PRICE AGREEMENT NO.31000891

for

POLICE DUTY GEAR

This Agreement (Contract) is between the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called "City" and L.N. Curtis and Sons, Inc., hereinafter called "Contractor". This Contract may refer to the City and Contractor individually as a "Party" or jointly as the "Parties."

RECITALS:

- The City of Portland desires to obtain the following Goods (the "Goods"); Police Duty Gear.
- Contractor shall provide all deliverables and Goods specifically described herein and in the Specifications in accordance with the terms, covenants, and conditions of the Contract and its Exhibits related to Goods provided.

THE PARTIES AGREE:

1. **SPECIFICATIONS:** This Contract authorizes Contractor to provide and the City to procure those Goods, and establishes the terms and conditions for the City to obtain said Goods from Contractor. Contractor shall provide those Goods described in the attachments in accordance with the prices shown herein as requested by the City on an as needed basis and the City will accept and pay for the Goods based upon the terms and conditions herein stated. All Goods shall be delivered and paid in accordance with Attachments A and B.

2. **EFFECTIVE DATE AND DURATION:** The initial term of this Contract shall begin on July 18, 2016, and shall expire three years later unless terminated sooner as provided herein. The Parties may agree, by mutual consent, to extend this Contract for an additional two (2) year period, taken individually or in multiple years. At least thirty (30) days prior to the expiration of the initial term, or extension, the Parties shall commence discussions if they desire to extend the Contract. Contractor shall provide a written extension proposal within fifteen (15) calendar days following the City's request for such a proposal. However, nothing binds or requires either Party to extend this Contract. The total term of this Contract shall not exceed five (5) years.

3. **CONSIDERATION:** Unit price payments shall be made to Contractor by the City on a monthly basis for the total Goods delivered to the City's specified location and accepted by the City. Acceptance occurs when the City authorizes payment of the invoice. Unit prices shall be exclusive of any sales, purchaser, or consumer tax. Tax exemption certificates will be furnished to Contractor upon request.

The City agrees to pay Contractor a total not to exceed sum of $250,000.00 per year, or $750,000.00 for the initial three year period, for receipt of the Goods ordered and accepted during the first three years. If this Contract is extended for two years, an additional not to exceed sum amount of $500,000.00 will be added. Interim payments shall be made to Contractor according to the price schedule contained in Attachment B. Contractor shall provide to the City those Goods in accordance with prices contained in Attachment B.

4. **GENERAL DEFINITIONS:** These definitions apply to the entire Contract and subsequent Amendments:

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

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 (8) 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.

Contract means the Price Agreement and all the documents referenced in Paragraph 1.

Contract Terms and Conditions means this portion of the Contract, the body of text from the preamble through the signature page.

Coverage Hours means those hours specified in this Contract or subsequent Amendment during which period Contractor shall provide Maintenance.

Customization means (a) any modification to or adaptation of the Products, or (b) any new component or accessory or, in the case of Software, new code, designed to run in conjunction with the Products, that contains features unique to the City's governmental purposes, whether prepared, created, or developed (1) by Contractor at the City's request as a work for hire, (2) by the City, or (3) by the City in conjunction with Contractor.

Customer Service means the customer support services call center that operates from 8 a.m.to 8 p.m. Pacific Standard Time, Monday through Friday (excluding national holidays), provided by Contractor to assist the City in operating the System.

Day means a calendar day of twenty four (24) hours unless otherwise stated in the Contract.

Delivery of Products means Product has been received at the location specified in this Contract or subsequent Amendment. Delivery of Products shall not be construed to represent final acceptance following delivery of the Product.

Documentation means user manuals and other written materials in any form that describe the features or functions of the Products and System, including but not limited to published specifications, marketing materials, technical manuals, and operating instructions provided by Contractor to the City, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

Emerging Small Business (ESB) means only those firms certified as an ESB by the State Office of Minority, Women and Emerging Small Business (OMWESB).

Equipment means any goods, including hardware, machinery, mechanical and electronic devices, tool, component, or materials, of tangible form together with the necessary supplies for upkeep and maintenance, and other apparatus necessary for the proper execution, installation and acceptable completion of the Project or any Amendment hereunder.

Intergovernmental Cooperative Procurement means the Contractor will consider, on a case by case basis and in its sole discretion, whether to extend the products and services provided under this contract with the same terms and conditions to all public agencies. Quantities stated in this bid reflect the City of Portland usage only. A public agency wishing to purchase items will execute its own contract with the awarded Contractor for its requirements. Participating Entities may utilize City contracts through Intergovernmental Cooperative procurement if the contract is determined by the Participating Agency to have been awarded in compliance with their bidding requirements and there is no statutory provision prohibiting such purchase.

Knowledge Transfer means information and know-how regarding technological or general business issues, including, without limitation, products, identified or foreseeable problems, personnel, resources, or costs, as may relate to the Project or any component thereof which Contractor may be required under this Contract or any subsequent Amendment to pass on to the City.

Maintenance means services provided by Contractor to the City designed to keep Equipment operating in optimum condition.

Material Breach means any breach of this Contract that (a) causes or may cause substantial harm to the non-breaching party; or (b) substantially deprives the non-breaching party of the benefit it reasonably expected under this Contract.

Minority Owned Business means only those firms certified as a minority owned business by the State Office of Minority, Women and Emerging Small Business (OMWESB).

Product(s) means goods, materials, Equipment, Documentation, and Services including installation, warranty services, and Maintenance and Services, which may include installation, modification and training.

Project means the overall collection of activities required for delivery, installation and support of the system including, without limitation, design, development, integration, testing, support and Maintenance, any of which Contractor may be providing in whole or in part.

Software means the object code version of any proprietary or licensed computer programs, firmware, applications, or Operating System Software which are components of the System and are licensed by Contractor to City pursuant to this Agreement, including, without limitation, any custom Software or Customization, application software, base software, diagnostic software, Updates, Upgrades and any related Documentation. Software may include Third Party Software and/or Open Source Software delivered by Contractor if required to produce and maintain the System.

Update means a change, modification, or enhancement to the Equipment and related Documentation, which improves its performance or efficiency, but does not alter its core functionality.

Upgrade means a newer, better version, change, modification, or enhancement to the Equipment and related Documentation, which Contractor makes available from time to time, which incorporates major new features or increases the core functionality of the Equipment and may be considered a new version.

Use means the City's right to install, integrate, configure, implement, test, access, maintain and operate the Equipment, any Contractor-provided tools to customize the Equipment; Documentation listed in the Contract; training materials City may acquire to provide internal training on the Equipment to City Users; any enhancements produced by or in collaboration with Contractor to develop the Equipment to City's unique business processes and/or programming environment for purposes of installing, operating, configuring or using the Equipment.

User means any person employed or working on behalf of the City, its bureaus, divisions, offices, directors, and any person or entity under contract or authorized by the City to provide it with Goods and to use the City's resources in whole or in part, in the course of assisting the City.

Women Owned Business means for purposes of this Administrative Rule, only those firms certified as women-owned businesses by the State Office of Minority, Women and Emerging Small Business (OMWESB).

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

Amendments
Contract Terms and Conditions
Attachment B, Contractor's Pricing
Attachment A, Statement of Work
Appendix A, Applicable State Laws
Appendix B, Federal Grant Requirements

6. **DELIVERY:** All Goods shall be provided in accordance with the agreed-upon schedule for each order. Contractor shall immediately notify the City, in writing, if Goods cannot be completed as intended.

NOTE: Contractor shall email or fax all notifications to the person(s) in the bureau ordering Goods.

Delivery of the requested Goods shall not be considered complete until all discrepancies have been corrected. Work not meeting Contract requirements shall be re-performed at Contractor's expense. Contractor shall promptly replace rejected items after receipt of a request. Acceptance occurs when the City authorizes payment of the invoice. If the City makes a payment for a Goods prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor.

7. **DELIVERY SCHEDULE:** Contractor shall use best efforts to perform Goods in a timely manner and in accordance with the scheduled delivery date as set forth in this Contract or an individual Task/Change Order. If Contractor performs Goods later than the scheduled delivery date, the City may cancel the Contract without penalty.

