



REQUEST FOR QUALIFICATIONS #13-21 FOR (ON-CALL) REAL ESTATE BROKERAGE SERVICES

**PROPOSALS DUE: MAY 14, 2014
BY 2:00 PM (PACIFIC TIME)**

**Direct all questions to and submit one (1) original proposal,
three (3) photocopies, and one (1) electronic copy of the
proposal (including cover letter) on CD-ROM/Flash drive to:**

Nathan P. Mosley, CPPB
Procurement Services Coordinator
Portland Development Commission

222 NW Fifth Avenue
Portland, Oregon 97209
(503) 823-3322
mosleyn@pdc.us (email)
<http://www.pdc.us/> (www)

*PDC encourages the participation of certified minority-owned, women-owned
and emerging small businesses in this Request for Qualifications.*

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LIST OF EXHIBITS

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1.0 REQUEST FOR QUALIFICATIONS SUMMARY AND SCHEDULE

1.1 Request for Qualifications Data and Contact Information

Request for Qualifications Title: **Real Estate Brokerage Services**
Solicitation Number: **RFQ #13-21**
Solicitation Coordinator*: **Nathan P. Mosley, CPPB**
Procurement Services Coordinator
Contact Information: **(503) 823-3322** (direct)
(503) 823.3368 (fax)
mosleyn@pdc.us (email)
Proposal Delivery Location**: **Portland Development Commission**
Attn: Nathan P. Mosley, CPPB, Professional Services
222 NW 5th Avenue
Portland, OR 97209

*** This is the SOLE POINT OF CONTACT for this RFQ. Direct all questions regarding this RFQ to the Solicitation Coordinator identified here.**

**** To be considered for evaluation, proposals must be received by PDC at the location listed here no later than the "Proposal Due Date and Time" listed below.**

1.2 Summary. Through this Request for Qualifications (this "RFQ"), the **Portland Development Commission** ("PDC") is requesting statements of qualifications, expertise, and pricing ("proposals") from individuals or firms ("Proposers" or "you(r)") to provide Real Estate Brokerage services on an "as needed" basis. PDC may award one or more Flexible Service Contracts from this RFQ. A Flexible Service Contract is a price agreement to provide a range of services with work authorized through Work Orders (see Section 4 of this RFQ). PDC MAKES NO GUARANTEE OF WORK UNDER A FLEXIBLE SERVICES CONTRACT.

1.3 Schedule of Solicitation and Contract Award Events. PDC reserves the right to change the following schedule for any reason.

Request for Qualifications Issued	April 30, 2014
Deadline for Questions and Requests for Changes	May 7, 2014
PROPOSAL DUE DATE AND TIME (no later than)	MAY 14, 2014 by 2:00 PM (Pacific)
Notice of Intent to Award, Issued (<i>tentative</i>)	May 23, 2014
Deadline for Protest of Intent to Award	Seven (7) calendar days after Notice of Intent to Award
Anticipated Contract Effective Date (<i>tentative</i>)	June 1, 2014

A pre-proposal meeting is NOT scheduled for this RFQ.

2.0 ABOUT THE PORTLAND DEVELOPMENT COMMISSION

Created by Portland voters in 1958, PDC has been a driving force in Portland's reputation for vibrancy and livability. As Portland's urban renewal and economic development agency, PDC focuses on investing in the job creation, innovation, and economic opportunity that will transform Portland into one of the world's most desirable and equitable cities.

To achieve this end, PDC's Strategic Plan focuses on five goals:

- Strong Economic Growth and Competitiveness
- Social Equity
- Healthy Neighborhoods
- A Vibrant Central City
- Effective Stewardship over our Resources and Operations, and Employee Investment

As the city's economic development agency, PDC helps existing and new businesses navigate a wide variety of public and non-profit resources, assists businesses in evaluating Portland as a viable and effective location where a company can thrive, and connects business owners with financial and technical resources that can give companies a competitive edge.

For more information, visit the PDC website at <http://www.pdc.us>.

3.0 WORK REQUIREMENTS

- 3.1 RFQ Purpose.** Through this RFQ, PDC seeks to enter into one or more Flexible Services Contract(s) with successful Proposer(s) (the "Contractor(s)") for the provision of the services listed below. Contractor(s) will provide PDC with Real Estate Brokerage Services on an as-needed basis. Project work will be authorized through Work Order issued from a Flexible Services Contract (see Section 4.0 below).
- 3.2 Nature of Work.** The services requested under a Flexible Services Contract will typically be for projects that are small to medium in size and limited in scope. They generally include work with short deadlines, scopes that may need to be developed quickly and/or require expertise not currently in-house. In some cases, PDC may request work involving complex requirements and multiple tasks. When performing work under a Flexible Services Contract, the Selected Contractor(s) must meet the highest standards prevalent in the industry most closely related to the services being provided.
- 3.3 Scope of Services.**
As a public agency, there are community goals and expectations that are of significant importance as well as overall plans and strategies that direct reuse options for the subject properties. The Contractor may be requested to represent PDC at meetings regarding the activities they are undertaking on behalf of the agency. As a part of a property transaction, PDC often requires the purchaser to sign a Development Agreement detailing their plans and their compliance with PDC, neighborhood, and public policy objectives.

The range of Real Estate Brokerage Services which selected contractors may be asked to provide under a flexible services contracts includes, but is not limited to, the following:

- Identifying prospective purchasers
- Developing PDC-approved marketing strategies and programs
- Showing property to prospective purchasers
- Screen prospective buyers using established criteria and existing neighborhood goals
- Preparing financial analyses including net present value calculations to compare purchase proposals, and recommending terms and conditions
- Provide internet materials and marketing services
- Prepare and install PDC-approved signage and marketing materials as may be required
- Negotiate terms and conditions of agreements consistent with federal, state and PDC's strategic and financial objectives and requirements
- Visually inspect properties as may be required to market the property
- Participate in meetings with prospective buyers with PDC and neighborhood representatives
- Review zoning and land use designations for compatibility with project requirements
- Assist PDC-led preparation and negotiation of a development agreement
- Document all actions and contacts
- Provide status reports as required by PDC
- Professionally represent PDC as all times
- Prepare, for PDC's signature, any disclosures required by state or local law
- Provide exceptional customer service to potential purchasers, sellers, brokers, stakeholders, agents and other citizens when surveyed by PDC staff
- Review market conditions and deal terms of proposals/offers and provide analysis and opinions as requested by PDC
- Other work related to real estate acquisition/disposition, as it may occur

Note: The following services are outside the scope of this solicitation

- Real Estate Appraisal Services
- Relocation Services
- Property Leasing Services
- Real Estate Advisory/Consultation Services

Firms interested in submitting proposals for these services, or any other type of services that PDC might release a solicitation for, should go to www.pdc.us/bids or sign-up to receive notices of new contract opportunities at www.pdc.us/signup (under Business Services, check "RFPs / RFQs / IFBs").

