

STATE OF OREGON



COVER PAGE

Department of Land Conservation and Development

Diversity, Equity and Inclusion Assessment and Racial Equity Plan

Request for Proposals (RFP)

DLCD S-66000-00001844

Date of Issue: January 26, 2022

Closing Date and Time: February 25, 2022, 5:00 PM

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LIST OF ATTACHMENTS

Attachment A - Sample Contract/Price Agreement

Attachment B - Affidavit of Trade Secret

Attachment C - Proposer Information and Certification Sheet

Attachment D - Reference Check Form

Attachment E - Cost Proposal Form – *Provided by Proposer*

Attachment F - Cobid Certification and Outreach Plan

Attachment G - Responsibility Inquiry

Attachment H - Key Persons – *Provided by Proposer*

SECTION 1: GENERAL INFORMATION

1.1 INTRODUCTION AND OVERVIEW

The Oregon Department of Land Conservation and Development (DLCD) is a small state agency. We work in partnership with local governments, and state and federal agencies, to address the land use needs of the public, communities, regions, and the state. The DLCD workforce strives to represent the diversity of the communities we serve by fostering a diverse, equitable, and inclusive culture for employees, the public, and the local governments we serve. Our vision for diversity exists across the breadth (functions) and depth (hierarchy) of government.

In January 2020, DLCD adopted the Diversity, Equity, and Inclusion Committee Charter for the agency, which established the Diversity, Equity, and Inclusion Committee (DEI Committee), and set forth its vision, objectives, responsibilities, and operation.

DLCD now seeks a consultant partner to assess the state of shared understanding of Diversity, Equity and Inclusion (DEI) at DLCD, review our current practices, and offer short term recommendations for best practices to promoting diversity, equity and inclusion, with a particular focus on racial equity, over the next 2 and 3 years.

Agency anticipates the Award of one Contract from this RFP. After a review of all Proposals, a Contract may be awarded to one Proposer based on the evaluation criteria outlined in this RFP. **By submitting a Proposal, each Proposer agrees that it accepts all risks, and waives any claims, that may be associated with or arise out of the volume of the products actually ordered under any contract awarded under this RFP.**

1.2 RFP SCHEDULE

The table below represents a tentative schedule of events. All times are listed in Pacific Time.

All dates listed are subject to change. N/A denotes that event is not applicable to this RFP.

Event	Date	Time
Questions / Requests for Clarification Due	<u>February 04, 2022</u>	5:00 PM
Pre-Proposal Conference	<u>February 10, 2022</u>	3:00 PM
Answers to Questions / Requests for Clarification Issued (approx.)	<u>February 11, 2022</u>	
RFP Protest Period Ends	7 Days prior to RFP Closing	
Closing (Proposal Due)	See RFP cover page	
Issuance of Notice of Intent to Award (approx.)	<u>March 18, 2022</u>	
Award Protest Period Ends	7 Days after Notice of Intent to Award	

1.3 SINGLE POINT OF CONTACT (SPC)

The SPC for this RFP is identified on the Cover Page, along with the SPC’s contact information. Proposers must direct any and all communications related to any provision of the RFP only to the SPC.

SECTION 2: AUTHORITY, OVERVIEW, AND SCOPE

2.1 AUTHORITY AND METHOD

Agency is issuing this RFP pursuant to its authority under OAR 125-246-0170(2).

Agency is using the Competitive Sealed Proposal method, pursuant to ORS 279B.060 and OAR 125-247-0260

There will not be a prequalification application for Proposals under this RFP.

2.2 DEFINITION OF TERMS

Capitalized terms in the RFP have the meaning set forth below, and if not defined below, the meaning set forth in OAR 125-246-0110 and if not defined therein, in the meaning set forth in the Public Contracting Code (ORS Chapters 279A, 279B). Other capitalized terms may be defined in the section in which they appear. Definitions for diversity, equity, inclusion, racial equity and racial justice are described in the [State](#)

[of Oregon Diversity, Equity and Inclusion Action Plan: A Roadmap to Racial Equity and Belonging](#), August 2022.

“**DEI**” is the acronym for Diversity, Equity, and Inclusion.

“**Diversity**” means honoring and including people of different backgrounds, identities, and experiences collectively and as individuals. It emphasizes the need for sharing power and increasing representation of communities that are systemically underrepresented and under-resourced. These differences are strengths that maximize the state’s competitive advantage through innovation, effectiveness, and adaptability.

“**Equity**” acknowledges that not all people, or all communities, are starting from the same place due to historic and current systems of oppression. Equity is the effort to provide different levels of support based on an individual’s or group’s needs in order to achieve fairness in outcomes. Equity actionably empowers communities most impacted by systemic oppression and requires the redistribution of resources, power, and opportunity to those communities.

“**Inclusion**” is a state of belonging when persons of different backgrounds, experiences, and identities are valued, integrated, and welcomed equitably as decision makers, collaborators, and colleagues. Ultimately, inclusion is the environment that organizations create to allow these differences to thrive.

“**Racial Equity**” means closing the gaps so that race can no longer predict any person’s success, which simultaneously improves outcomes for all. To achieve racial equity, we must transform our institutions and structures to create systems that provide the infrastructure to provide equally. This commitment requires a paradigm shift on our path to recovery through the intentional integration of racial equity in every decision.

“**Racial Justice**” is the proactive process of reinforcing and establishing cement of policies, practices, attitudes and actions that produce equitable power, access, opportunities, treatment, impacts and outcomes for all individuals and groups impacted by racism. The stated goal is not only the eradication of racism, but also the presence of deliberate social systems and structures that sustain racial equity through proactive and preventative measures.

2.3 OVERVIEW AND PURPOSE

2.3.1 Agency Overview and Background

DLCD is a small state agency. Its mission is to help communities and residents plan for, protect, and improve the built and natural systems that provide a high quality of life. In partnership with community members and local governments, it fosters

sustainable and vibrant communities and protects our natural resources legacy.

DLCD has been charged by the legislature with managing urban growth; protecting farm and forest lands, coastal areas, and natural resource lands; and providing for safe, livable communities in concert with the vision of the local communities. Under the statewide land use planning program, local governments are called upon to adopt and maintain comprehensive plans and implement zoning codes consistent with 19 statewide planning goals. Recognizing each local government has unique values and aspirations, DLCD's statutory responsibility is to provide planning guidance and technical assistance to help communities plan for their future while considering the needs of the region and the state.

2.3.2 Project Overview and Background

DLCD seeks a consultant partner to assess the state of shared understanding of Diversity, Equity and Inclusion (DEI) at DLCD, review our current practices, and offer short term recommendations for best practices to promoting diversity, equity and inclusion, with a particular focus on racial equity, over the next 2 and 3 years.

Background

In 2020, DLCD DEI Committee members developed the following goal for DEI at DLCD:

To become a truly diverse, equitable, and inclusive agency that implements an equitable and inclusive planning program for Oregon.

This has been endorsed and the committee's working draft 2021-2022 work plan is available upon request.

DLCD's agency mission is to help communities and residents plan for, protect and improve the built and natural systems that provide a high quality of life. In partnership with community members and local governments, we foster sustainable and vibrant communities and protect our natural resources legacy.

We will be updating the existing agency eight-year strategic plan in 2022. Our vision for that document is an equity-centered strategic framework for our next eight years. 2023 marks the 50th anniversary of the state's well-regarded comprehensive planning program. Please find more information on DLCD, our Land Conservation and Development Commission, and agency programs on our website at [Department of Land Conservation and Development: About DLCD: About DLCD: State of Oregon](#).

In August 2021, Governor Brown released a [Diversity, Equity, and Inclusion Action Plan: A Roadmap to Racial Equity and Belonging](#). In that plan, agencies

are called to develop Racial Equity strategies or plans.

2.3.3 Purpose

As this is our first DEI assessment and Racial Equity Plan, we are looking for recommendations on how best to complete this work from the experienced consulting community.

2.3.4 Schedule

The Project Work must be completed by **December 31, 2022**.

2.4 SCOPE OF WORK/SPECIFICATIONS

2.4.1 Product

The following is the product that will be provided under a Contract resulting from this RFP. The key elements listed below will be Deliverables under a resulting Contract.

