.

Laurel Butman
Office of Management & Finance, Business Operations
1120 SW 5th Ave, room 1250
Portland, Oregon 97204

E-mail: laurelb@ci.portland.or.us
Phone: (503) 823-6806
Fax: (503) 823-5384

SECTION B

PROPOSAL SUBMISSION

1. PROPOSALS DUE

Electronic or sealed proposals must be received no later than the date and time, and at the location, specified on the cover of this solicitation. The outside of the envelope shall plainly identify the subject of the proposal, the RFP number and the name and address of the Proposer. 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 and will be returned to the Proposer unopened. 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 the number of pages indicated in the following table. Proposals should clearly indicate the service area or areas to which the proposal applies. Section dividers, title page, and table of contents 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.

Guide to Total Pages Allowed:

# of Service Areas in Proposal	Total Pages Allowed	Notes
1 (one)	14	3 pages allowed for Project Approach & Understanding
2 (two)	17	6 pages allowed for Project Approach & Understanding
3 (three)	20	9 pages allowed for Project Approach & Understanding
4 (four)	23	12 pages allowed for Project Approach & Understanding

For purposes of review and in the interest of the City's Sustainable Paper Use Policy and sustainable business practices in general, the City encourages the use of submittal materials (i.e. paper, dividers, binders, brochures, etc.) that contain post-consumer recycled content and are readily recyclable. The City discourages the use of materials that cannot be readily recycled such as PVC (vinyl) binders, spiral bindings, and plastic or glossy covers or dividers. Alternative bindings such as reusable/recyclable binding posts, reusable binder clips or binder rings, and recyclable cardboard/paperboard binders are examples of preferable submittal materials. Proposers are encouraged to print/copy on both sides of a single sheet of paper wherever applicable; if sheets are printed on both sides, it is considered to be two pages. Color is acceptable, but content should not be lost by black-and-white printing or copying.

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. ORGANIZATION OF PROPOSAL

Proposers must provide all information as requested in this Request for Proposal (RFP). Responses 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. Proposal responses shall be organized in the following manner (page limit in parentheses):

1. Cover Letter (1 page)
2. Project Team (2 pages)
3. Proposer's Capabilities (3 pages)
4. Project Approach and Understanding (3 pages per service area)
5. Diversity in Employment and Contracting Requirements (1 page)
6. Proposed Cost using the pricing sheet in this RFP (1 page)
7. Supporting Information (3 pages)

SECTION C

EVALUATION CRITERIA

1. COVER LETTER

By submitting a response, the Proposer is accepting the General Instructions and Conditions of this Request for Proposal (reference second page of the RFP) and the Standard Contract Provisions of the Professional, Technical and Expert Services contract.

The Cover Letter **must** include the following:

- RFP title
- name(s) of the person(s) authorized to represent the Proposer in any negotiations
- name(s) of the person(s) authorized to sign any contract that may result
- contact person's name, mailing or street addresses, phone and fax numbers and email addresses
- Clearly identify the service areas the proposal is responding to.

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

Prior to contracting the successful Proposer must have a City of Portland Business License and be certified as an Equal Employment Opportunity (EEO) employer. If your firm currently has a business license and is EEO certified, include your firm's City of Portland Business License number as well as the Equal Employment Opportunity (EEO) expiration date.

BUSINESS COMPLIANCE

The Proposer 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 EEO Affirmative Action Employer

All Proposers must be certified as Equal Employment Opportunity Employers as prescribed by Chapter 3.100 of the Code of the City of Portland. Failure to receive EEO certification prior to the date and time of bid opening may result in delaying the award of the contract. Details of certification requirements are available from the Bureau of Purchases, 1120 SW Fifth Avenue, Room 750, Portland, Oregon 97204, (503) 823-6855, website: <http://www.portlandonline.com/omf/purchasing>

Business License

All Proposers must be in compliance with the City of Portland Business License requirements as prescribed by Chapter 7.02 of the Code of the City of Portland. Details of compliance requirements are available from the Revenue Bureau License and Tax Division, 111 SW Columbia Street, Suite 600, Portland, Oregon 97201, (503) 823-5157, website: <http://www.portlandonline.com/omf/index.cfm?c=29320>