4.0 CONTRACT REQUIREMENTS

- 4.1 Form of Agreement.** The Proposer(s) selected for contract award from this RFQ (each “Contractor”) will be invited to enter into a Flexible Services Contract (each “Contract”) with PDC. Each Contract will become effective upon execution by the parties to that Contract.
- 4.2 No Obligation of Work.** CONTRACTS AWARDED FROM THIS RFQ WILL BE EXECUTED FOR WORK TO BE PROVIDED ON AN AS-NEEDED BASIS. AS SUCH, PDC MAKES NO GUARANTEE OF ANY WORK; NOR IS THERE ANY GUARANTEE THAT THE MAXIMUM COMPENSATION OF THE CONTRACT WILL BE EARNED.
- 4.3 Contract Term.** Each Contract will have a term of approximately **three (3)** years, which may be extended upon the mutual written agreement between the parties to the Contract.
- 4.4 Work Authorization (Work Orders).** The process for authorizing work under a Contract is explained in EXHIBIT A of this RFQ. NO WORK WILL BE AUTHORIZED WITHOUT A FULLY-EXECUTED WORK ORDER.
- 4.5 Compensation and Payment**
- 4.5.1 **Contract Value.** The initial value of each Contract will be an amount not to exceed **\$100,000** which may be amended by the written agreement of the parties.4.5.2 **Contractor Fees.** Fee schedules provided by the Contractor in their proposal will be used for all work under a Contract unless the Contract fee schedule is subsequently modified by the written agreement of the parties or negotiated prior to execution of the Contract.
- 4.5.2 **Method of Payment.** Contractors’ personnel and reimbursable expenses, up to the not to exceed value of a Work Order, will be payable on the basis of each Contractor’s time and materials using the billing rates listed within each Contract.
- 4.5.3 **Billing and Payment Procedures.** Billing and payment procedures for work performed under a Contract are contained in EXHIBIT B of this RFQ.
- 4.6 Contract Terms and Conditions.** The terms and conditions that will govern each Contract are contained in EXHIBIT C of this RFQ.
- 4.7 Contract Compliance.** Before PDC will execute any Contract with a Contractor, that Contractor must comply with the following for the duration of the Contract term:
- 4.7.1 **Authority to Transact Business in Oregon.** Be a legal entity that has the authority to transact business in the state of Oregon. The Oregon Secretary of State Corporation Division’s website:
<http://filinginoregon.com/business/index.htm>
- 4.7.2 **Portland Business License.** Obtain a City of Portland Business License (for Contracts in excess of \$50,000). The City of Portland Revenue Bureau’s website:
<http://www.portlandonline.com/omf/index.cfm?c=29554>
- 4.7.3 **Equal Employment Opportunity.** Certify as an Equal Employment Opportunity (EEO) employer. The City of Portland’s EEO website:
<http://portlandonline.com/omf/index.cfm?c=45665&>

4.7.4 **Insurance Requirement.** Provide insurance documents consistent with the requirements in Section 4.8 below.

Note that requirements listed in this section are NOT a condition to respond to this RFQ and apply only to the successful Proposer(s).

4.8 Insurance Requirements. At all times during the term of the Contract, Contractor shall maintain, on a primary basis and at its sole expense, the following insurance:

4.8.1 **Workers' Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage for their subject workers, unless exempt under ORS 656.027.

4.8.2 **General Liability (GL)** insurance on an occurrence basis with a combined single limit of not less than **\$1,000,000** each occurrence, **\$2,000,000** general aggregate. This insurance shall include personal injury liability, products, and completed operations. Contractor shall endorse the following as an additional insured on the GL policy: **"The Portland Development Commission, the City of Portland, and each of their respective officers, agents, and employees."** Acceptable endorsement types include the "CG2026 07 04" (Designated Person or Organization), "CG2010 10 01" (Owners, Lessees, or Contractors – Scheduled Person or Organization), or similar endorsement providing equal or broader additional insured coverage.

4.8.3 **Automobile Liability** insurance with a combined single limit of not less than **\$1,000,000**, each accident, covering owned, non-owned, or hired vehicles. If Contractor does not own any automobiles, Contractor shall maintain coverage for hired and non-owned automobiles.

4.8.4 **Professional Liability** (aka "Errors and Omissions") insurance with a combined single limit of not less than **\$1,000,000** against arising from the Contractor's professionally negligent acts, malpractice, errors, or omissions related to the Contract.

4.8.5 **Tail Coverage.** If the professional liability insurance is provided on a "claims made" basis, Contractor shall maintain either tail coverage or continuous "claims made" liability coverage for a minimum of twenty-four (24) months following Contractor's completion and PDC's acceptance of the Work required under the Contract.

Prior to execution of the Contract, Contractor must transmit certificates evidencing the types and amounts of insurance listed above to the Solicitation Coordinator identified in Section 1.1 of this RFQ. Contractor's insurance must be obtained from companies or entities that are authorized to provide insurance in Oregon.

5.0 SUBMITTAL REQUIREMENTS AND EVALUATION CRITERIA

Proposals submitted in response to this RFQ will be evaluated by comparing Proposers' written responses with the Submittal Requirements and Evaluation Criteria listed below. To facilitate evaluation, include a table of contents and organize your proposal in the order of the sections below.

All submittal requirements listed as **"Mandatory"** below must be addressed in sufficient detail in a proposal submitted in response to this RFQ. PROPOSALS THAT DO NOT ADDRESS ALL MANDATORY SUBMITTAL REQUIREMENTS OF THIS RFQ WILL BE CONSIDERED NON-RESPONSIVE AND WILL NOT BE CONSIDERED FOR CONTRACT AWARD.