- 2.4.1.1 DEI assessment and Racial Equity Plan

We are looking for recommendations on how we can best complete this work from the experienced consulting community. We consider access to services to be an important part of inclusion. Our preliminary key elements would include the following:

- Assess DEI and racial equity-related current practices considering the Governor's 2021 [Diversity, Equity and Inclusion Action Plan](#);
- Review the DEI Committee 2021-2022 Work Plan;
- Interview members of the DEI Committee and up to ten external partners;
- Survey and otherwise engage DLCD staff, the management team and members of the Land Conservation and Development Commission;
- Provide a draft and final assessment summary report;
- Provide a draft and final set of recommendations for the next two years and three years including recommendations for best practices in recruitment, hiring and retention; and
- Train staff and commission on three general topics of: 1) what is DEI and Racial Equity in the context of the land use planning program 2) identifying, avoiding, and managing implicit bias and 3) avoiding and managing microaggressions.

In your proposal, please include a priority of tasks we can use to identify “must haves” in the event our budget doesn’t allow contracting of all tasks.

Please also let us know how you would recommend interfacing with a point of contact at DLCDC, and frequency of any project team meetings with DLCDC staff. We are teleworking indefinitely and are accustomed to web-based meetings and engagement.

2.4.2 Agency Role

Agency shall:

- Provide administrative and technical assistance;
- Pay approved invoices for Work performed in accordance with all terms and conditions of the Contract.

2.4.3 Successful Proposer Role

The Successful Proposer shall:

- Gather and prepare data and information relevant to the Work;
- Present the draft product to the DLCDC Representative; and
- Submit invoices to DLCDC for work performed in accordance with all terms and conditions of the contract.

SECTION 3: PROPOSAL REQUIREMENTS

3.1 MINIMUM QUALIFICATIONS

To be considered for evaluation, a Proposal must demonstrate how the Proposer meets all requirements of this section.

3.1.1 Minimum Proposer requirements

- Proposer must have demonstrated experience preparing DEI Assessments and Racial Equity Plans for local governments or business entities, as is relevant to the Proposal.
- Proposer shall have completed successful and relevant projects similar to that requested in this RFP, within the last five years.

3.1.2 Key Person Requirements

Proposer must identify Key Persons who will perform the Work under the

Contract who meet all the requirements in this section. Proposer may use one or more Key Persons so long as all requirements listed below are met. Key Persons must have a minimum of five years' experience with each of the following:

- Assessing DEI and Racial Equity processes;
- Drafting summary DEI and Racial Equity recommendations and reports;
- Making recommendations for best practices in recruitment, hiring and retention; and
- Training of staff on what is DEI and Racial Equity, identifying, avoiding and addressing implicit bias, and avoiding and addressing microaggressions.

3.2 MINIMUM SUBMISSION REQUIREMENTS

3.2.1 Proposal Submissions

To be considered for evaluation, a Proposal must contain each of the following elements (further detailed in Proposal Requirements section, Section 3.3, below):

- Affidavit of Trade Secret (Attachment B) – if applicable, submit one copy only;
- Proposer Information and Certification Sheet (Attachment C);
- Responsibility Inquiry (Attachment G) – Submit 1 copy only;
- Company Profile;
- Key Persons and their resumes (Attachment H);
- DEI assessment and Racial Equity Plan scope of work, including roles and schedule, and priority of tasks;
- Reference Check Form (Attachment D);
- Cost Proposal Form (Attachment E); and
- COBID Certification / Outreach Plan (Attachment F) - Submit one copy only.

3.2.2 Proposal Format and Quantity

Proposal should follow the format and reference the sections listed in the Proposal Requirements section (3.3). Responses to each section and subsection should be labeled to indicate the item being addressed.

OregonBuys Electronic Response. Proposer should submit its Proposal electronically through OregonBuys. Proposer should follow the procedures outlined in section 4.5 for electronic submission.

The Price Proposal must be submitted as a separate electronic response file.

Proposer shall submit one copy of its Proposal and all other submittal requirements, with Attachment C - Proposer Information and

Certification Sheet bearing the Proposer's authorized representative's Signature, in one of the following formats: Adobe Acrobat (pdf), Microsoft Word (docx), or Microsoft Excel (xlsx).

3.2.3 Proposal Page Limits

The Proposal must not exceed 10 pages. Any pages exceeding this limit will not be considered in the evaluation of the Proposal. The following items do not count toward the page limit:

- Company Profile;
- Affidavit of Trade Secret (Attachment B);
- Proposer Information and Certification Sheet (Attachment C);
- Reference Check forms (Attachment D);
- Cost Proposal form (Attachment E);
- COBID Certification / Outreach Plan (Attachment F);
- Responsibility Inquiry (Attachment G)
- Key Persons (Attachment H)

3.2.5 Authorized Representative

Failure of the authorized representative to sign the Proposal may subject the Proposal to rejection by Agency.

3.2.6 Exempt Information

If the Proposer believes that any of its Proposal is exempt from disclosure under the Oregon Public Records Law (ORS 192.311 to 192.478) as a trade secret or otherwise, the Proposer shall submit a fully redacted version of its Proposal, clearly identified as the redacted version, and shall submit a completed Affidavit of Trade Secret, Attachment B, if Proposer believes the redacted information constitutes a trade secret. Proposers are cautioned that cost information submitted in response to a RFP is generally not considered a trade secret under the Oregon Public Records Law. Further, Proposer should be aware that information submitted by a Proposer that is already in the public domain is not protected as a trade secret. The Agency shall not be liable for disclosure or release of any information when authorized or required by law or court order to do so. The Agency shall also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

Agency makes no guarantee that information Proposer believes is exempt from disclosure will not be disclosed; Agency has an independent obligation to evaluate whether it believes information is subject to disclosure under the Oregon Public Records Law and is not bound by Proposer's identification of information as exempt.

By submitting a response to this RFP, Proposer grants the State of Oregon a nonexclusive, perpetual, irrevocable, royalty-free, worldwide license for the rights to copy, distribute, display, prepare derivative works of, and transmit the response for the purpose of conducting this Procurement and to fulfill obligations under Oregon Public Records Law.

3.3 PROPOSAL REQUIREMENTS

The Proposal must address each of the items listed in this section and all other requirements set forth in this RFP. The Proposer shall describe the Services that it proposes to perform. A Proposal that merely offers to provide the Services as stated in this RFP will be considered non-Responsive to this RFP and will not be considered further.

A Proposal should not include materials not essential to the utility and clarity of the Proposal. The Proposal must be straightforward and address the requests of the RFP. Agency may determine a Proposal containing non-essential material is non-Responsive and decline further consideration of the Proposal or may receive a lower evaluation score if specific information is difficult to locate.

3.3.1 Proposer Information and Certification Sheet

Proposer shall complete and submit the Proposer Information and Certification Sheet (Attachment C).

Failure to demonstrate compliance with Oregon Tax Laws and sign the Proposer Information and Certification Sheet will result in a finding of non-Responsibility.

3.3.2 Responsibility Inquiry

The Proposer shall complete and submit with its Proposal Attachment G — Responsibility Inquiry.

3.3.3 Company Profile

The Proposer shall provide a profile of its company. At a minimum, the company profile must include the following information:

- Ownership. If incorporated or otherwise organized under the laws of any state (including the State of Oregon), the state in which the company is incorporated and the date of incorporation or organization;
- Confirmation of legal capacity to do business in the State of Oregon (registered with the Secretary of State);
- Location of company's offices (headquarters and branches);

- Location of the office providing the Work;
- Number of employees located in the Pacific Northwest, nationally, and internationally;
- Name, address, telephone number, and email address of the Proposer's Account Manager who would manage an awarded Contract;
- Company's background and history and why the Proposer is qualified to provide the Work described in the RFP;
- Length of time the Proposer has been providing services comparable to those described in the RFP and provide a brief description; and
- Company's client base.

3.3.4 Key Persons and their Resumes

The Proposer shall submit, on Attachment H, the name, work phone, work email, and title for each Key Person who will be assigned to perform the Work under an Award of Contract. For each Key Person listed, the Proposer must include a current resume (not to exceed 2 pages) that describes the Key Person's qualifications and experience to provide the Work. In addition to the Key Persons' resumes, the Proposer must include the following information for Key Persons:

- An explanation of how the work experience prepares the individual to provide the Services described in this RFP; and
- A narrative demonstrating one or more Key Person's familiarity with DEI and Racial Equity assessment, and how the Key Persons became familiar with them.