2. PROJECT TEAM

Criteria for the Project Team includes the following:

- **Management Approach**
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.
- **Key Personnel**
Describe the education background, directly related work experience, professional development, and demonstrated performance record of the proposed key personnel: project principal, project manager and key project team members. Provide a time estimate of who will be working on this project.
- **Related Project Experience**
Describe the team's experience auditing public or private web sites for the proposed service area(s), including any knowledge of State and Federal laws governing municipal websites and public information, experience organizing large amounts of information, and knowledge and experience implementing best practices for the proposed service area(s). Please list any specific certification or awards team

members have received.

3. PROPOSER'S CAPABILITIES

- Describe the firm's capacity and resources available to perform the work for the duration of the project and other on-going projects.
- Describe the firm's management and organizational capabilities.

4. PROJECT APPROACH AND UNDERSTANDING

For each service area for which the Proposer would like to be considered, please provide the following:

- Describe similar projects performed within the last 5 years, which best characterize firm's capabilities, work quality and cost control.
- Describe similar projects with other government agencies.
- Describe the proposed work tasks and activities, the methodology that will be used to accomplish them, and 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.
- Identify the time frame estimated to complete each task.

5. DIVERSITY IN EMPLOYMENT AND CONTRACTING REQUIREMENTS

The City is committed to increasing contracting opportunities for State of Oregon certified minority, women and emerging small business (M/W/ESB) enterprises. The City values, supports and nurtures diversity, and encourages any firm contracting with the City to do the same, maximizing M/W/ESB business participation with regard to all City contracts. As such, the City has established an overall 20% utilization goal in awarding PTE contracts to State of Oregon certified emerging small business (ESB) enterprises and has assigned at least 15% of the total points available on this solicitation to determine the award of this contract. No goal is set for the use of minority (MBE) and women business (WBE) enterprises, but the City is committed to ensuring that such firms receive opportunities and equal consideration to be awarded City PTE contracts.

All Proposers shall address the following in their proposals:

- a. Indicate if your firm is currently certified in the State of Oregon as an MBE, WBE and/or ESB, or if your firm has applied for certification with the State of Oregon's Office of Minority, Women and Emerging Small Business (OMWESB).
- b. Identify your current diversity of workforce and describe your firm's commitments to providing equal employment opportunities. Include in your response:
 - Number of total employees and description of type of work performed.
 - Number of minorities and women within your current workforce, broken out by ethnicity and positions held.
 - Any underutilization of minorities or women within your workforce and your firm's efforts to remedy such underutilization.
 - Any plans to provide innovative mentoring, technical training or professional development opportunities to minorities and women in your workforce in relation to this project, or plans to employ minorities and women to work on this project.
 - Description of the process your firm uses to recruit minorities and women.
- c. Have you subcontracted or partnered with State of Oregon certified M/W/ESB firms on any project within the last 12 months? If so, please describe the history of the firm's subcontracting and partnering with certified M/W/ESB firms. Include in your response:
 - List of State of Oregon certified M/W/ESB firms with which your firm has had a contractual relationship during the last 12 months.
 - Any innovative or successful measures that your firm has undertaken to work with M/W/ESB firms on previous projects.
 - Any mentoring, technical or other business development services your firm has provided to previous or current M/W/ESB subconsultants or partners, or will provide in relation to this project.
- d. Are you subcontracting any element of your proposal? Describe your firm's plan for obtaining maximum utilization of certified M/W/ESB firms on this project. Include in

your response:

- Subcontracting opportunities your firm has identified in the scope of this project.
 - Efforts made relating to outreach and recruitment of certified M/W/ESB firms. Did your firm advertise contracting opportunities in the *Daily Journal of Commerce*, *Skanner*, *Oregonian*, *Observer*, *El Hispanic News*, *Asian Reporter*, and/or other trade publications? Did your firm conduct any outreach meetings? Did your firm use the State's OMWESB certification list, or other source, as a basis for direct outreach? What were the actual results of any of the above efforts?
 - Any proposals received from certified M/W/ESB firms. If any such proposals were rejected, provide reasons for rejection.
 - Other efforts your firm used or proposes to use in relation to this project.
- e. If your firm will be utilizing certified M/W/ESB firms on this project, please list those firms and detail their role within your proposal.