Permitting Contractor to continue and finish the work or any part thereof after the Contract time or adjusted Contract time, as pertinent, has expired shall in no way operate as a waiver on the part of the City of any of its rights under the Contract.

8. **INSURANCE:** Providing Goods shall not commence until all insurance requirements have been met and certificates thereof have been filed with the Chief Procurement Officer or the Auditor. Contractor shall obtain and maintain in full force at

Contractor expense, throughout the duration of the Contract and any warranty or extension periods, the required insurance identified below. The City reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of the Contract.

(a) Workers' compensation insurance as required by ORS Chapter 656 and as it may be amended. Unless exempt under ORS Chapter 656, the Contractor and all subcontractors shall maintain coverage for all subject workers.

X Required and attached or __ Proof of exemption (i.e., completion of Independent Contractor Certification Statement)

(b) General commercial liability (CGL) insurance covering bodily injury, personal and advertising injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in per occurrence limit of not less than $1,000,000, and aggregate limit of not less than $2,000,000.

X Required and attached or __ waived by Authorized Bureau Manager

(c) Automobile liability insurance with coverage of not less than $1,000,000 each accident, and an umbrella or excess liability coverage of $2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

X Required and attached or __ waived by Authorized Bureau Manager

Subcontractor(s): Contractor shall provide evidence that any subcontractor, if any, performing work or providing goods or service under the Contract has the same types and amounts of coverages as required herein or that the subcontractor is included under Contractor's policy.

Additional Insured. The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland, its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the Contractor's activities to be performed, or products or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

Notice of Cancellation or Change. Contractor agrees to maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from Contractor or its insurer(s) to the City. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.

Certificate(s) of Insurance. As evidence of the insurance coverages required by this Contract, Contractor shall provide proof of insurance through acceptable certificate(s) of insurance and additional insured endorsement form(s) to the City prior to the award of the Contract if required by the procurement document, but in all events prior to Contractor's commencement of work under this Contract. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Contract shall be obtained from insurance companies acceptable to the City of Portland. Contractor shall pay for all deductibles and premiums. The City reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsements evidencing the coverage the required.

9. **TIME IS OF THE ESSENCE:** Contractor shall make every reasonable effort to meet established delivery dates and other deadlines. Circumstances that may delay the delivery of Goods from established delivery dates and other deadlines, including excusable delays and force majeure events, shall be reported to the City immediately upon discovery. The City and Contractor shall mutually agree upon any schedule or pricing change due to excusable delays or force majeure events in writing. In the event Contractor does not meet the established delivery dates or other deadlines and Contractor has failed to cure such breach within seven (7) days of written notice by the City, the City may obtain the undelivered goods and/or non-performed service from another source, and no recurring charges, one-time charges, or termination charges or other penalties.

10. COMPLIANCE WITH APPLICABLE LAW:) Contractor warrants it is duly authorized to operate and do business in all places where it shall be required to do business under the Contract; that it has obtained or shall obtain all necessary licenses and permits required in connection with the Contract, and that it shall fully comply with all laws, ordinances, orders, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile. The following additional conditions apply to this solicitation and any resultant purchase order or contract: Appendix A as attached hereto.

Contractor must be in compliance with the laws regarding conducting business in the City of Portland before an award may be made and shall be responsible for the following

CERTIFICATION AS AN EEO AFFIRMATIVE ACTION EMPLOYER: Contractor is certified as an Equal Employment Opportunity Employer as prescribed by Chapter 3.100 of the Code of the City of Portland. The certification will be maintained throughout the duration of the Contract.

NON-DISCRIMINATION IN EMPLOYEE BENEFITS (EQUAL BENEFITS): Contractor has complied with the City's Equal Benefits Ordinance requirements indicating Full Compliance.

BUSINESS LICENSE TAX ACCOUNT: Contractor license # 682195 is in compliance with the City of Portland Business License Tax requirements as prescribed by Chapter 7.02 of the Code of the City of Portland and will be maintained throughout the duration of this Contract.

NOTIFICATION TO STATE OF NONRESIDENT CONTRACTOR: If the Contract Price exceeds $10,000 and Contractor is a Nonresident Contractor, the Contractor shall promptly report to the Oregon Department of Revenue on forms provided by the Department of Revenue, the Contract Price, terms of payment, Contract duration and such other information as the Department of Revenue may require before final payment can be made on the Contract. A copy of the report shall be forwarded to the City. The City shall satisfy itself that the above requirements have been complied with before it issues final payment on the Contract (PCC 5.33.695) http://www.oregon.gov/dor/docs/nonresident-bidder_800-020.pdf

NONDISCRIMINATION: Contractor shall comply with all applicable federal, state and local laws and regulations. Contractor agrees it is currently in compliance with all tax laws. Contractor shall comply with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: http://www.portlandoregon.gov/bibs/article/446806.

GRANT TERMS AND CONDITIONS: In connection with its activities under this Contract, Contractor shall comply with all applicable Grant Terms and Conditions. This includes all terms and conditions contained in this Contract and, for a contract involving a grant, the Grant Terms and Conditions as further described at: http://www.portlandoregon.gov/bibs/article/455735

11. GOVERNING LAW / VENUE: 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 be brought in the appropriate court in Multnomah County, Oregon. By executing this Contract the Contractor agrees to in personam jurisdiction of the Oregon courts.

12. INDEPENDENT CONTRACTOR STATUS: Contractor is engaged as an independent contractor and shall be responsible for any federal, state, and local taxes and fees applicable to payments hereunder. The Contractor, its subcontractors, and their employees are not employees of the City and are not eligible for any benefits through the City including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

13. ACCESS TO CITY FACILITIES: Contractor agrees that Contractor's physical or remote access to the City facilities shall be subject to the security interests and controls necessary to protect public property, and the City shall not be liable for any delays necessary in granting Contractor access to any portion of the facilities or systems.

14. NO THIRD PARTY BENEFICIARIES: Contractor and City are the only Parties to this Contract and are the only Parties entitled to enforce its terms. Nothing in this Contract gives, assigns or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons.

15. OWNERSHIP OF PROPERTY: Contractor agrees the City will, upon completion of the Initial Term of this Contract, have full ownership of the System. Should the Contract be terminated prior to the completion of the Initial Term of the Contract, the City shall negotiate in good faith with Contractor to resolve the disposition of the System. Contractor warrants that, with the exception of property that is leased or subject to a properly perfected security interest, it shall at all times own Equipment and Software proposed for this Contract, with the exception of Third Party Software, telecommunications services and buildings, and shall keep such property free and clear of any and all security interests, liens, charges, levies, assessments or encumbrances. Any work products produced or created by Contractor for the City shall be understood to be, to the fullest extent of the law, works made for hire unless the Parties have expressly agreed otherwise in writing.

16. 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.

17. SURVIVAL: The terms, conditions, representations, and all warranties contained in this Contract shall survive the termination or expiration of this Contract.

18. INDEMNIFICATION: Contractor shall hold harmless, defend, and indemnify the City of Portland, its officers, employees, and agents, from all claims, demands, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature, including all attorney's fees and costs, resulting from or arising out of the activities of Contractor or its officers, employees, subcontractors, or agents including intentional acts, or of its subcontractors, agents or employees under this Contract. Contractor is not responsible for any damages caused solely by the actions of the City, its officers, employees and agents.

19. ASSIGNMENT OF ANTI-TRUST RIGHTS: By entering into a contract, Contractor, for consideration paid to Contractor under the Contract, does irrevocably assign to the City of Portland any claim for relief or cause of action which the Contractor now has or which may accrue to Contractor in the future, including, at the City's option, the right to control any such litigation on such claim for relief or cause of action, by reason of violation of 15 USC SS 1-15 or ORS 646.725 or ORS 646.730, in connection with any goods or services provided to Contractor by any person, which goods or services are used, in whole or in part, for the purpose of carrying out Contractor's obligation under this Contract.

In the event Contractor hires subcontractors to perform any of Contractor's duties under Contract, Contractor shall require the subcontractor to irrevocably assign to the City of Portland, as a third party beneficiary any right, title or interest that has accrued or may accrue to the subcontractor by reasons of any violation of 15 USC SS 1-15, ORS 646.725 or ORS 646.730, including, at the City's option, the rights to control of any litigation arising thereunder, in connection with any goods or services provided to the subcontractor by any person, in whole or in part, for the purpose of carrying out the subcontractor's obligations as agreed to by Contractor in pursuance of the completion of the Contract.