3.3.5 DEI assessment and Racial Equity Plan

Proposer shall provide the following in its Proposal for DEI assessment and Racial Equity Plan Products:

- Proposers approach for providing a draft and final DEI and Racial Equity summary report;
- Explanation of how proposer plans to develop a draft and final set of recommendations for the next two years and three years including recommendations for best practices in recruitment, hiring and retention;
- How the proposer will carry out the task of training staff and commission on three general topics of: 1) what is DEI and Racial Equity in the context of the land use planning program 2)

identifying, avoiding, and managing implicit bias and 3) avoiding and managing microaggressions; and

- A priority of tasks we can use to identify “must haves” in the event our budget doesn’t allow contracting of all tasks.

3.3.5.1 Key Persons (20 Points Possible)

Proposer shall identify the Key Persons described above in Section 3.3.4.

3.3.5.2 Project Implementation Plan (40 Points Possible)

Proposer shall provide a detailed project implementation plan that demonstrates Proposer’s experience, training, and knowledge to provide DEI assessment and Racial Equity Plan products as described in Section 2.4.1.

Proposer’s detailed project implementation plan must at a minimum include the following:

- Proposer’s approach to providing DEI assessment and Racial Equity Plan products as described in Section 2.4.1; and
- How Proposer will carry out the major activities of providing DEI assessment and Racial Equity Plan products to Agency. Provide a management plan and schedule that the Proposer intends to follow. Describe how implementation of the plan will serve to coordinate and accomplish the Work.

3.3.5.3 Previous Experience (20 Points Possible)

Proposer shall provide a detailed description of a minimum of two previous projects Proposer has completed in the last five years, for DEI assessment and Racial Equity Plan products. The projects should be similar in scope and requirements to that described in this RFP and should also include the Key Persons listed in Section 3.3.4. The projects must demonstrate Proposer has the experience, knowledge, and qualified staff to provide the products being proposed on. Project descriptions must at a minimum include the following:

- A detailed overview of each project;
- The type and size of the project;
- Goals and objectives of the project;
- A description of the results;
- Key Persons assigned and their roles;
- If the projects were completed within Proposer’s estimated budget and schedule or if they required adjustments. Please include an explanation for the adjustments; and

- Any other important and relevant information regarding the project.

3.3.5.4 Cost Proposal (20 Points Possible)

Proposer shall submit a detailed Cost Proposal (Attachment E) that includes the following items:

- Fully loaded hourly rate for each Key Person and any additional personnel who will be assisting in providing the products proposed on.
- Provide an estimated cost for the DEI assessment and Racial Equity Plan using the approach specified in Proposal. Be sure to define the factors used to determine costs. Include summary costs for anticipated tasks and include travel expenses as a separate line item.

3.3.6 References

Proposer shall provide, on included Attachment D, at least three references from current or former client firms for similar projects performed for any clients within the last five years. References must be able to verify the quality of previous, related work.

Agency may check to determine if references provided support Proposer's ability to comply with the requirements of this RFP. Agency may use references to obtain additional information, or verify any information needed. Agency may contact any reference (submitted or not) to verify Proposer's qualifications.

SECTION 4: SOLICITATION PROCESS

4.1 PUBLIC NOTICE

The RFP and attachments are published on Oregon's new web-based eprocurement system OregonBuys at <https://oregonbuys.gov/bs/>. RFP documents will not be mailed to prospective Proposers.

Modifications, if any, to this RFP will be made by Written Addenda and published in OregonBuys. Prospective Proposers are encouraged to check OregonBuys regularly leading up to the Closing for any changes to this RFP, including any Addendum. The prospective Proposer is solely responsible for checking OregonBuys to determine whether any Addenda have been issued. Addenda are incorporated into this RFP by this reference.

Proposers who do not have access to OregonBuys may request copies from the SPC.

By submitting a Proposal, each Proposer agrees that it accepts all

risks, and waives any claims, that may be associated with or related to its failure to obtain any Addendum, Addenda, or Addendum information.

4.2 PRE-PROPOSAL CONFERENCE

A pre-Proposal conference will be held at the date and time listed in the Schedule. Prospective Proposers’ participation in this conference is optional, but highly encouraged. Attendance is not mandatory.

The purpose of the pre-Proposal conference is to:

- Provide additional description of the Project;
- Explain the RFP process; and
- Answer any questions Proposers may have related to the Project or the process.

Statements made at the pre-Proposal conference are not binding upon the Agency. Proposers will be asked to submit questions in writing. DLCD will not provide an official, written response to any question posed orally at the Pre-Proposal Conference for which no written version is submitted at that time, and any oral answer offered at the Pre-Proposal Conference to such a question will be considered to have been withdrawn.

Following the pre-Proposal Conference, all questions and written answers will be posted on the OregonBuys website as an addendum to, and shall become part of, the RFP.

Nothing stated at the pre-Proposal conference shall change the RFP unless a change is made by Written Addenda.

Interested parties available to attend in person may do so at the location in the table below:

DATE	TIME	LOCATION
February 10, 2022	3:00 PM	<p style="text-align: center;">Virtual Meeting Only</p> <p style="text-align: center;"><u>Join Zoom Meeting</u></p> <p>One tap US: mobile: +12532158782,81566366058#,,,,*1582 0# or +13462487799,81566366058#,,,,*1582</p>

		<p style="text-align: right;">O#</p> <p>Meeting https://us02web.zoom.us/j/81566366058 URL: ?pwd=OVR5NHBIYUFLdWIYN2lZRHczcHRldz09</p> <p>Meeting ID:815 6636 6058 Passcode: 15820</p> <p style="text-align: center;">Join by Telephone</p> <p style="text-align: center;">For higher quality, dial a number based on your current location.</p> <p>Dial:</p> <p style="text-align: center;">US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833 or +1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923 or 855 880 1246 (Toll Free) or 877 853 5257 (Toll Free) or 888 683 5191 (Toll Free)</p> <p>Meeting ID:815 6636 6058 Passcode: 15820</p>
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4.3 QUESTIONS AND REQUESTS FOR CLARIFICATIONS

All inquiries, whether relating to the RFP process, administration, submission deadline, or method of Award, or to the intent or technical aspects of the RFP must:

- Be delivered to the SPC via email;
- Reference the RFP number;
- Identify the Proposer’s name and contact information;
- Refer to the specific area of the RFP being questioned (i.e. page, section and paragraph number); and
- Be received by the due date and time for Questions and Requests for Clarification identified in the Schedule.

At its sole discretion, Agency will respond to such requests received by direct response, by issuing clarification(s) in the form of Questions and Answers posted on OregonBuys, or by issuing changes in the form of Addenda posted on OregonBuys. Agency’s clarification to a Proposer’s request, whether orally or in Writing, does not change this RFP and is not binding on the Agency unless the RFP is amended by Addendum.

4.4 SOLICITATION PROTESTS

4.4.1 Protests to RFP

A prospective Proposer who believes that this Procurement process is contrary to law or that this RFP is unnecessarily restrictive or legally flawed may protest the Procurement process or RFP in accordance with OAR 137-047-0730. A prospective Proposer may submit a Written protest of anything contained in this RFP, including but not limited to, the RFP process, Specifications, Scope of Work, and the Sample Contract. This is a prospective Proposer's only opportunity to protest the provisions of the RFP, except that a Proposer may protest Addenda as provided below.

4.4.2 Protests to Addenda

A prospective Proposer who believes that any addenda is contrary to law, unnecessarily restrictive or legally flawed may protest the addenda. A prospective Proposer may submit a Written protest of anything contained in an Addendum. Protests of matters not added or modified by the respective Addendum will not be considered.

4.4.3 All Protests must:

- Be delivered to the SPC via email;
- Reference the RFP number;
- Identify the prospective Proposer's name and contact information;
- Be sent by an authorized representative;
- State the reason for the protest, including:
 - the grounds that demonstrate how the Procurement process is contrary to law, Unnecessarily Restrictive, legally flawed, or improperly specifies a brand name; and
 - evidence or documentation that supports the grounds on which the protest is based;
- State the proposed changes to the RFP provisions or other relief sought;
- Protests to the RFP must be received by the due date and time identified in the Schedule; and
- Protests to Addenda must be received by 5 p.m. Pacific Time of the second Business Day after the day the Addendum was posted, or by the due date and time identified in the respective Addendum.

Agency will consider such Protests received and issue a Written response in accordance with OAR 137-047-0730. Agency's response to a Protest does not change this RFP and is not binding on the Agency unless the RFP is amended by

Addendum.

4.5 PROPOSAL DELIVERY OPTIONS

The Proposer is solely responsible for ensuring that its Proposal is received by the SPC in accordance with the RFP requirements on or before Closing. Agency has no responsibility for any delays by transmission errors or delays, or for any mis-delivery for any reason. A Proposal submitted by any means not authorized will be rejected.