**5.1 Cover Letter
(Mandatory Submittal Requirement – Not Scored, but Required)**

Provide a cover letter clearly indicating your firm is interested in providing Real Estate Brokerage Services on an as-needed basis for PDC. Include the mailing address, phone and fax numbers, and email address of your primary point of contact for this RFQ. Finally, if your proposal is printed on recycled paper, state the post-consumer waste recycled paper content of your proposal (see “Sustainability of Proposal” section below). If no information about the recycled paper content of your proposal is listed in the cover letter, PDC will assume it is 0%.

**5.2 Experience and Qualifications
(Mandatory Submittal Requirement – 30 Maximum Points)**

Provide a detailed history of your firm and your experience providing Real Estate Brokerage Services. For this section, include the following information:

- 5.2.1 Number of years in business, general scope of services provided, principal area(s) of expertise, years supplying the type(s) of services requested in this RFQ, and number of employees.
- 5.2.2 A short but complete profile of each individual proposed to perform work under the Contract, whether they are your direct personnel or personnel of a subcontractor (the “Key Personnel”). For each Key Personnel, include information on their work history, education, key responsibilities on past projects, and relevant professional licenses and certifications. Limit one page per person.
- 5.2.3 Indicate your firm’s management and organizational capabilities, particularly with regards to staff and resource capacity to respond to critical deadlines and complex scope requirements on short notice—including the ability to perform onsite work within Portland city limits with limited advance notice.
- 5.2.4 List similar services your firm has provided to other public agencies.
- 5.2.5 Any information that you believe makes your work superior to that of others or information about your specialty or particular skill.

If you intend to have services provided by subcontractor(s) or subconsultant(s), your firm must serve as the prime contractor for all services provided under the Contract and PDC will look solely to your firm for satisfaction of all obligations under the Contract.

**5.3 Previous Related Projects and References
(Mandatory Submittal Requirement – 30 Maximum Points)**

- 5.3.1 **Previous Related Projects.** Provide a list of **no more than five (5)** past projects similar to the services described in this RFQ. For each project listed, provide the following:
- A short summary of project, highlighting scope and other similarities
 - Key personnel involved and their responsibilities
 - Work products generated

No more than one (1) of the past projects listed may be a PDC project.

5.3.2 **References.** For **at least three (3)** of the related projects listed for Section 5.4.1 of this RFQ, supply reference information for PDC to contact regarding the quality of your firm’s work as well as cost, scope, and schedule control. References may or may not be checked. For each reference, include the name of the client and a contact name with phone number and email address.

**5.4 Fee Structure
(Mandatory Submittal Requirement – 20 Maximum Points)**

5.4.1 Proposer shall submit a proposal that identifies the Fee Structure for providing On-Call Real Estate Disposition Services on a **Brokerage (commission/percentage) Fee basis only**. The brokerage fee (commission) for the acquisition of a property by PDC shall be paid and collected from the seller of a property sold to PDC.

Additional considerations:

- PROPOSED FEE STRUCTURES SUBMITTED ON AN HOURLY RATE BASIS FOR THIS RFQ WILL BE CONSIDERED NON-RESPONSIVE.
- The proposed Fee Structure shall indicate if any reductions in cost will be given based on the value of the property and/or the property type.
- Proposals shall list if, and how, the proposed Brokerage Fee would differ for various types of property class (single-family dwelling, multi-family dwelling, office, retail, industrial, etc.).
- Brokerage Fee Rates shall remain the same though the term of the contract.
- In the event a contractor has or is awarded a PDC contract for Real Estate Advisory Services. in addition to a contract for Real Estate Brokerage services, any amount paid by PDC to the contractor for Real Estate Advisory Services on property that results in PDC’s sale of a property shall be credited in full to PDC against any compensation to be paid for Real Estate Brokerage Services for the sale of that property.

5.4.2 **Comparison of Fees.** Proposed fee schedules will be compared to the fee schedules proposed by competing firms and to available information regarding current market rates.

**5.5 Promotion of M/W/ESB Firms in Subcontracting Opportunities
(Mandatory Submittal Requirement – 15 Maximum Points)**

PDC seeks to extend subcontracting opportunities to State of Oregon-certified Minority Business Enterprises, Women Business Enterprises and Emerging Small Businesses (collectively, “M/W/ESB firms”) in order to promote their economic success and growth. All Proposers must address the following in their proposal:

5.5.1 If applicable, list any M/W/ESB firms that will be used as subcontractors or subconsultants on a contract awarded from this RFQ, including their certification number (<http://www4.cbs.state.or.us/ex/dir/omwesb/>).

- 5.5.2 If applicable, (a) provide a list of projects that highlights your firm’s experience in promoting participation of M/W/ESB firms as partners, subcontractors, and/or suppliers on previous projects; or (b) attach a copy of your firm’s outreach strategy or equity policy that addresses the utilization of MWESB firms in your projects.
- 5.5.3 If applicable, discuss any innovative or particularly successful methods that your firm has undertaken to provide business opportunities to M/W/ESB firms (e.g., creation of a mentor-protégé program, sponsorship of business development or technical training seminars or workshops targeted at M/W/ESB firms, or offering one-one-on technical assistance to M/W/ESB firms).

PDC encourages you to do one or more of the following to find M/W/ESBs for your projects:

- Find M/W/ESB firms at <http://www4.cbs.state.or.us/ex/dir/omwesb/>
- Attend an Oregon Association of Minority Entrepreneurs (OAME) A&E / Contractors meeting. Visit the OAME website at <http://www.oame.org/>
- Contact PDC’s M/W/ESB Coordinator, Pat Weekley, at (503) 823-3309, WeekleyP@pdc.us, or visit [our website \(http://www.pdc.us/developers-and-contractors/developer-contractor-programs/mwesb.aspx\)](http://www.pdc.us/developers-and-contractors/developer-contractor-programs/mwesb.aspx) to learn about resources available to assist you in identifying potential M/W/ESB subcontractors or subconsultants

5.6 Sustainability of Proposal (Submittal Requirement – 5 Maximum Points)

PDC values and is committed to practices that satisfy present needs without compromising the ability of future generations to meet their needs. Accordingly, the materials and methods used to submit a proposal in response to this RFQ should meet or exceed the following requirements:

- Your proposal should be printed on double-sided paper using a minimum of 40% post-consumer waste recycled paper
- Your proposal should NOT be submitted in a ring binder or use section dividers, plastic or metallic spines or any other extraneous presentation materials

In the cover letter state the post-consumer waste recycled paper content of your proposal. You are not otherwise required to respond to this submittal requirement in writing.