In connection with this assignment, it is an express obligation of Contractor that it will take no action which will in any way diminish the value of the rights conveyed or assigned hereunder to the City of Portland. It is an express obligation of Contractor to advise the City Auditor or the Office of the City Attorney of Portland, Oregon:

A. In advance, of its intention to commence any action on its own behalf regarding such claims for relief or causes of action;
B. Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and
C. The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignment to the City of Portland.

Furthermore, it is understood or agreed that in the event that any payment under such claim is made to Contractor, it shall promptly pay over to the City of Portland its proportionate share thereof, if any, assigned to the state hereunder.

20. SEVERABILITY: In the event that a court, government agency, or regulatory agency with proper jurisdiction determines that this Contract, or any provision of this Contract, is unlawful, this Contract, or that provision of the Contract to the extent it is unlawful, shall terminate. If a provision of this Contract is terminated but the Parties can legally, commercially, and practicably continue without the terminated provision, the remainder of this Contract shall continue in effect.

21. FUNDING: In the event the City, during the adoption of the City's annual budget, reduces, changes, eliminates, or otherwise modifies the funding for any of the projects identified herein, Contractor agrees to abide by any such decision including revision or termination of services.

22. ASSIGNMENT AND SUBCONTRACTING: This Contract or any interest therein shall not be assigned or subcontracted to any other person or entity without the prior written consent of the City of Portland. In the event of transfer without prior written consent, the purported transfer is void and Contractor remains liable for performance of the Contract. Notwithstanding City approval of a subcontractor, Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. Contractor agrees that if subcontractors are employed in the performance of this Contract, Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

Contractor shall not subcontract any work, assign any rights (including, without limitation, in connection with the sale of all or substantially all of Contractor's assets, stock, or the line(s) of business applicable to any Amendment, or delegate any obligations under this Contract, cancel or change any previously approved subcontract without the City's prior written consent. Contractor shall be fully responsible for the acts and omissions of its Subcontractors at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The City reserves the right to review any agreements between Contractor and its Subcontractors for Products and/or Services authorized under this Contract.

All Minority, Women and Emerging Small Business (M/W/ESB) subcontractors/suppliers identified in Contractor's proposals shall be used in their proposed capacity during Contract performance. If Contractor desires to replace any M/W/ESB subcontractors/suppliers under this Contract all substitution requests must have approval from the City's Chief Procurement Officer before such substitutions can be made. In the event that Contractor shall subcontract any work, assign any rights, or delegate any obligations under this Contract without the City's prior consent.

23. LIENS: Contractor shall not permit any claim to be filed or prosecuted against the City or any lien against the property purchased in connection with this Contract and agrees to assume responsibility should such lien or claim be filed.

24. SUSTAINABLE PROCUREMENT: Pursuant to the City's Sustainable City Principles, which direct City Bureaus to pursue long-term social equity, environmental quality, and economic vitality through innovative and traditional mechanisms, Contractor is encouraged to incorporate these Principles into their scope of work with the City wherever possible. Therefore in accordance with the Principles and the City's Sustainable Procurement Policy, it is the policy of the City of Portland to encourage the use of products or services that help to minimize the human health and environmental impacts of City operations. "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.

Packaging should be minimized to the maximum extent possible without compromising product quality. The City encourages packaging that is reusable, recyclable in local recycling programs, is made from recycled materials, and/or is collected by the vendor for reuse/recycling.

25. FORCE MAJEURE: Neither City nor Contractor shall be held responsible for performance if its performance is prevented by unforeseeable acts or events beyond the Party's reasonable control, including, but not limited to, acts of God, fire, flood, earthquakes or other catastrophes; strikes or other labor unrest; power failures, electrical power surges or current fluctuations; nuclear or other civil or military emergencies; or acts of legislative, judicial, executive, or administrative authorities; or any other circumstances that are not within its reasonable control.

If delay in delivery due to a Force Majeure Event does not exceed thirty (30) days, such delays in delivery shall automatically extend the delivery date for a period equal to the duration of such events; any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event so long as it does not exceed thirty (30) days.

If delay in delivery due to Force Majeure Event is longer than thirty (30) days, the City shall have the right to terminate this Contract, a Task/Change Order, Maintenance agreement or any license hereunder upon written notice to Contractor, in accordance with this Section.

Either party may terminate this Contract due to a Force Majeure event as set forth herein.

26. AMENDMENTS: All changes to this Contract, including changes to the scope of work and Contract amount, must be made by written amendment and approved by the Chief Procurement Officer to be valid. The City's Chief Procurement Officer is authorized to execute amendments to this Contract without the City's further approval, provided such amendments are in writing, signed by both Parties, and approved by the City Attorney's Office. Contractor understands that City employees have

no actual or apparent authority to enter into amendments, except as may be specifically granted by the City Council to the Chief Procurement Officer, or to waive the approval of the City Attorney's office.

27. NON-WAIVER: 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 purposes given. The failure of the City to enforce any provision of this Contract shall not constitute a waiver of that or any other provision.

28. COORDINATION WITH OTHER CONTRACTORS AND OTHER GOODS: Contractor shall cooperate fully with other contractors and City employees providing systems or support to the City during installation, operation, or maintenance of the Goods. This includes planning for and integration of the Goods provided under this Contract with those provided by others. Further, Contractor shall make every reasonable effort to cooperate with City to minimize and/or prevent any degradation of the other computer and telecommunications systems, equipment, or services of the City by the installation, operation, or maintenance of the Goods. Contractor's failure to cooperate with the City and other contractors may be grounds for termination as provided herein.

29. ACCESS TO RECORDS: Contractor shall maintain professional accounting standards and on a current basis, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after final payment. Copies of applicable records shall be made available upon request.

30. AUDITS: The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Contract at any time in the course of the Contract and during the three (3) year period established by ACCESS TO RECORDS. Audits shall be conducted in accordance with generally accepted auditing standards. If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. 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 as provided under EARLY TERMINATION OF CONTRACT and REMEDIES. In addition, Contractor agrees to abide by the standards of the Office of the Comptroller set forth in May, 2002 Office of Justice Programs (OJP) Financial Guide, including without limitation in accordance with Office of Management and Budget (OMB) Circulars A87, A-102, A-122, A-128, A-133. All financial records, supporting documents, statistical records and all other records pertinent to this Contract shall be retained by Contractor for a minimum of five (5) years for purposes of State of Oregon or the OJP Financial Guide from the Office of the Controller and apprise itself of all rules and regulations set forth.

If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the City. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. If any audit shows performance of Goods is not efficient in accordance with the U.S. Government Accountability Office's Government Auditing Standards, or that the Goods are not effective in accordance with these Government Auditing Standards, the City may pursue remedies as provided under Section 2.31, Termination, and Section 2.33, Remedies.

31. EMPLOYEES NOT TO BENEFIT: No City employee or elected official of the City shall be admitted to any share or part of this Contract or to any benefit that may arise there from; but, this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

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

33. ESCALATION/DE-ESCALATION CLAUSE: Pricing in Attachment B may be increased by amendment after the initial first year of the Price Agreement, supported by documentation which specifically shows the percentages that costs have increased and the impact of those cost increases to the prices in this Price Agreement. It is preferable that requests for price increases be supported by an applicable price index. Additionally, all price reductions shall be passed on, in total, as of the effective date. The City of Portland shall have the option of accepting the price increase or canceling the balance of the Price Agreement. The Contractor shall notify the City of all price increases and decreases as far in advance of the effective date as possible. No upward price adjustment of any sort will be allowed during the first year of the Price Agreement period. All decreases will be passed on to the City as of the effective date, not at the end of the first year period. Notification shall be in writing and any changes shall be made in writing by amendment.

34. ADDITIONAL GOODS: The City reserves the right to procure additional Goods beyond those stated in the RFP documents at the same prices submitted by Contractor. Price increases will be allowed, but shall be in keeping with Attachments A and B of this Contract. Such additional Goods are not guaranteed and will be made at the City's sole discretion based upon the requirements of City bureaus.