Delivery through OregonBuys:

Submit Proposal electronically through OregonBuys only at: OregonBuys.gov

Detailed instructions on how to submit a Proposal can be found at:

[OregonBuys Vendor Formal Solicitation Response.pdf](#)

Delivery through Mail or Parcel Carrier:

Delivery through Mail or Parcel Carrier is **not** allowed for this RFP.

Delivery in Person:

Due to the on-going COVID-19 pandemic, delivery in Person is **not** allowed for this RFP.

Delivery by electronic means:

Electronic submissions to be done through Oregon Buys only.

4.6 PROPOSAL MODIFICATION OR WITHDRAWAL

If a Proposer wishes to make modifications to a submitted Proposal, it must submit its modification in one of the authorized methods listed in the Proposal Delivery Options section. To be effective the notice must include the RFP number and be received to the SPC prior to Closing.

If a Proposer wishes to withdraw a submitted Proposal, it must submit a Written notice Signed by an authorized representative of its intent to withdraw to the SPC via email and that Written notice must be received prior to Closing in accordance with OAR 125-247-0440. To be effective, the notice must include the RFP number.

4.7 PROPOSAL DUE

A Proposal (including all required submittal items) must be received by the SPC on or before Closing date and time. All Proposal modifications or withdrawals must be received prior to Closing.

A Proposal received after Closing is considered LATE and will NOT be accepted for evaluation. A late Proposal will be returned to the Proposer, if the Proposer requests, but the Agency may retain a copy of any late Proposal for recordkeeping purposes.

4.8 PUBLIC OPENING

There will be no public opening of Proposals. Proposals received will not be available for inspection until after the evaluation process has been completed and the Notice of Intent to Award is issued pursuant to OAR 125-247-0630. However, Agency will record and make available the identity of all Proposers after opening.

4.9 PROPOSAL REJECTION

Agency may reject a Proposal for any of the following reasons:

- Proposer fails to comply with all prescribed RFP procedures and requirements, including but not limited to the requirement that the Proposer's authorized representative sign the Proposal;
- Proposer fails to meet the responsibility requirements of ORS 279B.110;
- Proposer makes any contact regarding this RFP with State representatives such as State employees or officials other than the SPC or those the SPC authorizes, or inappropriate contact with the SPC (except to the extent the contact or communication is protected by Article I, section 8 or Article I, section 36 of the Oregon Constitution);
- The Proposer attempts to influence a member of the Evaluation Committee; or
- The Proposal is conditioned on Agency's acceptance of any other terms and conditions or rights to negotiate any alternative terms and conditions that are not reasonably related to those expressly authorized for Negotiation in the RFP or Addenda.

4.10 EVALUATION PROCESS

4.10.1 Responsiveness and Responsibility determination

4.10.1.1 Responsiveness determination

A Proposal received on or before Closing will be reviewed to determine if it is Responsive to all RFP requirements, including compliance with the Minimum Qualifications section and the Minimum Submission Requirements section. If the Proposal is unclear, the SPC may, but is not required to, request clarification from the Proposer. However, clarifications may not be used to rehabilitate a non-Responsive Proposal. If the SPC finds the Proposal non-Responsive, the Proposal will be rejected. However, Agency may, but is not required to, waive minor informalities or mistakes in a Proposer's Proposal in accordance with OAR 125-247-0470 and OAR 137- 047-0470(2)(a).

4.10.1.2 Responsibility determination

Agency will determine if an apparent successful Proposer is Responsible prior to Award and execution of the Contract. Proposers shall submit a Signed Responsibility Inquiry form (Attachment G) with their Proposals.

At any time prior to Award, Agency may reject a Proposer found to be not Responsible.

4.10.2 Evaluation Criteria

Each Proposal meeting all Responsiveness requirements will be independently evaluated by members of an Evaluation Committee. Evaluation Committee members may change, and Agency may have additional or fewer evaluators for optional rounds of competition.

Evaluators will assign a score for each evaluation criterion listed below in this section up to the maximum points available in the Point and Score Calculation section.

SPC may request further clarification to assist the evaluation committee in gaining additional understanding of a Proposal. A response to a clarification request must be to clarify or explain portions of the already submitted Proposal and may not contain new information not included in the original Proposal.

Scoring will be based on the categories described below. Proposer must describe in detail how the Proposer meets the requirements that are specified in this RFP as related to the sections below (Maximum Points Available under all sections is a total of 100 points).

4.10.2.1 DEI assessment and Racial Equity Plan

4.10.2.1.1 Key Persons and their Resumes (20 Points Possible)

How well does each of the Key Person's resume and narratives demonstrate that the individual has the skills, training, ability, and knowledge to provide the products being proposed on? How well does it demonstrate each of the Key Persons meets the requirements in Section 3.3.4 and of the RFP?

4.10.2.1.2 Project Implementation Plan (40 Points Possible)

How well does Proposer's implementation plan demonstrate that Proposer has the experience, training, knowledge, understanding, and ability to meet of the requirements of an DEI Assessment and Racial Equity Plan as described in Section 2.4.1?

How well does Proposer’s implementation plan demonstrate that it understands and meets each of the requirements of Section 3.3.7.2?

4.10.2.1.3 Previous Experience (20 Points Possible)

How well do Proposer’s previously completed projects demonstrate that it has the experience, knowledge, and qualified staff to provide FIS, HIS, and Racial Impact Statement products?

How well do Proposer’s previously completed projects meet the requirements in Section 3.3.7.3?

4.10.2.1.4 Cost Proposal (20 Points Possible)

Cost points will be based upon the percentage of the proposed price as compared to the lowest Proposer’s price using the formula shown below.

Score Rating Scale and Explanation for Each Proposal Product Category:

Rating Scale for Key Persons and Previous Experience (20 points possible):

SCORE	EXPLANATION
17-20	OUTSTANDING - Response meets all the requirements and has demonstrated in a clear and concise manner a thorough knowledge and understanding of the subject matter and Project. The Proposer provides insight into its expertise, knowledge, and understanding of the subject matter.
13-16	VERY GOOD – Response provides useful information, while showing experience and knowledge within the product category. Response demonstrates above average knowledge and ability with no apparent deficiencies noted.
9-12	ADEQUATE – Response meets all requirements in an adequate manner. Response demonstrates an ability to comply with guidelines, parameters, and requirements with no additional information put forth by the Proposer.
5-8	FAIR – Proposer meets minimum requirements, but does not demonstrate sufficient knowledge of the subject matter.
0-4	RESPONSE OF NO VALUE – An unacceptable response that does not meet the requirements set forth in the RFP. Proposer has not demonstrated knowledge of the subject matter.

Rating Scale for Project Implementation Plan (40 points possible):

SCORE	EXPLANATION
33-40	OUTSTANDING - Response meets all the requirements and has demonstrated in a clear and concise manner a thorough knowledge and understanding of the subject matter and Project. The Proposer provides insight into its expertise, knowledge, and understanding of the subject matter.
25-32	VERY GOOD – Response provides useful information, while showing experience and knowledge within the product category. Response demonstrates above average knowledge and ability with no apparent deficiencies noted.
17-24	ADEQUATE – Response meets all requirements in an adequate manner. Response demonstrates an ability to comply with guidelines, parameters, and requirements with no additional information put forth by the Proposer.
9-16	FAIR – Proposer meets minimum requirements but does not demonstrate sufficient knowledge of the subject matter.
0-8	RESPONSE OF NO VALUE – An unacceptable response that does not meet the requirements set forth in the RFP. Proposer has not demonstrated knowledge of the subject matter.

Cost Evaluation:

The SPC will conduct the price evaluation. The SPC will award a price score to each Price Proposal based upon the percentage of the proposed price as compared to the lowest Proposer’s price using the following formula:

$$\frac{\text{lowest price of all Proposers}}{\text{price being scored}} \times \text{price points possible} = \text{price score}$$

4.10.3 Preferences

The Agency shall, for the purpose of evaluating Proposals, apply any applicable preference including those described in ORS 279A.120, ORS 279A.125, and ORS 282.210, as applicable.

In comparing Goods from two or more Proposers, if at least one Proposer offers Goods manufactured with Recycled Materials, and at least one Proposer does not, Agency will select the Proposer offering Goods manufactured from Recycled Materials if each of the conditions specified in ORS 279A.125(2) exists following any adjustments made to the price of the Goods according to any applicable reciprocal preference.

4.10.3.1 Tiebreakers

If Agency receives Proposals identical in price, fitness, availability, and quality and chooses to Award a Contract, Agency shall Award the Contract in accordance with the procedures outlined in OAR 125-246-0300.