The City expects thoughtful consideration of all of the above Diversity in Employment and Contracting criteria in the preparation of proposals, and will enforce all diversity in workforce and M/W/ESB commitments submitted by the successful Proposer.

6. PROPOSED COST

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. Additionally, this cost 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. Please summarize all total costs by completing the Pricing Sheet at the end of this RFP.

7. SUPPORTING INFORMATION

Supporting material must include a minimum of three (3) work 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.

PART III

PROPOSAL EVALUATION

SECTION A

PROPOSAL REVIEW AND SELECTION

1. EVALUATION CRITERIA SCORING

Each proposal shall be evaluated on the following evaluation criteria, weighting and maximum points, as follows:

Criteria		Maximum Score
a.	Cover Letter	0
b.	Project Team/Expertise	20
c.	Proposer's Capabilities	20
d.	Project Approach and Understanding	30
e.	Diversity in Employment and Contracting	15
f.	Proposed Cost	15
g.	Supporting Information	0
Total Points Available		100

2. PROPOSAL REVIEW

An evaluation review committee will be appointed to evaluate the proposals received. For the purpose of scoring proposals each of the committee members will evaluate each service area proposal in accordance with the criteria and point factors listed above. The evaluation committee may seek outside expertise, including but not limited to input from technical advisors, to assist in evaluating proposals.

The successful Proposer(s) shall be selected per service area by the following process:

- a. An evaluation committee will be appointed to evaluate submitted written proposals.
- b. The committee will score the written proposals based on the information submitted according to the evaluation criteria and point factors.
- c. The committee will require a minimum of 2 working days to evaluate and score the written proposals.
- d. A short list of Proposers, based on the highest scores, may be selected for oral interviews if deemed necessary. The City reserves the right to increase or decrease the number of Proposers on the short list depending on the scoring and whether the Proposers have a reasonable chance of being awarded a contract.
- e. If oral interviews are determined to be necessary, the scores from the written proposals will be considered preliminary. Final scores, based on the same evaluation criteria, will be determined following the interviews.

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.

NOTE: In the City's discretion, litigation between the City and a Proposer shall 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 subconsultants who are involved in litigation with the City. Proposers 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.

3. CLARIFYING PROPOSAL DURING EVALUATION

During the evaluation process, the City has the right to require any clarification or change its needs in order to understand the Proposer's view and approach to the project and scope of the work.

SECTION B

1. CONSULTANT SELECTION

CONTRACT AWARD

The City may award a single or multiple contract(s) to the highest scoring Proposer(s) of each service area. Should the City not reach a favorable agreement with the highest scoring Proposer, at the City's sole discretion, the City shall terminate negotiations and commence negotiations with the second highest scoring Proposer and so on until a favorable agreement is reached. A consultant selection process will be carried out under Portland City Code Chapter 5.68.

2. CONTRACT DEVELOPMENT

The proposal and all responses provided by the successful Proposer may become a part of the final contract. The form of contract shall be the City's Contract for PTE IT Services.

3. AWARD REVIEW

Following the Notice of Intent to Award, the public may view proposal documents. However, any proprietary information so designated by the Proposer as a trade secret and meeting the requirements of ORS 192.501(2) 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.

PRICING SHEET – WEB AUDIT & ASSESSMENT SERVICES

Firms shall insert a price for each service area in which they intend to propose. Firms are not required to bid on all areas. For service areas not being bid upon, please mark NO BID in the Total box. Firms are encouraged to provide reasonable timelines in which they may complete the work. The successful Proposer(s) shall enter into a not-to-exceed contract based on their Total Price for the service area.

SERVICES	PROPOSED COMPLETION DATE	AVERAGE HOURLY RATE	ESTIMATED HOURS	TOTAL NOT-TO- EXCEED
1. Information Flow/Architecture		\$		\$
2. Functionality		\$		\$
3. ADA & Accessibility		\$		\$
4. Social Media		\$		\$
Optional Services				
5.				
6.				