**5.7 Proposer Certification
(Submittal Requirement)**

Complete and return Section 9.0 of this RFQ, “Proposer Certification,” along with the rest of the required submittal materials.

SUMMARY OF SUBMITTAL REQUIREMENTS & EVALUATION CRITERIA FOR THIS RFQ	
EVALUATION CRITERIA	MAXIMUM POINTS
➤ Experience and Qualifications	30 Points
➤ Previous Related Projects and References	30 Points
➤ Fee Structure	20 Points
➤ Promotion of M/W/ESBs in Subcontracting	15 Points
➤ Sustainability of Proposal	5 Points
NON-SCORED SUBMITTAL REQUIREMENTS	
➤ Cover Letter	Not Scored
➤ Proposer Certification	Not Scored

6.0 CONDITIONS OF THIS RFQ

All proposals submitted in response to this RFQ are subject to the terms and requirements of this RFQ. All matters not specifically addressed in this RFQ, or a subsequent contract entered into, will be governed by PDC’s Local Contract Review Board Administrative Rules as well as applicable Oregon Revised Statutes (ORS) and other rules pertaining to procurement and contracting at PDC.

6.1 Proposal Preparation and Submission Instructions

6.1.1 **Quantities of Proposals.** Proposers must submit the following materials which must be received by PDC at the location listed in Section 1.1 of this RFQ no later than the “Proposal Due Date and Time” listed in Section 1.3 of this RFQ:

- **One (1) original** proposal
- **Three (3) photocopies** of the same pages
- **One (1) electronic copy** on CD-ROM in either Microsoft Word or Adobe Acrobat file format; if you choose to submit your proposal in Acrobat format, you must also include your pricing information in Word format in a separate file on the CR-ROM

THE ORIGINAL PROPOSAL MUST BEAR AN ORIGINAL INK SIGNATURE AND MUST BE MARKED “ORIGINAL.”

6.1.2 **Packaging and Labeling.** Proposals must be submitted in a sealed package or envelope. To ensure proper identification and handling, the package or envelope must be **clearly marked** with the following:

- RFQ Solicitation Number
- Proposer’s name and address

- Date and time proposals are due
- Name and address of PDC's Solicitation Coordinator for this RFQ

PDC shall not be liable for any lost, late or improperly marked proposals.

6.1.3 **Form of Proposal.** Proposals must be typewritten on 8.5" x 11" white paper in no less than 11-point typeface. NO ORAL, EMAIL OR FACSIMILE PROPOSALS WILL BE ACCEPTED. Proposals should address the submittal requirements of this RFQ in a clear, concise and direct manner. Unnecessarily elaborate or lengthy proposals are not desired.

6.2 **Reservation of Rights.** PDC, in its sole discretion, reserves the right to change or cancel this RFQ; to reject any or all proposals received in response to this RFQ; to decide whether a proposal does or does not substantially comply with the submittal procedures and requirements described in this RFQ; to waive minor informalities of any proposal; to obtain clarification or additional information necessary to properly evaluate a proposal; to obtain references regarding any Proposer's past performance from any source; and to negotiate a contract with the successful Proposer. Neither issuance of this RFQ nor evaluation of any proposal(s) obligates PDC to award a contract from this RFQ.

6.3 **Preparation Costs.** Proposers responding to this RFQ do so at their own expense and PDC will not reimburse any expenses incurred by Proposers in the preparation or submission of a proposal to this RFQ.

6.4 **Requests for Clarification or Change.** All requests for clarification or change to any matter contained in this RFQ (e.g., the Scope of Services, procurement process, contract terms, insurance requirements, etc.) must be submitted in writing to the Solicitation Coordinator for this RFQ no later than the "Deadline for Questions and Requests for Changes" listed in Section 1.3 above. All such requests for clarification or changes must contain the following:

- RFQ Solicitation Number and Title
- RFQ section being questioned
- Specific request for change or clarification

These requests must be sent by either email or mail (preferably, email) to the Solicitation Coordinator identified in Section 1.1 of this RFQ.

6.5 **Changes to this RFQ.** All material clarifications and changes to any matter contained in this RFQ will be issued in the form of a written Addendum to this RFQ. Unless otherwise stated, Proposers are not required to return addenda with their proposal; however, Proposers are responsible for making themselves aware of, obtaining, and incorporating any changes made in any Addendum into their final proposal. Failure to do so may cause the Proposer's proposal to be rejected.

Up to the date and time proposals are due, it is the responsibility of all parties interested in this RFQ to refer frequently to PDC's Contract Opportunities website (<http://www.pdc.us/bids>) to check for any addenda that have been issued for this RFQ. PDC may make a courtesy effort to notify interested parties that an Addendum has been issued for this RFQ; however, interested parties are ultimately responsible for being aware of any addenda issued by PDC and modifying their proposal accordingly.

- 6.6 **Restrictions on Communications.** Proposers must not communicate with members of the Evaluation Committee, the PDC Board of Commissioners or any PDC employee not specifically named in this RFQ, except upon invitation by PDC in a formal interview. Doing so may be cause for proposal rejection. PDC will not hold “one-on-one” meetings with any interested party during the RFQ process outside of a formal interview.
- 6.7 **Section Headings.** The section headings and titles used in this RFQ are for convenience only and in no way modify the scope or intent of any provision contained in this RFQ.
- 6.8 **Public Records and Disclosure.** All proposals submitted in response to this RFQ will become the property of PDC and will be subject to disclosure pursuant to Oregon Public Records Law (ORS 192), except those portions of a proposal that a Proposer requests exemption from disclosure consistent with ORS 192. Any portion of a proposal that a Proposer claims to constitute a “trade secret” must meet the requirements of ORS 192.501(2). All such sections in a proposal must be CLEARLY AND CONSPICUOUSLY marked with the following:

"This information constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with Oregon Public Records Law, ORS 192."

If a Proposer marks every page or includes a blanket statement that the entire proposal is “Confidential” or “Proprietary,” that proposal will not be deemed to have been submitted in confidence. Upon request, the entirety of such a proposal will be disclosed. PDC will take reasonable measures to hold in confidence all proposal contents marked in the way described above, but shall not be liable for the release of any information when required by law or court order, whether pursuant to ORS 192 or otherwise.