4.11 POINT AND SCORE CALCULATIONS

Scores are the points assigned by each evaluator.

The maximum points possible for each evaluation item are listed in the table below. The SPC will average all scores for each evaluation criterion.

Cost points are calculated as stated in the Cost Evaluation section.

	FIS, HIS, and Racial Equity Statement	Points
4.10.2.1.1	Key Persons and their Resumes	20
4.10.2.1.2	Project Implementation Plan	40
4.10.2.1.3	Previous Experience	20
4.10.2.1.4	Cost Proposal	20

4.12 RANKING OF PROPOSERS

The SPC will average the scores in a given round of competition (calculated by totaling the points awarded by each evaluation committee member and dividing by the number of members).

SPC will rank Proposers at the conclusion of the evaluation and scoring and may, in SPC's sole discretion, determine an apparent successful Proposer with no additional rounds of competition. If additional rounds are conducted, SPC will rank advancing Proposers at the conclusion of each subsequent round and may determine an apparent successful Proposer at any time during the solicitation process.

After any applicable preference has been applied, SPC will describe the rank order for each Proposer, with the highest score receiving the highest rank, and successive rank order determined by the next highest score.

4.13 NEXT STEP DETERMINATION

At the conclusion of a round of competition, Agency may choose to conduct additional round(s) of competition if in the best interest of the State. Additional rounds of competition may consist of, but will not be limited to:

- Interviews

- Presentations, demonstrations, or submission of additional items
- Discussions and submittal of revised Proposals
- Serial or simultaneous Negotiations
- Best and Final Offers

4.13.1 Competitive Range Determination

If Agency, in its sole discretion, determines that one or more additional rounds of competition is necessary, it will select a Competitive Range to indicate the Proposers that will be invited to participate in a subsequent round. The Competitive Range may include all, or at Agency's sole discretion, some (based primarily on a natural break in the distribution of scores), of the Proposers from a previous round. Agency will post a notice in ORPIN of its Competitive Range Determination and provide details about the process and schedule for the subsequent round.

4.13.2 Competitive Range Protest

Proposers excluded from a round may submit a Written protest of Competitive Range. Protests must:

- Be emailed to the SPC;
- Reference the RFP number;
- Identify the Proposer's name and contact information;
- Be sent by an authorized representative;
- State the reason for the protest; and
- Be received within seven Days after issuance of the Notice of the Competitive Range unless a different due date and time is specified in such notice.

Agency will address all protests within a reasonable time and will issue a Written decision to the respective Proposer. Protests that do not include the required information may not be considered by Agency.

4.14 INTERVIEWS

Agency reserves the right, at its discretion, to conduct Proposer interviews at any time in the RFP process. If Agency elects to conduct interviews, interviews may be in person at a location determined by Agency; however, Agency may elect to conduct interviews via teleconference. Further details will be included with any Notice of Competitive Range, if Agency decides to issue a Notice of Competitive Range.

4.15 SCORING AND RANKING OF PROPOSERS FOR SUBSEQUENT ROUNDS

If Agency conducts two or more rounds of competition, they will be scored independently. Once the ranking from a previous round is complete and a

Competitive Range has been determined, Proposers participating in a subsequent round will compete on an equal basis – scores from the previous round will be set aside and will not carry over. The Proposer with the highest score from the final round will receive the highest final ranking.

SECTION 5: AWARD AND NEGOTIATION

5.1 AWARD NOTIFICATION PROCESS

5.1.1 Award Consideration

The Agency, if it Awards a Contract, shall Award a Contract to the highest ranking Responsible and Responsive Proposer based upon the scoring methodology and process described in Section 4.

Agency may Award less than the full Scope of Work defined in this RFP. Agency, in its sole discretion, may make additional Award(s) for up to 9 months following the close of this solicitation. Agency may select the next ranked Responsible and Responsive Proposer, issue an Intent to Award notice and begin a new Award protest period. If agreement with that Proposer is not reached, Agency may offer Award to the next ranked Proposer and so on until agreement is reached or until Agency terminates the process. Agency may require reconfirmation of the qualifications and staffing of any Proposer.

5.1.2 Intent to Award Notice

Agency will notify all Proposers in Writing that Agency intends to Award a Contract to the selected Proposer subject to successful Negotiation of any negotiable provisions.

5.2 INTENT TO AWARD PROTEST

5.2.1 Protest Submission

An Affected Offeror shall have seven Days from the date of the intent to Award notice to file a Written protest.

A Proposer is an Affected Offeror only if the Proposer would be eligible for Contract Award in the event the protest was successful and is protesting for one or more of the following reasons as specified in ORS 279B.410:

- All higher ranked Proposals are non-Responsive;
- Agency has failed to conduct an evaluation of Proposals in accordance with the criteria or process described in the RFP; or
- Agency abused its discretion in rejecting the protestor's Proposal as non-

Responsive.

- Agency's evaluation of Proposal or determination of Award otherwise violates ORS Chapter 279B or ORS Chapter 279A.

If Agency receives only one Proposal, Agency may dispense with the evaluation process and intent to Award protest period and proceed with Contract Negotiations and Award.

5.2.1.1 Protests must:

- Be received by the SPC via email;
- Reference the RFP number;
- Identify the Proposer's name and contact information;
- Be Signed by an authorized representative;
- Specify the grounds for the protest; and
- Be received within seven Days of the intent to Award notice.

5.2.2 Response to Protest

Agency will address all timely submitted protests within a reasonable time and will issue a Written decision to the respective Proposer. Protests that do not include the required information may not be considered by Agency.

5.3 APPARENT SUCCESSFUL PROPOSER SUBMISSION REQUIREMENTS

Proposer who is selected for a Contract Award under this RFP (Successful Proposer) will be required to submit additional information and comply with the following:

5.3.1 Insurance

Prior to Award, the Proposer must secure and demonstrate to Agency proof of insurance as required in this RFP or as negotiated. Insurance Requirements are found in Exhibit B of Attachment A.

5.3.2 Taxpayer Identification Number

The Successful Proposer shall provide its Taxpayer Identification Number (TIN) and backup withholding status on a completed W-9 form when requested by Agency or when the backup withholding status or any other relevant information of Proposer has changed since the last submitted W-9 form, if any.

5.3.3 Business Registry

A Successful Proposer must be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract. Information about

these requirements may be found at
<http://sos.oregon.gov/business/pages/register.aspx>.

5.3.4 Policy Certification

As a condition of receiving an Award of a Contract with a contract price of \$150,000 or more under this RFP, Successful Proposer must certify, in accordance with ORS 279B.112, that it is has in place a policy and practice of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. A Successful Proposer or Proposer's policy and practice must include giving employees a Written notice of a policy that both prohibits, and prescribes disciplinary measures for, conduct that constitutes sexual harassment, sexual assault, or unlawful discrimination. Agency reserves the right to request a copy of Successful Proposer or Proposer's policy.

"Protected class" means a group of people that state or federal law protects from employment discrimination including, but not limited to, a group in which membership depends on an ascribed association or identification, or an individual's voluntary association or identification with other individuals, on the basis of one or more of these characteristics: Race, color or ethnicity; National origin; Sex; Gender, including actual or perceived gender identity; Sexual orientation; Disability; Age; Marital status; or Religion.

5.4 CONTRACT NEGOTIATION

5.4.1 Negotiation

After selection of a Successful Proposer, Agency may enter into Contract Negotiations with the Successful Proposer. By submitting a Proposal, the Proposer agrees to comply with the requirements of the RFP, including the terms and conditions of the Sample Contract (Attachment A), with the exception of those terms listed below for Negotiation.

Proposer shall review the attached Sample Contract. Agency intends to enter into a Contract with the Successful Proposer substantially in the form set forth in the Sample Contract (Attachment A). It may be possible to negotiate some provisions of the final Contract. However, many provisions cannot be changed. Proposer is cautioned that the State of Oregon believes modifications to the standard provisions constitute increased risk and increased cost to the State.

Any subsequent negotiated changes are subject to prior approval of the Oregon Department of Justice.

All items, except those listed below, may be negotiated between Agency and the Successful Proposer in compliance with Oregon State laws:

- Choice of law;

- Choice of venue;
- Constitutional requirements; and
- Requirements of applicable federal and State law.

In the event that the parties have not reached mutually agreeable terms within 30 Days after the issuance of a Notice of Intent to Award, Agency may terminate Negotiations and commence Negotiations with the next highest-ranking Proposer.