Optional services are informational only and shall not be scored.

Date: _____

Name of Firm: _____

Name: _____

Signature: _____

Title: _____

Phone: _____

Fax: _____

E-Mail: _____

SAMPLE PTE CONTRACT (TECHNOLOGY)

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

CONTRACT NO. [Click Here and Type](#)

**SHORT TITLE OF WORK PROJECT:
[Click Here and Type](#)**

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and [Click Here and Type](#), hereafter called Contractor. The City's Project Manager for this contract is [Click Here and Type](#).

Effective Date and Duration

Unless terminated sooner under the provisions of this Contract, the term of this Contract shall be from [Click Here and Type](#) to [Click Here and Type](#) with the City's option to extend for [Number of Years](#) years for a contract total of [Number of Years](#) years.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed [Click Here and Type](#) for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

Terms and conditions listed on pages 2 - 4.

=====

CONTRACTOR DATA AND CERTIFICATION

Contractor Name (please print): _____

Address: _____

Employer Identification Number (EIN) _____

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

City of Portland Business License # _____

Citizenship: Nonresident alien ☐ Yes ☐ No

Business Designation (check one): ☐ Individual ☐ Sole Proprietorship ☐ Partnership

☐ Corporation ☐ Limited Liability Co (LLC) ☐ Estate/Trust ☐ Public Service Corp.

☐ Government/Nonprofit

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

=====

**STANDARD CONTRACT PROVISIONS FOR
PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)**

1. Access to Records

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

2. Audits

(a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally

accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.

(c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.

3. **Effective Date and Duration**

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

4. **Order of Precedence**

This contract consists of the terms and conditions of this contract including Exhibit [REDACTED], the Request for Proposals (RFP) issued by the City, if any, and the Contractor's proposal in response to the RFP. In the event of any apparent or alleged conflict between these various documents, the following order of precedence shall apply to resolve the conflict: a) Amendments to this Contract, b) this contract's terms and conditions, c) Change Orders, d) Task orders e) the City's RFP, and f) the Contractor's proposal in response to the RFP, attached as Exhibit [REDACTED] and g) Contractor's Price proposal, attached as Exhibit [REDACTED].

5. **Early Termination of Agreement**

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

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

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

6. **Payment on Early Termination**

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

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

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

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

7. **Remedies**

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

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

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

8. **Subcontracts and Assignment**

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the

Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

9. Compliance with Applicable Law

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

(a) Indemnity - Claims for Other than Professional Liability

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

(b) Indemnity - Claims for Professional Liability

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

(c) Indemnity - Standard of Care

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

10. Insurance

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

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

(b) ☒ Required and attached or Waived by City Attorney : _____

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

(c) ☒ Required and attached or Waived by City Attorney : _____

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

(d) ☒ Required and attached or Waived by City Attorney : _____

Professional Liability Insurance covering acts, errors or omissions arising out of the performance or failure to perform professional services related to the Services under this Agreement will be maintained. The coverage shall be placed with an insurer with an AM Best Rating of A-VII or better and shall include the following coverage parts:

Technology Products & Services E&O -Information Security & Privacy Liability for Service Provided to Others

Such insurance shall cover any and all errors, omissions or negligent acts in the delivery of Products, Services and Licensed Programs under this Agreement. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) and intellectual property infringement, such as copyrights, trademarks, service marks and trade dress.

Such insurance shall include limits of coverage of the local currency equivalent of not less than USD \$100,000 (One Hundred Thousand U.S. dollars) and shall remain in effect for not less than three (3) years following the date of termination of this Agreement. Evidence of coverage must be sent to the City for three years following termination of this agreement.