After award, the Contract(s) executed by PDC and the successful Proposer(s) will be subject to public disclosure and no part of the Contract(s) can be designated as “Confidential.” Unless this RFQ is cancelled, proposals and evaluation results will not be made a part of the public record until PDC has issued its Notice of Intent to Award.

- 6.9 **Information Submitted.** Proposers are cautioned that it is their sole responsibility to submit information related to the submittal requirements contained in this RFQ and PDC is under no obligation to request such information if it is not included within your proposal. However, PDC may a) request a Proposer to submit additional information during or after the proposal evaluation period; or b) overlook, correct, or require a Proposer to correct any obvious clerical or mathematical error(s) in their proposal.
- 6.10 **Proposer Offer, Withdrawal and Modification.** By submitting a proposal in response to this RFQ, Proposer agrees their proposal is a binding offer to provide the services described in this RFQ for a period of ninety (90) calendar days from the date proposals are due. This period may be extended upon the mutual agreement between PDC and a Proposer. Proposals may be withdrawn or modified prior to the proposal due date and time by submitting a written request to the Solicitation Coordinator for this RFQ. Proposals may not be withdrawn or modified after the proposal due date and time unless PDC agrees to the proposal withdrawal or modification in writing.

- 6.11 **Determination of Responsibility.** In determining whether a Proposer meets the applicable standards of responsibility to perform the work described in this RFQ, PDC may investigate the references, financial stability, credit history and past performance of any Proposer, including service(s) provided to PDC, with respect to the Proposers' successful performance on other projects; compliance with contractual specifications and obligations; completion or delivery of a project on schedule and within budget; its lawful payment of suppliers, subcontractors, and employees; and other factors described in ORS 279B.110. PDC reserve the right to use any information or reference that may be discovered. PDC may postpone issuance of its Notice of Intent to Award in order to complete its determination of responsibility.
- 6.12 **Method of Evaluation.** All responsive proposals will be reviewed and scored by an evaluation committee. This committee will include staff of PDC and potentially one or more external reviewers. Using the Evaluation Criteria listed in Section 5 of this RFQ, evaluators will use their independent judgment to score the quality, completeness, and appropriateness of each Proposer's written response as well as any relevant information that PDC may subsequently request or discover. PDC will then add individual committee members' scores to produce an initial ranking. The highest-ranked Proposer(s) will be considered the Finalist Proposer(s).
- 6.13 **Interviews.** At PDC's option, formal interviews with the Finalist Proposer(s) may be part of the evaluation process of this RFQ. Interviews may be conducted in-person, over a conference call, or another mutually agreeable medium to clarify and elaborate on the Finalist Proposer(s) proposal(s). If requested, attendance at such an interview is mandatory.
- 6.14 **Selection Process.** If interviews are not conducted, PDC will award the Contract(s) to the highest-ranked responsive Proposer(s). If interviews are conducted, PDC reserves the right to either re-score the Finalist Proposer(s)' proposal(s) based on the interview or use the original scores solely as the basis to determine the Finalist Proposer(s) and make an award decision based on the cumulative strength of the Finalist Proposer(s)' proposal and interview.
- 6.15 **Notice of Intent to Award.** After completion of the evaluation process, PDC will name one or more "apparent successful Proposer(s)" and issue a "Notice of Intent to Award" the Contract(s) to this/these Proposer(s). Identification of the "apparent successful Proposer(s)" is procedural only and creates no right in the named Proposer(s) to receive a Contract. All competing Proposers will be notified of PDC's Notice Intent to Award by email, the identity of the apparent successful Proposer(s), and will be given seven (7) calendar days to review the solicitation file at PDC offices. Appointments can be made by contacting the Solicitation Coordinator for this RFQ.
- 6.16 **Protest of Selection Process.** Any protest of PDC's selection process must be submitted in writing to the PDC Professional Services Manager at 222 NW 5th Avenue, Portland, Oregon 97209 within seven (7) calendar days of issuance of the Notice of Intent to Award. The envelope containing the protest must be marked with the Proposer's name and corresponding solicitation number, and conspicuously identified as a "Contract Award Protest." The Proposer's written protest must specify the legal, procedural, and/or factual grounds upon which the protest is based as well as a statement of relief requested. The judgment used by individual review committee members when scoring proposals is not grounds to protest the selection process. Protests not asserted or not properly asserted within the timelines described in this section will not be considered.

- 6.17 **Serial Negotiations.** After PDC has issued its Notice of Intent to Award and resolved all protests, PDC reserves the right to enter into limited negotiations with the apparent successful Proposer(s) to finalize pricing, scope of services and other contractual matters. All such negotiations will be minimal, expedited and completed by the anticipated Contract effective date. If PDC, in its sole discretion, determines that such negotiations have reached an impasse with an apparent successful proposer, PDC reserves the right to terminate negotiations with that Proposer and commence negotiations with the next highest-ranked responsive Proposer. This process may continue until the desired number of agreements is reached and the Contract(s) is/are executed or PDC cancels this RFQ.

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7.0 PROPOSER CERTIFICATION

**Each Proposer must read, comply and sign this section.
Failure to do so may be grounds for Proposal rejection.**

- 7.1 By submitting a proposal in response to this RFQ, you expressly represent you have read and taken no exception to any term, condition, obligation or requirement contained in this RFQ, or any addenda to this RFQ, which is not clearly stated in your proposal.
- 7.2 If selected to enter into a contract as a result of this RFQ, you agree to satisfy all contract compliance requirements contained in Section 4.7 of this RFQ.
- 7.3 You acknowledge receipt of addenda numbers _____ through _____ or N/A.
- 7.4 To the best of your knowledge, your firm is not in violation of any local, state or federal tax law.
- 7.5 You certify your proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation; you have not solicited or induced any person, firm, or corporation to refrain from proposing; and you have not sought by collusion or fraud to obtain any advantage over any other Proposer or over PDC.
- 7.6 You certify that a) your firm has no business or personal relationships with any other company or person that could be considered a conflict of interest to PDC; and b) the Key Personnel identified to perform work under an awarded contract and/or the principals of your firm do not have any business or personal relationships with any PDC officer or employee that is not clearly disclosed in your proposal.
- 7.7 The undersigned warrants that he/she is an authorized representative of the Proposer; has read, understands and agrees to be bound by all RFQ instructions, specifications, contract terms and conditions contained herein (including all addenda issued for this solicitation); that the information provided in your proposal is true and accurate; and that providing incorrect or incomplete information may be cause for proposal rejection or contract termination.