35. RIGHT TO CHANGE: The City reserves the right to order changes to the goods, materials, equipment and services outlined herein. The City and Contractor shall determine a fair and equitable cost and if required, additional time for such changes. All such changes shall be ordered in writing and agreed to by the Parties.

36. NOTICE: Except as otherwise stated in this Contract, any notice or demand to be given under this Contract shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

CONTRACTOR:	**CITY:**
	City of Portland
L.N. Curtis and Sons, Inc.	Procurement Services
504 Main Street	1120 SW 5th Ave., Rm 750
Oregon City, OR 97045	Portland, OR 97204
ATTN: Jeffrey Curtis	ATTN: Strategic Sourcing Program Coordinator

If either Party changes its address or if a Party's representative changes, the other Party shall be advised of such a change in writing, in accordance with this section.

37. EARLY TERMINATION OF CONTRACT: The City and Contractor, by mutual written agreement, may terminate the Contract at any time. The City, on ten (10) days written notice to Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion. Either the City or Contractor may terminate this Contract in the event of a material breach of the 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 the Party's intent to terminate. If the Party has not entirely cured the breach within ten (10) days of the notice, then the Party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

38. SUSPENSION OF THE WORK: The City may at any time give notice in writing, by electronic mail, or by facsimile to Contractor to suspend this Contract. The notice of suspension shall specify the date of suspension and the estimated duration of the suspension. In no event shall Contractor be entitled to any lost or prospective profits or any incidental or consequential damages because of suspension.

39. PAYMENT ON EARLY TERMINATION: In the event of termination under EARLY TERMINATION OF CONTRACT hereof, the City shall pay Contractor for Goods in accordance with the Contract prior to the termination date and delivered to City provided that such Goods conform to Contract specifications and are of use to the City. In the event of termination under EARLY TERMINATION OF CONTRACT hereof, by the City due to a breach by Contractor, then the City shall pay Contractor for goods delivered and services performed in accordance with the Contract prior to the termination date subject to set off of excess costs, as provided for in Remedies. In the event of early termination all of Contractor's work product shall become and remain property of the City. Under no circumstances shall the City be subject to early termination penalties for recurring charges for goods or services that the City cancels during the term of this Contract.

40. REMEDIES: The remedies provided in this Contract are cumulative, and may be exercised concurrently or separately. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other. In the event of termination under EARLY TERMINATION OF CONTRACT by the City due to a breach by Contractor, then the City may purchase Goods outstanding from another contractor and Contractor shall be liable for additional re-procurement costs incurred by the City. The City also shall be entitled to any other equitable and legal remedies that are available. Except as

expressly contained in this Contract, the remedies for a breach of this Contract shall not be exclusive, or construed as a limitation on any other equitable and legal remedies that are available, including without limitation rights or remedies that are or may become available under its records according to ORS Chapter 72.7010 to 72.7250.

41. DISPUTE RESOLUTION: Contractor shall cooperate with the City to assure that all claims and controversies which arise during Contractor's performance of Goods under this Contract or a Task/Change Order subject to this Contract and which might affect the quality of such Goods will be resolved as expeditiously as possible in accordance with the following resolution procedure:

A. Any dispute between the City and Contractor arising prior to completion of Contractor's services or the earlier termination of the Contract shall be resolved, if possible by the Contract Manager or their designee on behalf of the City and Pete Danforth on behalf of Contractor.

B. If the Contract Manager or the Contract Manager's designee and Contractor are unable to resolve any dispute within three (3) business days after notice of such dispute is given by either Party to the other, the matter shall be submitted to the bureau director on behalf of the City and Pete Danforth on behalf of Contractor for resolution, if possible.

C. Should any dispute arise between the Parties concerning this Contract that is not resolved by mutual agreement above, it is agreed that such dispute will be submitted to mandatory mediated negotiation prior to any Party's commencing arbitration or litigation. In such an event, the Parties to this Contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the Parties, but in the absence of such agreement each Party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the Parties.

D. Should an equitable solution not result from the foregoing, the City and Contractor shall be free to pursue other remedies allowed under this Contract.

E. Unless ordered by the City to suspend all or any portion of Contractor's Goods, Contractor shall proceed with the performance of such Goods or delivery of Products without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures and shall comply with any mutually agreed upon Amendments that the City may issue regarding the acceleration of all or any portion of the Products or Services. During the pendency of any of the foregoing dispute resolution procedures, the City shall continue to make all payments that are not in dispute, in accordance with the provisions of the Contract or Amendment.

42. PERMITS AND LICENSES: Contractor shall be required to have or obtain, at their expense, any and all permits and licenses required by the City and/or County, state and Federal (except FCC radio licenses), pertaining to the materials and services to be provided.

43. WARRANTY: The Contractor represents and warrants that (i) Contractor shall provide all Goods and set forth herein in a good and workmanlike manner, in conformance with the Specifications and requirements of the Contract, and in accordance with the highest applicable professional and/or industry standards; (ii) Contractor warrants that each of Contractor's employees assigned to provide Goods has the proper skill, training, and background, and shall perform in a competent, timely, and professional manner; and (iii) Contractor shall, at all times during the term of the Contract, maintain and keep current all licenses and certifications required to perform the work set forth in the Contract.

44. PROPRIETARY AND CONFIDENTIAL INFORMATION: The Oregon Public Records Law, ORS 192.410 et seq. strictly governs the City's treatment of requests for public records pertinent to this Contract.

A. 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 City Confidential Information exclusively for the City's benefit and in furtherance of the Products 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 City Confidential Information. Contractor shall (1) limit disclosure of the City Confidential Information to those directors, officers, employees and agents of Contractor who need to know the City Confidential Information in connection with the City Project, (2) exercise reasonable care with respect to the City Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (3) return immediately to the City, upon its request, all materials containing City Confidential Information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use Confidential intellectual property of the City without the City's prior written consent.

B. Scope. This Agreement shall apply to all City Confidential Information previously received, learned, observed, known by or made available to Contractor. This Contract shall not apply to City Confidential Information which (1) is or later becomes part of the public domain without breach of this Contract and through no wrongful act of Contractor; (2) Contractor lawfully receives from a third party; (3) was developed independently by and was reduced to writing by Contractor prior to the earlier of the date of this Contract or the date of any access or exposure to any City Confidential Information, or (4) is required to be disclosed under operation of law. Contractor's confidentiality obligations under this Contract shall survive termination.

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

D. Contractor's Confidential Information. During the term of the Contract, Contractor may disclose to the City, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information at the time of disclosure or within a reasonable time thereafter. The City shall not be deemed to have breached this Section if (1) Contractor's Confidential Information later becomes part of the public domain through no act or omission of the City; (2) is required to be disclosed under operation of law; (3) the City lawfully receives Confidential Information from a third party with no breach of any duty of confidentiality; or (4) was developed independently by and was reduced to writing by the City prior to the earlier of the date of this Contract or the date of any access or exposure to any Contractor Confidential Information.

E. 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 submitted to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Act. Subject to the following conditions, the City agrees not to disclose any information Contractor submits to the City that includes a written request for confidentiality and as described above, specifically identifies the information to be treated as Confidential. The City's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and federal laws. Within the limits and discretion allowed by those laws, the City will maintain the confidentiality of information.

F. Release of Public Information. All information submitted by Contractor shall be public record and subject to disclosure pursuant to the Oregon Public Records Act (ORS 192.410 et seq.), except such portions for which Contractor requests exemption from disclosure consistent with federal or Oregon law. Any portion that the Contractor claims constitutes a "trade secret" or is "confidential" must meet the requirements of ORS 192.501, 192.502, 646.461 or other state or federal law. Documents with Copyright must be clearly marked.

G. Discovery of Documents. In the event a party to litigation seeks discovery of information submitted by Contractor in confidence, the City will notify Contractor of the request. The City shall allow Contractor to participate in the response at its own expense. The City will comply with any effective order issued by the court having jurisdiction over the matter.