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

11. Ownership of Work Product

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

12. Nondiscrimination

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

13. Successors in Interest

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

14. Severability

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

15. Waiver

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

16. Warranty (a) Contractor warrants that the work performed under this Contract will meet the standards of skill and diligence normally employed by professional engineers or consultants performing the same or similar services, that work will be free from errors and from defects in workmanship and materials, and that deliverables shall conform to the performance standards, specifications, functions and other descriptions and standards applicable thereto as set forth in the Statement of Work. The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

(b) Contractor warrants it has complied and shall comply with all applicable law in connection with the execution, delivery, and performance of this Contract and shall not contravene the terms of any contracts with third parties, or any third-party rights in any patent, trademark, copyright, trade secret, or similar right; and, as of the date of this Agreement, there are no actual or threatened legal actions with respect to the matters in this Agreement.

17. Governing Law

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon, without reference to its conflict of laws provisions. Any action or suits involving any question arising 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.

18. Amendments

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

19. Business License

The Contractor shall obtain a City of Portland business license as required by PCC 7.02 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement. Additionally, the Contractor shall pay all fees or taxes due under the Business License Law and the Multnomah County Business Income Tax (MCC Chapter 12) during the full term of this contract. Failure to be in compliance may result in payments due under this contract to be withheld to satisfy amount due under the Business License Law and the Multnomah County Business Income Tax Law.

20. Prohibited Interest

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

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

21. Payment to Vendors and Subcontractors

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

22. Written Notifications

All notices to, and other written communication between, the Parties to this Agreement shall be deemed received five (5) days after being sent by first class mail, or upon receipt when sent by courier services 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 the City:

Name:

Title:

Address:

City, State:

e-mail:

Copy to:

For the Contractor:

Name:

Title:

Address:

City, State:

e-mail:

Copy to:

Name:	Name:
Title:	Title:
Address:	Address:
City, State:	City, State:
e-mail:	e-mail:

23. 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 the Agreement.

24. Return of Parties' Property. When the Agreement or any Task/Change Order placed pursuant to the Agreement is terminated or expired, each Party shall return to the other all papers, materials, and properties of the other Party then in its possession. The City will retain one (1) copy of the documentation for the express purposes of public record archiving.

25. Notice of Change in Financial Condition. Contractor must maintain a financial condition commensurate with the requirements of the Agreement. If, during the Agreement, 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 Agreement.

26. Confidentiality.

(a) "City Confidential Information" means any information, in any form or media, including verbal discussions, whether or not marked or identified by the City, which is reasonably described by one or more of the following categories of information: (1) financial, statistical, personnel, human resources data or Personally Identifiable Information as described in the Oregon Consumer Identity Theft Protection Act of 2007; (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.501(2) and the Uniform Trade Secrets Act ORS 646.461 to 646.475; (5) Exempt per ORS 192.501 and/or ORS 192.502 (6) attorney/client privileged communications, (7) exempt per federal laws (including but not limited to Copyright, HIPPA) and (7) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems developed for the benefit of the City including without limitation, data and information systems, any software code and related materials licensed or provided to the City by third parties; processes; applications; codes, modifications and enhancements thereto; and any work products produced for the City.

(b) 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/Network, (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 Confidential intellectual property of the City without the City's prior written consent.

(c) Scope. This Agreement shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. This Agreement shall not apply to Confidential Information which (1) is or later becomes part of the public domain without breach of this Agreement 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 Agreement or the date of any access or exposure to any Confidential Information. Contractor's obligations under this Agreement shall survive termination.

(d) Equitable Remedies. Contractor acknowledges that unauthorized disclosure of City Confidential Information or misuse of the City System or Network will result in irreparable harm to the City. In the event of a breach or threatened breach of this Agreement, the City may obtain equitable relief prohibiting the breach, in addition to any other appropriate legal or equitable relief.

(e) Contractor's Confidential Information. During the term of the Agreement, 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.

27. 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 agreement 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.

28. 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 Agreement 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 Agreement 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. Nothing in this Agreement shall alter, modify, or supersede the content and survival of such provisions, except as otherwise expressly agreed to in writing by the Parties and with the prior written approval of the City Attorney's office.