SECTION 6: ADDITIONAL INFORMATION

6.1 CERTIFIED FIRM PARTICIPATION

Pursuant to ORS Chapter 200, Agency encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity (“COBID”) in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman- owned business, a business that a service-disabled veteran owns and an emerging small business. Agency also encourages joint ventures or subcontracting with certified small business enterprises. For more information please visit:

<https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?XID=6787&TN=oregon4biz>

A Proposer shall certify in the Proposal that the Proposer has not discriminated and will not discriminate against a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business in awarding any subcontract. See ORS 279A.110.

A Proposer shall certify under penalty of perjury in a Proposal that to the best of Proposer’s knowledge, Proposer is not in violation of any tax laws described in ORS 305.380.

6.2 GOVERNING LAWS AND REGULATIONS

This RFP is governed by the laws of the State of Oregon. Venue for any judicial action, including any judicial review, relating to this RFP, evaluation, or Award is the Circuit Court of Marion County for the State of Oregon; provided, however, if a proceeding must, as mandated by federal law, be brought only in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity,

whether sovereign immunity, governmental immunity, immunity based on the

eleventh amendment to the Constitution of the United States or otherwise, to or from any action, claim or proceeding, or from the jurisdiction of any court.

Proposers need to be aware that Executive Order 12-13 established statewide policy that properties wholly owned or leased by the State of Oregon shall be tobacco free. If Proposer is selected for an Award, Proposer, and its employees, agents and Successful Proposer or Proposers s will be expected to comply with established smoking restrictions while on State property.

6.3 OWNERSHIP/PERMISSION TO USE MATERIALS

All Proposals are public record and are subject to public inspection after Agency issues the Notice of the Intent to Award. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure.

All Proposals submitted in response to this RFP become the Property of Agency. By submitting a Proposal in response to this RFP, the Proposer grants the State a non-exclusive, perpetual, irrevocable, universal, royalty-free license for the rights to copy, distribute, display, prepare derivative works of, and transmit the Proposal for the purpose of evaluating the Proposal, negotiating an Agreement, if awarded to the Proposer, or as otherwise needed to administer public Procurement processes or to fulfill obligations under the Oregon Public Records Law (ORS 192.311 to ORS 192.478). Proposals, including supporting materials, will not be returned to Proposer unless the Proposal is submitted late. Agency, however, reserves the right to retain a copy of any late Proposal for recordkeeping purposes.

6.4 CANCELLATION OF RFP; REJECTION OF PROPOSAL; NO DAMAGES.

Pursuant to ORS 279B.100, Agency may reject any or all Proposals in whole or in part or may cancel this RFP at any time when the rejection or cancellation is in the best interest of the State or Agency, as determined by Agency. Neither the State, nor Agency is liable to any Proposer for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFP, Award, or rejection of any Proposal.

By submitting a Proposal, each Proposer agrees that it accepts all risks, and waives any claims, associated with any loss or expense under this section.

6.5 COST OF SUBMITTING A PROPOSAL

Proposer shall pay all the costs in submitting its Proposal, including, but not limited to, the costs to prepare and submit the Proposal, costs of samples and other supporting materials, costs to participate in demonstrations, and costs associated with protests.

6.6 COMPLIANCE WITH POLICIES AND CERTIFICATIONS

If applicable, Proposer shall include information in its Proposal that demonstrates compliance with the Statewide E-Waste and Recovery Policy effective July 1, 2012.

As required by ORS 279B.235 or ORS 279C.520 (as applicable), Successful Proposer shall comply with ORS 652.220 and shall not discriminate against any of Successful Proposer's employees in the payment of wages or other compensation for work of comparable character, the performance of which requires comparable skills, or pay any employee at a rate less than another for comparable work, based on an employee's membership in a protected class.

Successful Proposer may not prohibit any of Successful Proposer's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Successful Proposer may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

6.7 APPARENT SUCCESSFUL PROPOSER SUBMISSION REQUIREMENTS:

Proposer(s) who are selected for a Contract/Price Agreement award under this RFP will be required to submit additional information and comply with the following:

If selected for award of a Contract/Price Agreement Proposer shall be required to certify during the term of the contract or the duration of EO 21-29, whichever expires or terminates first, that contractor has obtained Proof of Vaccination from all Workers providing goods or services at an Agency Worksite are Fully Vaccinated against COVID-19 or have met the requirements for an exception under paragraph 6 of EO 21-29. The definitions in Section X ("Special Definitions for Interpreting EO 21-19 Obligations") apply to this paragraph.

6.8 RECYCLABLE PRODUCTS

Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document as required by ORS 279B.025.

6.9 PRINTING, BINDING, AND STATIONERY WORK

Except as provided in ORS 282.210(2), all printing, binding and stationery work, including the manufacture of motor vehicle registration plates and plates required to be affixed to motor carriers, for the State or any county, city, town, port district, school district, or other political subdivision, must be performed within the State.

EXHIBIT A – SAMPLE CONTRACT

State of Oregon

Contract for Services

Diversity, Equity and Inclusion Assessment and Racial Equity Plan

This Contract for Services (this “Contract”) is by and between the State of Oregon, acting through its **Department of Land Conservation and Development**, (“Agency”) and **XXXX Corp.**, a [_____] [doing business as ____] (“Contractor”) and is effective as of the Effective Date.

Contractor’s Contract Administrator for this Contract is:

Name and Title

**Address

**City, State ZIP

Phone: (xxx) xxx-xxxx

Fax: (xxx) xxx-xxxx

anyname@yahoo.com

Agency's Contract Administrator for this Contract is:

Jeff Hunt – Procurement Coordinator

635 Capitol Street NE

Suite 150

Salem, OR 97301

Phone: (971) 375-5976

Jeff.hunt@dlcd.oregon.gov

Either party may change its Contract Administrator by providing the other notice in compliance with Section 17.6 of this Contract.

1. Contract Term.

The “Effective Date” of this Contract is the later of the date this Contract has been fully executed by each party and approved as required by applicable law. Unless extended or terminated earlier in accordance with its terms, this Contract terminates on _____, 2022. Notwithstanding this Contract expiration date, Contractor must complete all Services and submit all Deliverables under this Contract (the “Climate Friendly and Equitable Communities Rulemaking Fiscal Impact Statement, Housing Impact Statement, and Racial Equity Statement Project” or “Project”), including the submittal to Agency of all completed Deliverables and all working papers, drafts, models, files, graphic files, accompanying reports, and any other material pertinent to the Project in possession of Contractor, on or before January 5, 2022. The termination of this Contract will not extinguish or prejudice Agency’s right to enforce this Contract with respect to any default by Contractor that has not been cured.

2. Contract Documents. This Contract consists of the following documents, which are listed in descending order of precedence:

2.1. this Contract less all exhibits;

2.2. Exhibit A (Statement of Work);

2.3. Exhibit B (Required Insurance),

2.4. Exhibit C (Special Terms and Conditions);

2.5. Exhibit D (Independent Contractor Certification)

2.6. Exhibit E [AGENCY SPECIFIC EXHIBIT-IF NEEDED]

The foregoing documents and Exhibits are attached hereto and made a part of the Contract by this reference.

3. **Work.**

3.1. Performance of Work. Contractor shall perform the services (the “Services”) and deliver to agency the deliverables (“Deliverables”) (collectively, “Work”) set forth in Exhibit A, the Statement of Work (the “Statement of Work”). The Statement of Work includes the delivery schedule for the Deliverables and Services. Contractor shall perform the Work in accordance with the terms and conditions of this Contract.

3.2. Submission and Acceptance of Deliverables. When the Statement of Work requires Contractor to deliver Deliverables to Agency, then Contractor shall deliver Deliverables that comply with the requirements and acceptance criteria set forth in the Statement of Work. Contractor shall provide written notice to Agency upon delivery of a completed Deliverables to Agency. By no later than (i) 15 business days after receipt of such notice, or (ii) the date or period for review set forth in the Statement of Work, Agency will determine whether the Deliverables has the characteristics and otherwise meets the acceptance criteria set forth in the Statement of Work. If Agency determines that the Deliverables has the characteristics and meets acceptance criteria set forth in the Statement of Work in all material respects, Agency will notify Contractor in writing of Agency’s acceptance of the Deliverables.