SIGNATURE BLOCK

Proposer's Legal Business Name: _____

Signature: _____ Date of Proposal: _____

Printed Name and Title: _____

Phone Number: _____ Email Address: _____

Proposer's Mailing Address: _____

Proposer's Primary Point of Contact for this RFQ (if different): _____

Phone Number: _____ Email Address: _____

EXHIBIT A. WORK ORDER PROCESS

This exhibit explains the process and conditions for authorizing work under a Flexible Services Contract (each "Contract") awarded to the successful Proposer(s) (each "Contractor") from this RFQ. Billing and payment procedures are explained in EXHIBIT B.

1. **Authorization of Work.** Work Orders will be issued by PDC to the Contractor to authorize the performance all work under the Contract. The specific statement of work, performance schedule, deliverables and compensation for a given assignment will be included in each Work Order. PDC IS NOT RESPONSIBLE FOR PAYMENT OF ANY WORK THAT IS NOT PROPERLY AUTHORIZED.
2. **Proposals and Cost Estimates.** Prior to issuance of any Work Order, the Contractor will be asked to provide a proposal and/or detailed cost estimate for the requested services which must include all labor hours, Contractor and subcontractor personnel and anticipated reimbursable expenses. All such proposals and cost estimates are subject to reasonable negotiations prior to execution of a Work Order.
3. **Work Order Amendments.** Except for changes to the expiration date of a Work Order, any change(s) to the scope, budget or other matters of an approved Work Order will be implemented by a written amendment to that Work Order prepared by PDC and signed by the parties. The expiration date of any Work Order may be changed through email approval between the Contractor and the PDC employee identified as the Work Order Manager on the cover page of an approved Work Order (the "PDC Work Order Manager").
4. **Contractor Notification Responsibilities.** Contractor must notify the PDC Work Order Manager if either a) the agreed-upon budget or b) the expiration date of a Work Order needs to be amended prior to exceeding the agreed-upon budget or the expiration date of a Work Order.
5. **Work Order Termination.** Unless otherwise specified in a particular Work Order, PDC may terminate any Work Order issued from the Contract for any reason by providing fifteen (15) calendar days prior written notice to the Contractor. Such an action will not affect the balance of any other Work Orders that may have been issued from that Contract.
6. **Performance Evaluation.** At the completion of each Work Order, the Contractor may be evaluated by the PDC Work Order Manager with regards to quality of work products and services provided; budget, scope and schedule control; contract administration (e.g. accuracy of billings); and other matters relevant to the work performed pursuant to that Work Order. Any such evaluation will be included in the Contractor's contract file.

EXHIBIT B. BILLING, PAYMENT, AND PERSONNEL REQUIREMENTS

This exhibit explains the process and conditions for payment of work provided by the successful Proposer(s) (each "Contractor") under a Work Order issued from a Flexible Services Contract (each "Contract").

1. **Addition, Replacement and Removal of Personnel.** The Contractor and subcontractor positions listed in the "Hourly Fee Schedule" in the Contract (the "Contracted Personnel") are the only Contracted Personnel assigned to perform work under the Contract. Any replacement, substitution or addition of the Contracted Personnel shall be subject to the written approval of PDC. PDC's approval of a Work Order that identifies additional Contractor and/or subcontractor positions not otherwise identified in the Contract will suffice for purposes of the "written approval" required by this paragraph. The Contractor shall remove any individual performing services under the Contract if so directed by PDC in writing following discussion with the Contractor, provided that the Contractor is given a reasonable period of time to find a suitable replacement.
2. **Billing increment.** Unless alternate agreement is reached, Contracted Personnel expenses shall be billed on a quarter-hour (0.25) basis, rounded up to the nearest quarter hour (e.g., fifty (50) minutes of work shall be billed as 1 (one) billable hour; 1 hour and ten minutes of work shall be billed as 1.25 billable hours, etc.).
3. **Adjustment to Hourly Rates.** All Contract pricing is protected for the first twelve (12) months following the Contract Effective Date. Thereafter, the Contractor may request an adjustment to the hourly rates contained in the Contract by sending a written request (such as through email) to the PDC Contract Manager. If a rate increase request is approved, the new Contract pricing will be protected for the twelve (12) month period following the date the new rates are in effect. Rate increase requests are further subject to the following limitations:
 - All requests must include verifiable documentation that clearly demonstrates increased costs to the Contractor
 - Any request to increase the hourly rate(s) shall only be proposed in proportion to increases in the Contractor's costs for the Contracted Personnel and be in a format similar that found in the Hourly Fee Schedule above
 - If the rate increase request is approved, the Parties will agree to the approved increase by a written amendment to the Contract, prepared by PDC
 - The hourly rate increase will be effective only upon execution of the Contract amendment
 - Rate increases will not be retroactive

Approval of any such rate increase request is solely within PDC's discretion and PDC is not obligated to approve such a request. If PDC rejects the hourly rate increase request, PDC will provide a written explanation to the Contractor detailing the reason(s) the hourly rate increase was not approved.

4. **Invoicing.** For payment, the Contractor shall submit to PDC an itemized invoice in a form and with sufficient detail to determine the work performed for the amount requested. Invoices submitted by the Contractor shall be prepared in such a way as to make it easy for PDC to determine if the hourly rates billed match the Hourly Fee Schedule contained in the Contract or an approved Work Order. All invoices must contain, at a minimum:

- Invoice date
 - Contract and Work Order Number
 - Date or range of dates worked
 - Number of hours work, or portions of hours worked, by name and title or by title alone, with a brief description of activities (exactly matching the titles contained in the “Hourly Fee Schedule” in the Contract or in an approved Work Order)
 - Billing rate applied (not exceeding the rates listed in the “Hourly Fee Schedule” in the Contract or in an approved Work Order)
 - Any approved reimbursable expenses
5. **Subcontracting Fees.** The Contractor shall submit invoices for work to include subcontractor hours and applicable rates for the work performed (i.e. subcontractor personnel expenses shall not be billed as a line-item reimbursable expense).
 6. **Corrections to Incorrect Billings.** PDC will review the invoices to ensure the rates billed do not exceed the Hourly Rates contained in the Contract or an approved Work Order. Contractor shall adjust and resubmit any invoice that contains (a) personnel positions not matching the Contracted Personnel positions contained in the Contract or an approved Work Order; or (b) hourly rates exceeding those contained in the Hourly Fee Schedule.
 7. **In the Event of Overpayment.** If payment is made to Contractor at rates higher than those listed in the Hourly Fee Schedule contained in the Contract or an approved Work Order, at PDC’s sole discretion, the Contractor shall either (a) promptly return the difference between the amount paid and the amount that should have been paid to the Contractor; or *b) credit PDC for that amount which shall be deducted from future invoices. This provision survives the termination of the Contract for a period of thirty-six (36) months following the Expiration Date of the Contract.
 8. **Payment Terms.** PDC shall process payment in its normal course and manner for accounts payable, **NET 30 DAYS** from the date PDC receives all properly-prepared invoices. Discounts offered by the Contractor for earlier payment are encouraged.
 9. **Billing Intervals.** Invoices may be submitted monthly, or at such other interval as approved by the PDC Work Order Manager.
 10. **Tax Reporting.** Payment information will be reported to the U.S. Internal Revenue Service (“IRS”) under the name on page 1 of the Contract with the taxpayer identification number provided prior to the Contract Effective Date. Information not matching IRS records may subject Contractor 20% backup withholding.
 11. **Prompt Invoicing.** The final invoice for any Work Order issued under the Contract must be received by PDC either within ninety (90) days following (a) the date on which the final work product is accepted by PDC, or (b) the expiration date of that Work Order, whichever is sooner. PDC RESERVES THE RIGHT TO REJECT AND REFUSE PAYMENT OF ANY INVOICE NOT SUBMITTED WITHIN THE TIMELINES DESCRIBED IN THIS PARAGRAPH.

EXHIBIT C. CONTRACT TERMS AND CONDITIONS

This exhibit contains the terms and conditions will govern each Flexible Services Contract (called “this Contract” below) between PDC and the successful Proposer(s) (each “Contractor”). PDC reserves the right to change any term or condition of a Contract prior to execution of that Contract. **PROPOSERS WHO TAKE OBJECTION TO ANY OF THE FOLLOWING TERMS AND CONDITIONS MUST RAISE THOSE OBJECTIONS, IN WRITING, TO THE SOLICITATION COORDINATOR FOR THIS RFQ AND DO SO BY THE “DEADLINE FOR QUESTIONS AND REQUESTS FOR CHANGES” LISTED IN THE SECTION 1.3 OF THIS RFQ.**

1. Access to Records.

The Contractor shall maintain, and PDC and its duly authorized representatives shall have access to, the books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after the Expiration Date. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by PDC.

2. Audits

(a) PDC, either directly or through a designated representative, may conduct financial and performance audits of the billings and the Work specified in this Contract at any time in the course of the Contract and during the three (3) year period after the Expiration Date. 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 PDC.

(c) If an audit shows performance of the Work is not efficient in accordance with *Government Auditing Standards*, PDC may pursue remedies provided under section 4, Early Termination of Contract and section 6, Remedies.

3. Conditions for the Survival of Work Orders

PDC may issue Work Orders against this Contract that have an expiration date after the Expiration Date of this Contract. Such Work Orders survive the Expiration Date of this Contract provided that (a) any such Work Order is fully-executed prior to the Expiration Date of this Contract; (b) any increase to the maximum compensation of any such Work Order is not more than 20% or \$5,000 (whichever amount is less) above the original amount of that Work Order; and, (c) all work under that Work Order must be completed within six (6) calendar months after the Expiration Date of this Contract. PDC must obtain approval from the PDC Professional Services Manager in order to (a) extend the Work Order for a period of time greater than six (6) months after the Expiration Date of this Contract; or (b) authorize an increase to the maximum compensation of that Work Order in excess of the aforementioned limits. Any increase to the maximum compensation of a Work Order after the Expiration Date of this Contract must not exceed the maximum compensation of this Contract at the time it expired.

4. Early Termination of Contract

(a) PDC and the Contractor, by mutual written agreement, may terminate this Contract at any time.

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

(c) Either PDC or the Contractor may terminate this Contract in the event of a 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 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 this Contract at any time thereafter by giving a written notice of termination.

5. Payment on Early Termination

(a) In the event of termination under subsection 4(a) or 4(b), Early Termination of Contract hereof, PDC shall pay the Contractor for work performed in accordance with this Contract prior to the Termination Date.

(b) In the event of termination under subsection 4(c), Early Termination of Contract hereof, by the Contractor due to a breach by PDC, then PDC shall pay the Contractor as provided in subsection (a) of this section 5.

(c) In the event of termination under subsection 4(c), Early Termination of Contract hereof, by PDC due to a breach by the Contractor, then PDC shall pay the Contractor as provided in subsection (a) of this section 6, subject to set off of excess costs, as provided for in subsection 6(a), Remedies.

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

6. Remedies

(a) In the event of termination under subsection 5(c), Early Termination of Contract, hereof, by PDC due to a breach by the Contractor, then PDC 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 PDC the amount of the reasonable excess.

(b) The remedies provided to PDC under section 5, Early Termination of Contract and this section 6 for a breach by the Contractor shall not be exclusive. PDC also shall be entitled to any other equitable and legal remedies that are available.

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

7. Subcontracts and Assignment

The Contractor shall not subcontract, assign or transfer any of the Work, without the prior written consent of PDC. PDC's approval of a Work Order or Work Order Amendment that identifies subcontractors and/or subcontractor personnel not otherwise listed in this Contract will suffice for purposes of the "written consent" required by this paragraph. Notwithstanding PDC approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and PDC 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 Contract, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

8. Independent Contractor

The Contractor certifies, represents and warrants that Contractor is an independent contractor of PDC under all applicable State and federal laws. Contractor is not an "officer," "employee," or "agent" of PDC as those terms are used in ORS 30.265.

9. Ownership of Work Products

(a) All work products of the Contractor which result from this Contract (the "Work Products") are the exclusive property of PDC. Work Products include but are not limited to all data, information in any form, documents, drawings, photographs, research, analysis and any other work subject to intellectual property laws and doctrines. PDC and the Contractor intend that such Work Products be deemed "work for hire" of which PDC shall be deemed the author. If for any reason any Work Product(s) are not deemed "work for hire," Contractor hereby irrevocably assigns to PDC all of its right, title and interest in and to any and all of the Work Products whether arising from copyright, patent, trademark, trade secret or any other state or federal intellectual property law or doctrine. The Contractor agrees to execute such further documents and instruments as PDC may reasonably request in order to fully document such vested rights in PDC. The Contractor forever waives any and all rights related to the Work Products, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. The Contractor may refer to the Work Products in its marketing materials for advertising purposes.