45. INFRINGEMENT INDEMNITY: Contractor shall, at its own expense, hold harmless, indemnify, and defend the City, its directors, officers, employees, agents and affiliates from and against any and all claims, demands, damages, liabilities, losses, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged violation or infringement by the Software of any proprietary right of any person whosoever, including any copyright, patent, trade name, trademark, or misappropriation of the trade secrets of any third party. The City agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise. No settlement that prevents the City's continuing use of the Software/Products shall be made without the City's prior written consent. If any third party claim causes the City's use of the Software to be endangered, restricted or disrupted, Contractor shall (i) cause the Software to be replaced, at no additional charge, with a compatible functionally equivalent and non-infringing product; (ii) cause the Software to be modified to avoid the infringement; (iii) obtain a license for the City to continue using the Software and pay any additional fee required for such license; or (iv) if, after Contractor uses all due diligence or standard of care none of the foregoing alternatives is possible, Contractor will terminate the license and refund to the City license fees actually paid by the City and any direct damages documented by City for the affected Software and Documentation.

46. SECURITY: Contractor shall provide immediate notification to the City's Information Security Manager and the City's Project Manager of any online security breach that affects City systems. Contractor shall provide notification to the City's Project Manager of any incident relating to System integrity such as a computer virus.

A. Contractor shall comply with 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.**

B. 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:

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.

C. Additionally, any Contractor who provides or has access to Software which processes and /or interacts with credit/debit card information must also be compliant with the following:

Payment Card Industry - Data Security Standard (PCI-DSS). The most current version is 1.2. These standards are maintained at www.pcisecuritystandards.org.

47. NEWS RELEASES AND PUBLIC ANNOUNCEMENTS: The Contractor shall not use in its external advertising, marketing programs, or other promotional efforts, the City seal or other representations of the City, any data, pictures or other representations of the City, except with prior specific written authorization from the City.

Contractor shall not issue any news release or public announcement pertaining to this Contract or the project without prior written approval of the City, which may be withheld in the City's sole discretion. A minimum notice of three (3) business days is required for a response to a request for such approval. If approval is not issued within the three (3) business day period, the request shall be deemed denied.

48. INTERGOVERNMENTAL COOPERATIVE PROCUREMENT: The Contractor having submitted a bid agrees to extend identical prices and Goods under the same terms and conditions to all public agencies. Quantities stated in this Contract/Price Agreement reflect the City of Portland usage only.

Any public agency that wishes to purchase items will execute its own contract with the awarded Contractor for its requirements. If the Contractor enters into a contract with any public agency on terms or prices other than that outlined in this contract or in conjunction with a competitive bid process, then there is no reporting requirement to City of Portland.

49. INTERGOVERNMENTAL COOPERATIVE ADMINISTRATIVE FEE (CAF): A 1.0% annual cooperative administrative fee ("CAF") on Eligible Revenues will be paid to the City for any Intergovernmental Cooperative Procurement contracts that Contractor agrees to enter into under identical prices and terms and conditions to this Agreement and which did not result from a competitive bid process ("Eligible Contracts"). The pricing extended to Participating Entity shall be the purchase price before promotional discount as outlined in Attachment B charged to the City of Portland under this Price Agreement (#31000891) for each service. Eligible Revenues shall mean the revenues on Eligible Contracts. In the event that the City exercises its unilateral right to Early Termination under clause 33(b), then Contractor will no longer be liable to City of Portland for any CAF otherwise due and payable to City of Portland.

A. VOLUME SALES REPORTS: When other Participating Entities are offered the same terms and conditions as the original Contract/Price Agreement between Contractor and the City, Contractor shall provide a twice yearly Volume Sales Report to the City of Portland. The reports shall include the complete and accurate details regarding all transactions pertaining to sales under the contract terms and conditions for that Reporting Period. Contractor shall provide the Volume Sales Reports regardless whether or not any sales have been conducted. When no sales have been recorded for the period a report must be submitted by so stating "NO SALES FOR THIS PERIOD".

Volume Sales Reports may be submitted either by email, US post or electronically and submitted on the City's standard document. Contractor will submit the Volume Sales Reports to:

Larry Pelatt, CPPO
Procurement Supervisor
Procurement Services
1120 SW Fifth Avenue, Room 750
Portland, OR 97204
Email: Larry.Pelatt@portlandoregon.gov

City reserves the right to terminate this Price Agreement if the Volume Sales Reports are not received on a timely basis as described herein, provided however that Contractor is granted the right to cure any breach in this regard within thirty days (30) of written notice by the City of said breach.

The sales information shall be supplied to the City of Portland, Procurement Services Division for the following Reporting Period of January 1 - June 30 and July 1 – December 31. All reports are due by the 30th day following the end of the Reporting Period.

During the term of this Price Agreement and for the sales during the previous Reporting Period, Contractor shall remit CAF payments to the City of Portland within thirty (30) days of City's receipt of Volume Sales Report. Contractor shall be responsible for timely reporting and payment. The City reserves the right, at its own expense, to audit Contractor's records and other pertinent data as indicated herein in Section 26 Audits.

B. CAF PAYMENTS: All payments shall be due thirty days after the City's receipt of the Volume Sales Report. The CAF will NOT be reflected as a separate line item charge to authorized purchasers. Contractor's bid prices shall reflect all of Contractor's charges to authorized purchasers.

City of Portland CAF shall be calculated based upon Participating Entity Volume Sales Report limited to paid-for purchases, net of returns, discounts and credits made by the Participating Entity. The calculation will be as follows:

City of Portland Price $100.00 Markup 1% Participating Entity pays $101.00; rebate to be paid to the City of Portland = $1.00 ($101-($101/1.01))

Contractor shall remit CAF payments in the form of a check to:

Procurement Services, Operations
1120 SW Fifth Avenue, Room 750
Portland, OR 97204

C. DEFINITIONS: These definitions shall apply to the CAF provisions as follows:

Participating Entity shall be any public/governmental organization utilizing this Agreement in accordance with purchasing procedures mandated by Local and State procurement statutes and regulations.

Reporting Period means the twice yearly reporting of sales as conducted via cooperative procurement under this Agreement/Contract.

50. UNIFORM COMMERCIAL CODE: The provisions of this Contract 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 71-83 (Uniform Commercial Code).

51. OREGON HAZARD COMMUNICATION RULES: Contractor must comply with all provisions of OAR 437, Subsection H: Hazardous Materials. Inquiries concerning compliance should be directed to any office of the Accident Prevention Division or the Workers' Compensation Department central office in Salem

Material Safety Data Sheets (MSDS) shall be provided along with delivery of the product to each Bureau or Division that receives merchandise. The City does not have a centralized Hazard Communication Rules program and supplying MSDS's to one location does not qualify as compliance.

The City reserves the right to refuse and withhold payment for shipments that are not properly labeled or for which an MSDS has not been provided. Noncompliance with OAR 437 is violation of this Contract and justifiable cause for cancellation.

52. NON-EXCLUSIVE AGREEMENT: The City may, but is not required, to purchase any goods or services under this Price Agreement. Good or services will be requested on an as needed basis, therefore there is no guarantee of goods to be

purchased or services requested under any resulting agreement. Payment shall be made only for goods actually ordered, delivered, and accepted, whether greater or less than the original estimated quantities. This Price Agreement does not establish an exclusive arrangement between the City and Contractor, and the City retains the right to purchase the same or similar goods from other providers.

53. ENTIRE CONTRACT: This Contract and its Attachments represent the entire Contract between the Parties. This Contract is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior Contract, understanding, or representation between the Parties with respect thereto, whether written or oral.

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. It is understood and agreed by the Parties hereto that:

A. Any reference in this Contract to the scope of work or specifications is intended as a convenience to the Parties in administration of the Contract. Therefore, in the absence of an express statement to the contrary herein, any restatement or partial restatement in this Contract of any provision of the scope of work or specifications is not intended, nor shall be construed to change, alter, modify, amend, or delete the requirements of the scope of work or specifications.

B. All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and State of Oregon shall be followed with respect to this Contract.

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

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

IN WITNESS WHEREOF, Contractor and City have caused this Contract to be executed by their duly authorized representative(s), all on the day and year first above written.