OPTIONAL PROVISIONS (selected by City Project Manager)

29. Arbitration: /___/ Applicable /_X_/ Not Applicable (consult with City Attorney's Office before finalizing as applicable)

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

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

30. Progress Reports: /___/ Applicable /___/ Not Applicable

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

31. Contractor's Personnel: /_X_/ Applicable /___/ Not Applicable

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

32. Subcontractors: /_X_/ Applicable /___/ Not Applicable

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

33. TRAVEL /___/ Applicable /_X_/ Not Applicable

(a) **Reimbursement.** Contractor may be reimbursed, upon advance written approval by authorized City personnel, for certain expenses incurred in connection with personnel assigned to provide services for the City on the City's Site. All invoices shall be accompanied by original receipts and any additional backup that may be appropriate, and required by any subsequent Task/Change Order. Reimbursement will be made based on the following guidelines:

(b) **Commercial Air Travel.** Commercial air travel reservations are to be arranged based on the lowest coach fare available within a reasonable time frame surrounding the desired arrival or departure time. The City shall reimburse Contractor for one round trip to the subject work location, unless otherwise agreed to by the City in writing. When possible, air travel arrangements should be reserved at least seven (7) to fourteen (14) days in advance. Direct billing for commercial air travel is NOT permitted; however, City may elect to arrange travel reservations on behalf of Contractor personnel. Weekend travel is not reimbursable, unless otherwise agreed to by the City's Project Manager in writing. In the event weekend travel is reimbursed, such reimbursement shall be made based on an amount up to and in lieu of any authorized per diem amounts and, if applicable, any other daily expense reimbursement.

(c) **Rental Cars - Surface Transportation.** Vehicle rental will be reimbursed based on a minimum ratio of one (1) compact auto per two (2) Contractor personnel. Reimbursement for vehicle rental will not be approved for Contractor personnel falling below that ratio. Cost for additional insurance is not reimbursable, nor will reimbursement be permitted for fuel obtained at a vehicle rental agency. City does not assume any liability of any type in connection with rental vehicles reserved or operated by Contractor personnel. Direct billing for rental vehicles is not permitted. If the City's Project Manager elects to provide a per diem for auto rental, such per diem shall be the same per diem as allowed for City employees.

(d) **Lodging.** Contractor shall arrange for their own lodging if required, and approved in writing by the City. The City will reimburse Contractor per individual for a daily lodging expenses based on GSA per diem rates; such per diem shall be the same per diem as allowed for City employees. GSA per diem rates can be found at the U.S. General Services Administration website: <http://www.gsa.gov/Portal/gsa/ep/home.do?tabId=0>.

(e) **Per Diem.** The City will provide a Per Diem for each full day (eight hours) worked for Contractor personnel assigned to deliver services. The per diem rate will be the same as the one published on the U.S. General Services Administration website, identified as the Meal and Incidental Expenses (M&IE) for the Portland, Oregon area. Per Diem may include the following expenses:

- meals
- laundry
- tips and gratuities
- communications for personal reasons
- any additional miscellaneous expenses

(f) **Personal Entertainment.** Expenses incurred for personal entertainment while traveling on the City business is not reimbursable. Personal entertainment includes items such as in-room movie charges, sightseeing, attendance at sporting events, reading materials, birthday gifts, haircuts, etc.

INFORMATION TECHNOLOGY

34. On-Call Information Technology (IT) Services Contract: /___/ Applicable /_X_/ Not Applicable

(a) The City shall assign individual projects on a Task Order, time-and-materials basis as project needs are identified. The scope of work, schedule, deliverables, and compensation for each project will be defined in the Task Order, similar in content to the WORK outlined in the STATEMENT OF THE WORK, prior to commencement of the work. Any changes to the scope of work, schedule, deliverables, and compensation must be agreed upon by Contractor and the City in writing as an amendment to the Task Order.

(b) Following each executed Task Order, the City's Project Manager will work directly with the Contractor for the duration of the project, unless otherwise noted on the Task Order.

(c) A single task order may not exceed \$75,000, including task order amendments, unless authorized by the Purchasing Agent. The Purchasing Agent shall approve task orders and task order amendments in the following scenarios: 1) When amending the task order to increase compensation is greater than 25% of the original task order amount or 2) When a task order exceeds \$75,000.