3.3. Rejection of Deliverables; Corrections. If Agency determines that a Deliverables does not have the characteristics or otherwise meet the acceptance criteria set forth in the Statement of Work in all material respects, Agency will notify Contractor in writing of Agency’s rejection of the Deliverables, and describe in reasonable detail in such notice the Agency’s basis for rejection of the Deliverables. Upon receipt of notice of non-acceptance, Contractor shall, within a 15 business day period, modify or improve the Deliverables at Contractor’s sole expense so that the Deliverables has the characteristics described in the Statement of Work and meets, in all material respects, the acceptance criteria, and notify the Agency in writing that it has completed such modifications or improvements and re-tender the Deliverables to Agency. Agency will thereafter review the modified or improved Deliverables within 15 business days of receipt of the Contractor's delivery of the Deliverables. Failure of the Deliverables to have the characteristics or meet in all material respects the acceptance criteria set forth in the Statement of Work after the second submission will constitute a default by Contractor. In the event of such default, Agency may either, (i) notify Contractor of such default and instruct Contractor to modify or improve the Deliverables as set forth in this Section, or (ii) notify Contractor of such default and pursue its remedies for default provided for by law or the terms of this Contract.

4. **Compensation.**

4.1. Not to Exceed Compensation. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$***,***.**. Agency will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract, and will not pay for Work performed before the Effective Date or after the expiration or termination of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

4.2. Payments. Payments, including interim payments, to Contractor are subject to ORS 293.462, will be made only for completed and accepted Deliverables and Services, and will be made in accordance with the payment schedule and requirements set forth in Exhibit A.

4.3. Invoices. Contractor shall submit invoices to Agency as set forth in the Statement of Work or, if not set forth therein, to Agency's Contract Administrator. Contractor may submit invoices in accordance with the payment schedule set forth in the Statement of Work or, if no payment schedule is set forth therein, then no more frequently than once per month for accepted Deliverables and Services. The invoices must describe all Services performed with particularity, including the dates Contractor performed the Services for which it is requesting payment, and by whom the Work were performed and shall itemize and explain all expenses that this Contract requires Agency to pay and for which Contractor claims reimbursement. [OPTIONAL: *Each invoice must also include the total amount invoiced to date by Contractor prior to the current invoice. Contractor will specifically note in the appropriate invoice when it has requested payment for one-third and two-thirds of the maximum, not-to-exceed compensation.*]

4.4. Expenses. Agency will not pay or reimburse any expenses incurred by Contractor during the completion of the Services except as authorized in the Statement Work or elsewhere in this Contract. Any such authorized travel expenses must comply with the Oregon Travel Policy available on the Internet at: <http://www.oregon.gov/das/cfo/sars/policies/oam/40.10.00.pdf>

4.5. Funds Available and Authorized. Contractor will not be compensated for Work performed under this Contract by any agency or department of the State of Oregon other than Agency. Agency believes it has sufficient funds currently available and authorized for expenditure to make payments under this Contract within Agency's biennial appropriation or limitation. Contractor understands and agrees that Agency's payments under this Contract are contingent on Agency receiving appropriations, limitations, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

5. Contractor's Personnel.

5.1. Key Persons. Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this Contract, because of the special qualifications of Contractor's key persons identified in the Statement of Work (each a "Key Person" and, together, "Key Persons"). Neither Contractor nor a Key Person may delegate performance of the powers and responsibilities that a Key Person is required to provide under this Contract to another Contractor employee, subcontractor or agent without first obtaining the written consent of Agency. Further, Contractor may not re-assign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the Agency with the required expertise, experience, judgment, and personal attention, without first obtaining Agency's written consent to such re-assignment or transfer, which Agency will not unreasonably withhold or delay. Notwithstanding the foregoing, Contractor may replace a Key Person in the event the Key Person is no longer available due to circumstances beyond Contractor's reasonable control, such as death, illness, or termination of employment with Contractor. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, or if Contractor must replace a Key Person, Agency may interview, review the qualifications of, and approve or reject the proposed replacement for the Key Person. Any such replacement must have substantially equivalent or better qualifications than the Key Person being replaced. Any replacement personnel approved by Agency in writing (email acceptable) will thereafter be deemed a Key Person for purposes of this Contract, and the Statement of Work will be deemed amended to include such Key Person.

5.2. Payment for Replacement Key Personnel. If Agency is paying Contractor on an hourly or other periodic basis, then Contractor will not charge Agency, and Agency will not pay, for a replacement Key Person while such replacement acquires the project knowledge and skills necessary to perform the Services. Such period of non-charge will be agreed upon by the parties.

5.3. State Premises. Contractor and Contractor staff shall comply with all policies, rules, procedures, and regulations established by Agency and the State for access to and activities in and around premises controlled by Agency or any other agency of the State.

6. Independent Contractor; Responsibility For Taxes And Withholding

6.1. Independent Contractor. Contractor shall perform all Work as an independent contractor. Agency reserves the right (i) to determine and modify the delivery schedule for the Services and (ii) to evaluate the quality of the Work; however, Agency may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

6.2. No Conflicts. Contractor, by signature to this Contract, represents and warrants that Contractor's performance of the Work under this Contract creates no potential or actual conflict of interest as defined by ORS 244; and no statutes, rules or regulations of any State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor from performing the Work under this Contract.

6.3. Affiliation. Contractor understands and agrees that it is not an "officer," "employee," or "agent" of the State of Oregon, as those terms are used in ORS 30.265 or otherwise.

6.4. Taxes and Benefits. Contractor is responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless required by applicable law, Agency will not withhold from such compensation or payments any amount to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

7. Subcontracts, Successors, And Assignments

7.1. Subcontracts. Contractor shall not enter into any subcontracts for any of the Services required by this Contract without Agency's prior written consent. In addition to any other provisions Agency may require, Contractor shall include in any permitted subcontract under this Contract provisions to ensure that Agency will receive the benefit of subcontractor's performance as if the subcontractor were Contractor. Agency's consent to any subcontract does not relieve Contractor of any of its duties or obligations under this Contract.

7.2. Successors and Assigns. The provisions of this Contract are binding upon and inure to the benefit of the parties to this Contract, their respective successors, and permitted assigns, if any.

7.3. No Assignment. Contractor shall not assign or transfer any of its rights or delegate its obligations under this Contract without Agency's prior written consent.

8. Representations and Warranties.

8.1. Contractor's General Representations and Warranties. Contractor represents and warrants to Agency that:

8.1.1. Contractor has the power and authority to enter into and perform this Contract;

8.1.2. This Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;

- 8.1.3. Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services;
- 8.1.4. Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty; and
- 8.1.5. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the Effective Date, faithfully has complied with:
- 8.1.5.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - 8.1.5.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
 - 8.1.5.3. Any tax provisions imposed by a political subdivision of this State that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor;
 - 8.1.5.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; and
- 8.1.6. Contractor has no undisclosed liquidated and delinquent debt owed to the State or any department or agency of the State.

8.2. Contractor's Performance Warranties.

- 8.2.1. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor shall apply that skill and knowledge with care and diligence to perform the Services in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;
- 8.2.2. The Services and each Deliverables delivered by Contractor pursuant to the Services will materially comply with any service descriptions, specifications, standards or requirements set forth in this Contract;
- 8.2.3. Except as otherwise provided in this Contract (including Section 9), Contractor shall transfer all Deliverables to Agency free and clear of any and all restrictions on or conditions of transfer, modification, licensing, sublicensing, direct or indirect distribution, or assignment, and free and clear of any and all liens, claims, mortgages, security interests, liabilities, and encumbrances of any kind; and
- 8.2.4. Except as otherwise set forth in this Contract, any subcontractors performing work for Contractor under this Contract have assigned all of their rights in the Deliverables to Contractor or Agency and no third party has any right, title or interest in any Deliverables supplied to Agency under this Contract.

8.3. Warranties cumulative. The warranties set forth in Section 8 are in addition to, and not in lieu of, any other warranties set forth elsewhere in this Contract.

9. Ownership of Work Product.

9.1. Definitions. As used in this Section 9, and elsewhere in this Contract, the following terms have the meanings set forth below:

9.1.1. "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Services.

9.1.2. "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Contractor.

9.1.3. "Work Product" means everything that is originally made, conceived, discovered, or reduced to practice by Contractor or Contractor's subcontractors or agents (either alone or with others) pursuant to this Contract, including every invention, modification, discovery, design, development, customization, configuration, improvement, process, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection).

9.2. Original Works. All Work Product created by Contractor pursuant to the Services, including derivative works and compilations of Work Product, and whether or not such Work Product is considered a work made for hire or an employment to invent, is the exclusive property of Agency. Agency and Contractor agree that such Work Product is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product is not "work made for hire," Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

9.3. License in Contractor Intellectual Property. In the event that a Deliverables delivered by Contractor under this Contract is or is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Contractor Intellectual Property employed in the Deliverables, and to authorize others to do the same on Agency's behalf.