L.N. CURTIS AND SONS, INC.

by _____

Jeffrey R. Curtis Vice Pres. 6/21/2016
Name, Title and Date

Address: 504 Main Street
Oregon City, OR 97045

Telephone No: 971-404-8581
Email: runderdahl@curtisblueline.com

Approved as to form: APPROVED AS TO FORM

_____ 6/24/16
City Attorney
CITY ATTORNEY

CITY OF PORTLAND

by _____ 6/28/16
Christine Moody, Chief Procurement Officer Date

ATTACHMENT A
SPECIFICATIONS

1.0 SCOPE OF WORK:

The Contractor shall provide Police Duty Gear as specified in the Technical Requirements and listed in Attachment B.

2.0 TECHNICAL REQUIREMENTS

2.1. The specific brand name products required are listed in Attachment B.

2.2. DELIVERY

a. The Contractor shall furnish items within thirty (30) calendar days after receipt of an order from the Police Bureau.

b. An inspection of supplied items shall be conducted by the Police Bureau.

c. Items not meeting Price Agreement requirements shall be returned at the Contractor's expense. The Contractor shall replace rejected items within ten (10) calendar days after receipt of a reorder request. Materials that are found to be deficient may be the basis for rejection of the entire lot or shipment.

d. Delivery for ordered or reordered items shall be FOB Police Bureau receiving point on the order, free of cartage, handling, unloading, or transportation charges.

e. If the Contractor cannot furnish and deliver such items as ordered or reordered within the specified time limit, the City reserves the right to purchase the needed items from other sources. Repeated non-delivery may be cause for Price Agreement termination.

f. GUARANTEE - The Contractor shall correct promptly, without charge to the City, any defects arising from faulty materials, workmanship, or improper performance in relation to the Price Agreement requirements for a period of 12 months from the date of acceptance of the items furnished under the Price Agreement.

g. ACCEPTANCE AND PAYMENT – The Contractor shall submit billings in a timely fashion. Payment will be made monthly for all merchandise properly received and invoiced by the 25th of the month, unless a discount for prompt payment justifies other handling. Invoices shall be sent to the address stated in the order.

h. PACKING, MARKING AND SHIPPING - All materials furnished shall be packaged and shipped in accordance with the applicable provisions of the ASTM Specification noted and industry practice, whichever provides the greatest protection for the Duty Gear during shipment and storage.

2.3. SAFETY & SECURITY REQUIREMENTS

Public Safety

Public safety may require limiting access to public facilities and public offices, sometimes with little advance notice. The contractor shall anticipate delays in such places and costs for such delays are included in the pricing in Attachment B. The Contractor's employees and agents shall carry sufficient identification to show by whom they are employed and display it upon request to security personnel. The Police Bureau has the discretion to require the Contractor's employees and agents to be escorted to and from any public office or facility.

Safety

The Contractor must comply strictly with all applicable local, municipal, state, and federal laws, orders, and regulations pertaining to health or safety, including without limitation the Occupational Safety and Health Act of 1970. All materials, equipment, and facilities furnished by the Contractor in connection with the performance of the Work must comply therewith.

3.0 INSPECTION, TESTING, AND CONTRACT ADMINISTRATION

3.1 INSPECTION OF GOODS

No materials and/or services received by a bureau shall be deemed accepted until the City has had reasonable opportunity to inspect said materials and/or services.

All materials and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all materials and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

3.2 ACCEPTANCE AND TESTING

The City may conduct testing on materials prior to acceptance and payment. The acceptance tests may be conducted to determine if specific items are in accordance with the Technical Requirements. Deviations from the City's specifications will not be allowed unless addressed by a formal amendment.

When tests of materials are necessary, such tests will be made by and at the expense of City unless otherwise specified. In the event the materials fail, the supplier shall bear all costs for all subsequent testing necessary to meet specified requirements.

3.3 REJECTION OF DELIVERED GOODS

The City's right to reject any unacceptable materials and/or services shall not exclude any other legal, equitable or Contractual remedies the City may have. The City reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

4. WORK PERFORMED BY THE CITY

The City shall make available sufficient hours of staff personnel time required to meet with the Contractor to provide information and resolve issues. The City's Office of Management and Finance has assigned the Strategic Sourcing Program Coordinator to oversee administration of the Price Agreement and provide support as needed.

The City shall be responsible for implementing and maintaining usual, customary and appropriate internal accounting procedures and controls, internal controls and other appropriate procedures and controls. These controls will include information technology, proprietary information, and trade secret safeguards if appropriate.

5. PLACE OF PERFORMANCE

Contract performance will take place at the City's facilities, in shipment to City facilities, and at the Contractor's facilities.

6. INVOICING: The City of Portland is a tax-exempt governmental agency. Prices shall not include federal, state, local, or other taxes designated now or hereafter, unless the City is responsible therefore. Contractor shall submit billings in a timely fashion to the address designated by the ordering bureau.

Contractor is at all times solely responsible for billing accuracy and timeliness; Contractor shall provide invoices for the Goods to the City in paper form. Invoices will not be processed for payment until receipt of a properly completed invoice and until all invoice items are received and satisfactory performance of Contractor has been attained. Invoice payment terms including any offered prompt payment discounts shall start on the date of the invoice.

7. INVOICE PAYMENT: Invoices submitted for payment shall identify the Goods, the unit price, quantity, extended price, order number and invoice total. Billing details may be agreed upon between the Parties. Invoicing for Goods shall at all times be in arrears. Invoices for payment shall be provided to the City within ninety (90) days of successful delivery of the billed Goods.

Revised invoices or billing adjustments shall apply only to Goods that can be verified by the City. Requests for such adjustments shall be submitted in writing to the City within six (6) months of acceptance of the Goods, shall reference the original invoice in which the error was made, and contain the level of detail defined in billing detail above. Billing adjustments shall not be submitted to the City in any form other than a paper document. The City shall pay undisputed portions of disputed or incorrect invoices where the City can easily identify the undisputed portion. Failure by the City to pay any portion of or the entire invoiced amount based on Contractor billing errors, Goods that fail to comply with this Contract, or disputed charges shall not constitute default under this Contract.

It is the City's policy to pay its vendor invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, vendors shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at:
http://www.portlandonline.com/omf/index.cfm?c=26606&a=409834.

Upon verification of the data provided, the Payment Authorization Agreement will authorize the City to deposit payment for services rendered or goods provided directly into vendor accounts with financial institutions. All payments shall be in United States currency.

8. BILLING AND PAYMENT PROCEDURES: The Contractor shall be paid on a four-week period on the basis of invoices submitted for services provided during the invoice period. The invoice period start and end dates must coincide with the start and end dates of payroll periods. The Contractor shall adopt the City's bi-weekly payroll periods during the term of the Contract.

The invoice must include the Cost Center Code, WBS element or Internal Order number to be provided by the City. The invoice shall include an itemization of regular, overtime, and non-billable hours for each temporary worker who provided services during the invoice period and a summary of charges. The City will provide a recommended format for both parts of the invoice.

Within 30 days after receipt of the invoice, provided the Project Manager has certified the payment as due, the City shall pay the amount certified to the Contractor. The Project Manager's certification of a payment as due, however, shall not prevent the Project Manager from later determining that the certification was in error.