35. Multiple-Award Information Technology (IT) Services Contract: /__X_/ Applicable /___/ Not Applicable

This Contract is one of multiple contracts the City has awarded for on-call IT services in **four (4)** service categories as a result of RFP No. 110658. The number of contracts awarded for these on-call services is at the sole discretion of the City, as is the assignment of work. The City has no obligation to request any services from Contractor under this Contract. There is no guarantee that the total dollar limit of the contract will be reached. For projects exceeding \$25,000, the City shall contact at least three (3) contractors in the desired service category to determine which Contractor is best suited to perform the project in the required time frame. The City has established procedures to allow the Bureaus, in every case, to select the most technically qualified firm for each task order.

Contractor may be called on to provide as-needed consulting services and/or undertake fixed-term projects, which may range from a minimal amount up to \$75,000 subject to budget availability in any given year.

36. Security. (10/08) Contractors providing or having access to data containing City confidential or 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 the following:

(a) (10/08) Oregon Consumer Identity Theft Protection Act, 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 (as defined) and in cooperation with the City, provide notice to affected consumers. Any costs or fees incurred by the City due to Contractor's data breach, including but not limited to notification, consumer credit reports or fines by the Department of Consumer and Business Services, shall be reimbursed to the City by Contractor.

(b) (10/08) City of Portland, Bureau of Technology Services Security Standards. Specifically Contractors must comply with Technology Services, Information Security Administrative Rules 2.01, 2.02, 2.08, 2.12 and 2.15. These rules are located at: <http://www.portlandonline.com/auditor/index.cfm?c=26821>.

(c) (1/09) Additionally, any Contractor who provides or has access to Software which process and /or interacts with credit/debit card information must also be compliant with the Payment Card Industry- Data Security Standard (PCI-DSS). The most current version is 1.2. These standards are maintained at www.pcisecuritystandards.org

37. Merger Clause

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

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**STATEMENT OF THE WORK
AND PAYMENT SCHEDULE**

DELETE ABOVE INSTRUCTIONS AND ANY INSTRUCTIONS BELOW IN BRACKETS

SCOPE OF WORK

CONTRACTOR PERSONNEL *[Use these provisions as applicable]*

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

NAME	ROLE ON PROJECT

SUBCONTRACTORS *[If none, indicate "NONE"]*

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

COMPENSATION *[Modify these provisions to meet your specific needs]*

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

PAYMENT TERMS: Net 30 Days**Hourly Rates**

The billing rates shall not exceed those [set forth below].

Standard Reimbursable Costs

The following costs will be reimbursed without mark-up.

-

Subconsultant Costs

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

Adjustment of Labor Rates

Each year the contract is in force, hourly rates may be adjusted annually to an amount not to exceed the average inflation rate for the Portland Metropolitan Area as determined from the US Department of Labor statistics and certified by the City of Portland Auditor. Other than the impact of inflation as described above, compensation rates may not be increased.

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 subconsultant invoices and note on the subconsultant invoice what they are approving as "billable" under the contract. The billing from the prime should clearly roll up labor and reimbursable costs for the prime and subconsultants – matching the subconsultant invoices. Prior to initial billing, the Contractor shall develop a billing format for approval by the City.

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

The Contractor shall make full payment to its subcontractors within 10 business days following receipt of any payment made by the Bureau to Contractor.

INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

SECTION A

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

Contractor Signature _____ Date _____ Entity _____

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

SECTION B

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

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

City Project Manager Signature

Date

SECTION C

Independent contractor certifies he/she meets the following standards:

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

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

Contractor Signature

Date

CONTRACTOR SIGNATURE:

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

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

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

Contractor Name Here

BY: _____ Date: _____

Name: _____

Title: _____

Contract No. _____

Contract Title: _____

CITY OF PORTLAND SIGNATURES:

By: _____
Bureau Director

Date: _____

By: _____
Purchasing Agent

Date: _____

By: _____
Elected Official

Date: _____

Approved:

By: _____
Office of City Auditor

Date: _____

Approved as to Form:

By: _____
Office of City Attorney

Date: _____