(b) Any of the Contractor's previously existing work that is incorporated into the Work Products or Instruments of Service (as hereinafter defined) will remain the property of the Contractor, provided that the Contractor hereby grants PDC, under all of Contractor's intellectual property rights, a nonexclusive, perpetual, royalty-free, fully paid-up right and license to use all such other work, to the extent related to the Work Products or Instruments of Service.

(c) Notwithstanding paragraph 9(b), if the Contractor is an architect, then drawings, specifications and other materials prepared by the Contractor or its consultants in connection with this Contract shall be collectively deemed "Instruments of Service" and the Contractor shall be deemed the author of such Instruments of Service;

provided, however, that the Contractor hereby grants to PDC a nonexclusive right and license to use and reproduce such Instruments of Service for any purpose related to this Contract or for inclusion in any of PDC's promotional or informational materials. The license granted to PDC under this paragraph shall be at no cost to PDC and shall survive the Contractor's performance under this Contract or any termination of this Contract.

10. Indemnity - Claims for Other than Professional Liability

The Contractor shall indemnify defend, save, and hold harmless PDC, the City of Portland, and each of their respective 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 the Contractor or its subcontractors, agents or employees under this Contract; provided however, that nothing herein shall be construed to require indemnification of PDC for liability attributable to PDC's sole negligence.

11. Indemnity - Claims for Professional Liability

The Contractor shall indemnify, defend, save, and hold harmless PDC, the City of Portland, and each of their respective officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of the Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this Contract.

12. Insurance

The Contractor shall carry, at a minimum, insurance coverage in the amounts set forth in "Exhibit B" which is hereby made a part of this Contract.

13. Standard of Care

The Contractor shall perform all services at the same level of professional skill, care, diligence and standards as other professionals performing similar services under similar conditions. The Contractor will re-perform any services not meeting this standard or correct any inconsistencies, errors or omissions in the Work Products without additional compensation and without undue delay, or PDC, in its sole discretion, may terminate this Contract pursuant to subsection 4(c), Early Termination of Contract and pursue any and all remedies available. The passage of the Expiration Date does 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.

14. Compliance with Applicable Laws

The Contractor agrees to comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances – including all federal and state civil rights and rehabilitation rules and statutes – applicable to the Work. The Contractor shall comply with the clauses required in every public contract in the state of Oregon, including ORS 279B.220, 279B.230 and 279B.235 which are hereby incorporated by reference. The Contractor further agrees to comply with all federal and state laws prohibiting discrimination on the basis of race, sex, national origin, religion, age or disability.

15. Counterparts

This Contract may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the Parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.

16. Recycled Products

To the maximum extent economically feasible, the Contractor shall use good faith efforts to use recycled products in connection with its performance of work under this Contract.

17. 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.

18. Governing Law and Venue

The provisions of this Contract shall be construed in accordance with the provisions of the laws of the state of Oregon, without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively, a

“Claim”) between PDC and the Contractor that arises from or relates to this Contract must be brought in the Circuit Court of Multnomah County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. THE CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

19. Amendments

PDC and the Contractor may amend this Contract at any time only by written amendment executed by PDC and the Contractor.

20. No Third Party Beneficiaries

No person not a party to this Contract is an intended beneficiary of this Contract, and no person not a party to this Contract shall have any right to enforce any term of this Contract.

21. Business License and Equal Employment Opportunity Certification

The Contractor shall obtain a City of Portland business license and certify as an Equal Employment Opportunity employer as required by Portland City Code 7.02.300 and 3.100, respectively, prior to beginning the Work.

22. Subcontracting with Certified Minority-owned, Women-owned and Emerging Small Businesses

Through its Business and Workforce Equity Policy, PDC seeks to extend subcontracting opportunities to State of Oregon certified Minority-Owned, Women-Owned and Emerging Small Businesses (collectively, “M/W/ESBs”) in order to promote their economic success and growth. The Contractor is encouraged to make reasonable efforts to utilize M/W/ESB firms for any subcontracting opportunities under this Contract and maintain a diverse workforce.

23. Payment to Vendors and Subcontractors

(a) The Contractor shall pay each subcontractor, supplier, and lessor providing it satisfactory services, materials or equipment for carrying out its obligations under this Contract within ten (10) business days from the receipt of each payment the Contractor receives from PDC

(b) The Contractor shall not take or fail to take any action in a manner that causes PDC or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without PDC's prior written consent.

(c) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, PDC may pay such claim to the person and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. However, the payment of such a claim by PDC shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

24. Confidentiality

The Contractor acknowledges that it or its employees, agents or subcontractors may, in the course of performing its duties under this Contract, be exposed to or acquire information that is the confidential information of PDC. Any and all information provided by PDC and marked “confidential,” or identified as confidential in a separate writing, that becomes available to the Contractor or its employees, agents or subcontractors in the performance of work under this Contract shall be deemed to be confidential information of PDC (“Confidential Information”). Confidential Information does not include information that: (a) is or becomes (other than by disclosure by the Contractor) publicly known; (b) is rightfully in the Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (c) is obtained from a source other than PDC without the obligation of confidentiality; or (d) is disclosed with the written consent of PDC. The Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of services to PDC under this Contract. The Contractor agrees to advise each of its employees, agents or subcontractors of their obligations to keep the Confidential Information confidential.

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 this Contract did not contain the particular term or provision held to be invalid.

26. Waiver

The failure of PDC to enforce any provision of this Contract shall not constitute a waiver by PDC of that or any other provision.

27. Notices

The Contractor's address for notices related to the administration of this Contract is the physical and email address listed on page 1 of this Contract. PDC's address for notices is the physical address of 222 NW 5th Avenue, Portland, Oregon 97209 sent to the attention of the PDC Contract Manager identified on page 1 of this Contract and the email address of procurement@pdc.us or the email address designated the PDC Professional Services Manager. Any notice given by one party to the other party shall be deemed given and delivered (a) two days after being mailed by U.S. mail, (b) one day after being sent by email, or (c) when received, if personally delivered to the party at their physical address.

28. Merger Clause

This Contract, attached Exhibits, Work Orders issued pursuant to this Contract and all documents attached thereto 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 the 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. The 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.