ATTACHMENT B
PRICING

ITEM NO.	Brand	PART NUMBER	ITEM DESCRIPTION	UNIT	UNIT PRICE
1	ASP	52611	Black finish baton 26"	EA	$90.00
2	ASP	52411	Black finish baton 21"	EA	$85.00
3	ASP	52635	Rotating Sidebreak Scabbard (Baton Holder)	EA	$38.00
4	Bianchi	17379	Model # 7200 Duty Belt: X-Small, 24" - 28"	EA	$35.00
5	Bianchi	17380	Model # 7200 Duty Belt: Small, 28" - 34"	EA	$35.00
6	Bianchi	17381	Model # 7200 Duty Belt: Medium, 34" - 40"	EA	$37.00
7	Bianchi	17382	Model # 7200 Duty Belt: Large, 40" - 46"	EA	$37.00
8	Bianchi	17383	Model # 7200 Duty Belt: X-Large , 46" - 52"	EA	$37.00
9	Bianchi	19094	Model # 7200 Duty Belt: XX-Large, 54" - 58"	EA	$37.00
10	Bianchi	17705	Model # 7205 Liner Belt: X-Small, 24" - 28"	EA	$20.00
11	Bianchi	17706	Model # 7205 Liner Belt: Small, 28" - 34"	EA	$20.00
12	Bianchi	17707	Model # 7205 Liner Belt: Medium, 34" - 40"	EA	$20.00
13	Bianchi	17708	Model # 7205 Liner Belt: Large, 40" - 46"	EA	$20.00
14	Bianchi	17709	Model # 7205 Liner Belt: X-Large, 46" - 52"	EA	$20.00
15	Bianchi	17710	Model # 7205 Liner Belt: XX-Large , 54" - 58"	EA	$20.00
16	Bianchi	15635	Model # 6406 Belt Keepers: 4-Pack	EA	$10.00
17	Bianchi	18190	Model # 7300 Covered Cuff Case: Single	EA	$17.00
18	Bianchi	18771	Model # 7317 Covered Cuff Case: Double	EA	$23.00
19	Bianchi	18472	Model # 7302 Double Magazine Pouch: G17	EA	$25.50
20	Bianchi	18205	Model # 7307 OC Spray Pouch: MK-3	EA	$15.00
21	Bianchi	24017	Model # 7312 Expandable Baton Holder: 26"	EA	$13.00
22	Bianchi	19657	Model # 7311 Compact Light Pouch: Stinger XT	EA	$19.00
23	Bianchi	19696	Model # 7324 Radio Holder: Fixed Belt Loop	EA	$23.00
24	Bianchi	19697	Model # 7324S Radio Holder: Swivel Belt Loop	EA	$30.00
25	Bianchi	14414	Model # 6404 Baton Ring: PR-24	EA	$7.00
26	Bianchi	25149	Model # 7337 Smartphone Holder	EA	$18.00
27	Bianchi	24028	Pelican Light Pouch w/FlaP	EA	$19.00
28	Bianchi	22838	LED Stinger Light Pouch: Open Style	EA	$11.00
29	Blackhawk	38CL63BK	Serpa MOLLE Platform	EA	$13.00

30	Blackhawk	CQC	Spacer kit	EA	$13.00
31	EOTech	XPS2-0	Holographic Weapon Optic	EA	$440.00
32	EOTech	GG&G	Lens Cover: XPS Series	EA	$40.00
33	AE Nelson	1PL	Leather Trouser Belt: 1.5" w/Square Brass Buckle	EA	$60.00
34	Weaver	49040	1" Low Mount Ring, Matte	EA	$28.00
35	North American Rescue	30-0001	Combat Application Tourniquet	EA	$27.00
36	RIPP	RIH-100	RiPP Restraints Hobble	EA	$17.00
37	RIPP	RIHH-100	RIPP Restraints Hobble Holder	EA	$17.00
38	KleenBore	PK210	9MM Classic Handgun Cleaning Kit	EA	$18.00
39	Monadnock	1000 PR-24	Side Handle Baton ASP 52611 26" Black Chrome Baton	EA	$42.00
40	GG&G	GGG-1005	GG&G A2 BUIS/Back Up Iron Sight	EA	$110.00
41	Safariland	N/A	Armor Plate Level IIIa	EA	$175.00
42	Sabre Red	52CFT10	MK-3 crossfire duty issued pepper spray	EA	$10.50
43	Sabre Red	92H2060	MK-9 large canister issue pepper spray	EA	$33.00
44	Streamlight	Stinger HL	Flashlight	EA	$95.00
45	ZAK	T 14	Handcuff Keys	EA	$6.50
46	Maxpedition	0102B CP-L	Radio Pouches	EA	$27.00
47	Pro Tech	748	Helmet Bags	EA	$60.00
48	Marz	Part #PC111-Black	Tourniquet Pouch-Belt Mount version	EA	$22.00
49	Marz	#PC108	Tourniquet Pouch-Molle Mount version	EA	$22.00
50	Pelican	7060	LED Flashlight: AC Charger	EA	$125.00
51	Pelican	7060	LED Flashlight: AC Charger - LIGHT ONLY	EA	$115.00
52	Safariland	295-83-61	Duty Holster: Glock 17/22, Right Hand, Plain Black	EA	$140.00
53	Safariland	295-83-62	Duty Holster: Glock 17/22, Left Hand, Plain Black	EA	$146.00
54	Safariland	6360-832-131-NH	ALS Duty Holster: Glock 17/22 w/TLR-1 , STX Tactical , RH	EA	$113.50
55	Safariland	6360-832-132-NH	ALS Duty Holster: Glock 17/22 w/TLR-1 , STX Tactical , LH	EA	$117.00
56	Safariland	6378-83-411-NH	ALS Paddle Holster: Glock 17/22 Only, STX Plain, RH	EA	$35.00
57	Safariland	6378-83-412-NH	ALS Paddle Holster: Glock 17/22 Only, STX Plain, LH	EA	$35.00
58	Safariland	6378-283-411-NH	ALS Paddle Holster: Glock 17/19/22/23/26/27 ,STX Plain, RH	EA	$35.00
59	Safariland	6378-283-412-NH	ALS Paddle Holster: Glock 17/19/22/23/26/27, STX Plain, LH	EA	$35.00
60	Safariland	6378-183-411-NH	ALS Paddle Holster: Glock 26/27 Only, STX Plain, RH	EA	$35.00
61	Safariland	6378-183-412-NH	ALS Paddle Holster: Glock 26/27 Only, STX Plain, LH	EA	$35.00
62	Safariland	573-83-21	Single Mag/ Cuff Combo Paddle Holder: Plain Black, RH	EA	$32.00
63	Safariland	573-83-22	Single Mag/ Cuff Combo Paddle Holder: Plain	EA	$32.00

			Black, LH		
64	Safariland	074-83-61	Single Magazine Paddle Holder: Plain Black, RH	EA	$15.00
65	Safariland	074-83-62	Single Magazine Paddle Holder: Plain Black, LH	EA	$15.00
66	Safariland	590-2	Single Handcuff Paddle Holder: Plain Black	EA	$30.00
67	Safariland	6305-832	ALS Tactical Holster: Glock 17/22 w/TLR-1	EA	$160.00
68	Safariland	6378-832	ALS Concealment Holster: Glock 17/22	EA	$45.00
69	Safariland	074-83-61	Single Magazine Paddle Holder Safarlland 590-2 Single Handcuff Paddle Holder	EA	$15.00
70	Safariland	6360-2832-131-NH	Safariland ALS Glock 19 RH holster	EA	$120.00
71	Safariland	6360-2832-132-NH	Safariland ALS Glock 19 LH holster	EA	$120.00
72	Safariland	N/A	Safariland T-spacer pack	EA	$6.50
73	Safariland	774	ProTech Delta 4 IIIA ballistic helmet	EA	$345.00
74	Safariland	DK6-H	ProTech riot face shield	EA	$70.00
75	Safariland	TP21B	Protech MOLLE Radio holder Radio Pouches	EA	$20.00
76	Safariland	Safariland 070-83	Gun Holster	EA	$150.00
77	Safariland	TP33 Black	Tourniquet Pouch	EA	$20.00
78	Peerless	4710	MDL 700 nickel finish chain handcuffs	EA	$25.00
79	SOTech	TH-X2-speed clip	Taser X2 Thigh Taser drop holster	EA	$75.00
80	Streamlight	88040	ProTac HL LED Flashlight	EA	$70.00
81	Streamlight	69260	TLR-1 HL LED Weaponlight -	EA	$125.00
82	Streamlight	75455	Stinger DS LED HL Flashlight: AC Charger	EA	$118.00
83	Uncle Mike's	5248-1	Cordura Nylon Field Baq:With Officer Name and DPSST#	EA	$45.00
84	Safariland	7360-832-411-NH	7TS ALS Duty Holster G17 RH w/light	EA	$105.00
85	Safariland	7360-832-412-NH	7TS ALS Duty Holster G17 LH w/light	EA	$105.00
86	Safariland	7360-2832-411-NH	7TS ALS Duty Holster G19 RH w/light	EA	$105.00
87	Safariland	7360-2832-412-NH	7TS ALS Duty Holster G19 LH w/light	EA	$105.00
88	Safariland	7378-183-411	7TS ALS Paddle holster G26 RH	EA	$35.00
89	Safariland	7378-183-412	7TS ALS Paddle holster G26 LH	EA	$35.00
90	Safariland	7378-283-411	7TS ALS Paddle holster G19 RH	EA	$35.00
91	Safariland	7378-283-412	7TS ALS Paddle holster G19 LH	EA	$35.00
92	Safariland	7378-2832-411	7TS ALS Paddle holster G19 RH w/light	EA	$45.00
93	Safariland	7378-2832-412	7TS ALS Paddle holster G19 LH w/light	EA	$45.00
94	Safariland	7378-83-411	7TS ALS Paddle holster G17 RH	EA	$35.00
95	Safariland	7378-83-412	7TS ALS Paddle holster G17 LH	EA	$35.00
96	Safariland	7378-832-	7TS ALS Paddle holster G17 RH w/light	EA	$45.00

		411			
97	Safariland	7378-832-412	7TS ALS Paddle holster G17 LH w/light	EA	$45.00
98	Troy	ssig-fbs-robt-00	Folding battle sight, rear, black	EA	$120.00

APPENDIX A
CONTRACT REQUIREMENTS

Contractor shall observe all applicable state and local laws pertaining to public Contracts 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 rules, ORS Chapters 279A, 279B and 279C require every public Contract to contain certain provisions. Pursuant to those chapters, the following provisions shall be a part of this Contract, as applicable.

- Pursuant to ORS 279B.220, on every public Contract, the Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in the Contract; shall pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished, and; pay to the Department o Revenue all sums withheld form employees under ORS 316.167.

- Pursuant to ORS 279C.505, on public improvement Contracts, the Contractor shall make payments promptly, as due, to all persons supplying to such Contractor labor or material for the prosecution of the work provided for in such Contract. The Contractor shall pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract. The Contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall demonstrate that an employee drug-testing program is in place.

- Pursuant to ORS 279C.510 (1), in every public Contract for demolition the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. Pursuant to ORS 279B.225 and 279C.510 (3) in every public Contract and every public improvement Contract for lawn and landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

- Pursuant to ORS 279B.230(1), in every public Contract, the Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums that the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, Contract or agreement for the purpose of providing or paying for the services.

- Pursuant to ORS 279B.230(2), in every public Contract, all subject employers working under the Contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

- Pursuant to ORS 279B.235(1), persons may not be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it. In such cases, the employee shall be paid a) at least time and half pay for all overtime in excess of 8 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or b) for all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week if four consecutive days, Monday through Friday; and c) for all work performed on Saturday and on any legal holiday specified in ORS 279B.020.

- Pursuant to ORS 279C.515(1), on public improvement Contracts, 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 the public Contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of such Contract. The payment of a claim in the manner authorized by ORS 279C.515 shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

- Pursuant to ORS 279C.515(2), on public improvement Contracts, if the Contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement Contract within 30 days after receipt of payment from the Contract agency or a Contractor, the Contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the Contracting agency or from the Contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

- Pursuant to ORS 279C.515 (3), in every public improvement Contract and every Contract related to the public improvement Contractor, if the Contractor or subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

- Pursuant to ORS 279C.520, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279C.100, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279C.540. The Contractor shall give notice to employees who work on a public Contract in writing, either at the time of hire or before commencement of work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of Contracts for personal services as defined in ORS279C.100, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these Contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime. Persons employed under Contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540 (1) (b)(B) to (G) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The Contractor shall give notice to employees who work on a Contract for services in writing, either at the time of hire or before commencement of work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- Pursuant to ORS 279C.530(1), in every public improvement Contract, the Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all monies and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, Contract or agreement for the purpose of providing or paying for such service. In every public Contract, subject to ORS 279C, all employers working under the Contract are subject employers that shall comply with ORS 656.017.

- Pursuant to ORS 279C.580(3)(a), the Contractor shall include in each public improvement subcontract for property or services entered into by the Contractor and a subcontractor, including a material supplier, for the purpose of performing a construction Contract, a payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the Contractor by the public Contracting agency under such Contract, and an interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to ORS 279C.580 (3), for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, and computed at the rate specified in ORS279C.515 (2).

- Pursuant to ORS 279C.580(4), the Contractor shall include in each of its subcontracts for a public improvement, for the purpose of performance of such Contract condition, a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of ORS 279C.580 (B) (4) in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

- Pursuant to ORS 279C.830(1)(a) workers shall be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and 279C.840.

July 25, 2008

APPENDIX B
Federal Grant Requirements

This Contract may be funded, in whole or in part, by Federal funds. In addition to other provisions required by the Federal agency or City, the following provisions shall be covenants of the contract, as applicable. These provisions shall be in addition to all other provisions in this Contract, and shall prevail over any conflicting terms.

(A) **Administrative, contractual, or legal remedies.** Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, shall include the following provision: In the event of a breach of Contract terms by Contractor, the City may seek any remedies in this Contract, in law, or at equity. Additionally, the City may complete the project or the purchase itself, by agreement with another contractor, or by a combination thereof. In the event the cost of completing the Project or purchase exceeds the amount the City would have paid Contractor to complete the Project under this Contract, then Contractor shall pay to the City the amount of the reasonable excess.

(B) **Termination for Cause and Convenience.** All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. The City, on thirty (30) Calendar Days' written notice to Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion. In the event of such termination, the City shall pay to Contractor the portion of the not-to-exceed price attributable to all deliverables accepted by the City, or Services performed by Contractor and accepted by the City, through the effective date of the termination. Additionally, the City may terminate this Contract in the event of a breach of this Contract by Contractor. Prior to such termination, however, the City shall give Contractor written notice to cure the breach and of the City's intent to terminate. If Contractor has not entirely cured the breach within thirty (30) Calendar Days of the notice, then the City shall have the option to: (a) terminate this Contract by giving a written notice of termination, (b) seek any remedies in this Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (c) any combination thereof.

(C) **Equal Employment Opportunity.** If this Contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, it shall incorporate the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935,3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending

Executive Order 11246 Relating to Equal Employment Opportunity ," and implementing regulations at 41 CFR part 60 , "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) **Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).** In addition to State or Oregon Bureau of Labor and Industries (BOLI) prevailing wage law requirements, if this Contract is a prime construction contract in excess of $2,000, Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractor must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor has been included in the solicitation and is also separately available to Contractor upon request to the City. Award of the City contract or subcontract to Contractor is conditioned upon Contractor's acceptance of the wage determination. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Contractor and subcontractor are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which the person is otherwise entitled. Contractor (or subcontractor) is on notice that all suspected or reported violations of these laws shall be reported to the Federal awarding agency.

(E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** In addition to other general provisions in the Contract, if this Contract is in excess of $100,000 and involves the employment of mechanics or laborers, Contractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) . Under 40 U.S.C. 3702 of the Act, and shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) **Rights to Inventions Made Under a Contract or Agreement.** As applicable, if this Contract is funded by a Federal "funding agreement," as defined under 37 CFR §401.2(a), then a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental , or research work under that "funding agreement" must comply with the requirements of 37 CFR Part 401 , "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency, and if such contracting is allowed by the City.

(G) **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** In addition to any applicable State and local environmental laws and regulations and/or provisions elsewhere in the Contract, if this Contract is in excess of $150,000, then Contractor must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Contractor (or subcontractor) is on notice that the violations of these laws shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) **Debarment and Suspension (Executive Orders 12549 and 12689).** A party shall not be eligible for a contract award (see 2 CFR 180.220) if that party is listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMS guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Camp., p. 189 and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. In entering into this Contract with the City, Contractor certifies that Contractor and its subcontractor(s) are not on the SAM Exclusions list; Further Contractor and any subcontractor(s) are on notice that inclusion on the SAM Exclusions list during the term of the Contract shall be a basis for material breach of the Contract.

(I) **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** In addition to requirements City Code Chapter 2.12 *Regulation of Lobbying Entities,* Contractors that apply or bid for an award exceeding $100,000 must file the required certification under the "*Byrd Anti-Lobbying Amendment.*" Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) **Compliance with 2 CFR §200.322 Procurement of recovered materials.** In addition to rules, regulations and policies providing for environmentally sound and sustainable procurement, Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.