9.4. License in Third Party Intellectual Property. In the event that a Deliverables delivered by Contractor under this Contract is or is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Deliverables, and to authorize others to do the same on Agency's behalf.

9.5. No Rights. Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon Contractor any right, title, or interest in any intellectual property that is now owned or subsequently owned by Agency. Except as expressly set forth in this Contract, nothing in this Contract may be construed as granting to or conferring upon Agency any right, title, or interest in any Contractor Intellectual Property that is now owned or subsequently owned by Contractor.

9.6. Marks. Neither party grants the other the right to use its trademarks, trade names, service marks or other designations in any promotion or publication without prior written consent. Each party grants only the licenses and rights specified in this Contract.

9.7. Competing Services. Subject to the provisions of this Section 9, and Contractor's obligations with respect to Confidential Information, including as defined in Section 10, nothing in this Contract precludes or limits in any way the right of Contractor to: (i) provide services similar to those contemplated in this Contract, or consulting or other services of any kind or nature whatsoever to any individual or entity as Contractor in its sole discretion deems appropriate, or (ii) develop for Contractor or for others, Deliverables or other materials that are competitive with those produced as a result of the Services provided hereunder, irrespective of their similarity to the Deliverables delivered pursuant to this Contract. Each party is free to utilize any concepts, processes, know-how, techniques, improvements or other methods it may develop during the course of performance under this Contract free of any use restriction or payment obligation to the other.

10. Confidential Information.

10.1. Confidential Information. Contractor acknowledges that it and its employees, officers, directors, agents or subcontractors (collectively, "Contractor Staff") may, in the course of performing the Services under this Contract, be exposed to or acquire information that is confidential to Agency or Agency's clients. Any and all information of any form (including but not limited to records, files, papers, materials, documents, and communications in written, verbal, oral and electronic form) that Contractor or any Contractor Staff may come into contact with or that is obtained by Contractor or Contractor Staff in the performance of this Contract shall be considered for the purposes of this Contract the confidential information of Agency ("Confidential Information"). Contractor shall, and shall cause Contractor Staff to treat any reports or other documents or items (including software) that result from the use of the Confidential Information in the same manner as the Confidential Information. Confidential Information does not include information that (i) is or becomes (other than by disclosure by Contractor or Contractor Staff acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure; (ii) is furnished by Agency to others without restrictions similar to those imposed by this Contract; (iii) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (iv) is obtained from a source other than Agency without the obligation of confidentiality, (v) is disclosed with the written consent of Agency, or; (vi) is independently developed by Contractor or Contractor Staff who can be shown to have had no access to the Confidential Information.

10.2. Non-Disclosure. Contractor shall hold, and shall cause Contractor Staff to hold, all Confidential Information in confidence, using the highest standard of care applicable, and shall not copy, reproduce, sell, assign, license, market, transfer, distribute, or otherwise dispose of, give, make available or disclose, in whole or in part, directly or indirectly, Confidential Information to third parties (other than its authorized subcontractors), or use Confidential Information for any purposes whatsoever other than the provision of Services to Agency hereunder, and shall advise Contractor Staff of their obligations to keep Confidential Information confidential. Contractor shall assist Agency in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Agency immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract, and Contractor will at its expense cooperate with Agency in seeking injunctive or other equitable relief in the name of Agency or Contractor against any such person. Contractor shall not at any time during or after the term of this Contract, except as directed by Agency, disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract. Upon expiration or termination of this

Contract or at Agency's request, Contractor shall deliver to Agency all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing and unless otherwise specified in this Contract, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of performance of the Services.

10.3. Confidentiality Policies. Contractor shall, upon Agency's request, provide its policies and procedures for safeguarding Confidential Information to Agency for Agency's review and consent. Such policies must address information conveyed in oral, written, and electronic format and include procedures for how Contractor will respond when a violation or possible violation occurs.

10.4. Injunctive Relief. Contractor acknowledges that breach of this Section 10, including disclosure of any Confidential Information, will cause irreparable injury to Agency that is inadequately compensable in damages. Accordingly, Agency may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Agency and are reasonable in scope and content.

10.5. Publicity. Contractor agrees that it will not disclose the form, content or existence of this Contract or any Deliverables in any advertising, press releases or other materials distributed to prospective customers, or otherwise attempt to obtain publicity from its association with Agency or the State of Oregon, whether or not such disclosure, publicity or association implies an endorsement by Agency or the State of Oregon of Contractor's services, without the prior written consent of Agency.

11. Indemnity by Contractor.

11.1. Claims. Contractor shall defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all third party claims, suits, actions, losses, damages, liabilities, costs (including attorneys' fees) and expenses (collectively, "Claims") of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract, including but not limited to, unauthorized disclosure of Confidential Information, professional malfeasance, infringement of intellectual property rights, intentional, willful, or wanton wrongful acts, and acts outside the scope of Services set forth in this Contract.

11.2. Legal Counsel. If Contractor is required to defend the State of Oregon or Agency or their officers, employees or agents under Section 11.1, then Contractor shall select legal counsel reasonably acceptable to the Oregon Attorney General to act in the name of, or represent the interests of, the State of Oregon, Agency or their officers, employees and agents. Such legal counsel must accept appointment as a special assistant attorney general under ORS chapter 180 before such action or representation. Further, the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State of Oregon's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State of Oregon or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State of Oregon are served thereby. Contractor's obligation to pay for all costs and expenses includes those incurred by the State of Oregon in assuming its own defense or that of its officers, employees, and agents under (i) and (ii) above.

11.3. Damages to State Property and Employees. Contractor is liable for all Claims for personal injury, including death, damage to real property and damage to tangible and intangible personal property of the State of Oregon or any of its employees, subcontractors or agents resulting from, arising out of, or

relating to the intentional, reckless or negligent acts or omissions of Contractor or its officers, employees, subcontractors, or agents under this Contract

11.4. CONTRACTOR IS NOT AUTHORIZED TO SETTLE OR COMPROMISE ANY CLAIM REFERENCED IN THIS SECTION WITHOUT THE EXPRESS WRITTEN CONSENT OF AGENCY.

12. Limitation of Liabilities.

EXCEPT FOR LIABILITY TO THIRD PERSONS ARISING OUT OF OR RELATED TO (i) SECTION 10, OR (ii) SECTION 11, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOST SAVINGS, OR PUNITIVE, INDIRECT, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES.

13. Insurance. Contractor shall maintain insurance as set forth in Exhibit B.

14. Default; Remedies; Termination.

14.1. Default by Contractor. Contractor will be in default under this Contract if:

- 14.1.1. Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- 14.1.2. Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- 14.1.3. Contractor commits any material breach or default of any covenant, warranty, obligation, certification, or agreement under this Contract, fails to perform the Services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after Agency's notice, or such longer period as Agency may specify in such notice; or
- 14.1.4. Contractor has liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State.

14.2. Agency's Remedies for Contractor's Default. In the event Contractor is in default under Section 14.1, Agency may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- 14.2.1. Termination of this Contract under Section 14.6.2; or
- 14.2.2. Withholding all monies due for Services and Deliverables that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively; or
- 14.2.3. Initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- 14.2.4. Exercise of its right of setoff, and withholding of amounts otherwise due and owing to Contractor, without penalty; or

14.2.5. Undertaking collection by administrative offset, or garnishment if applicable, of all monies due for Services and Deliverables to recover liquidated and delinquent debt owed to the State of Oregon or any department or agency of the State. Offsets or garnishment may be initiated after the Contractor has been given notice if required by law.

14.3. Remedies Cumulative. The remedies set forth in Section 14.2 are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Sections 14.1, then Contractor will be entitled to the same remedies as if this Contract was terminated pursuant to Section 14.6.1.

14.4. Default by Agency. Agency will be in default under this Contract if:

14.4.1. Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or

14.4.2. Agency commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

14.5. Contractor's Remedies. In the event Agency terminates this Contract under Section 14.6.1, or is in default under Section 14.4, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 14.6.3, Contractor's sole monetary remedy will be (i) with respect to Services compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced and authorized expenses incurred and interest, subject to ORS 293.462, and (ii) with respect to Deliverables-based Services, a claim for the sum designated for completing the Deliverables multiplied by the percentage of Services completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor. In no event will Agency be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 14.5, Contractor shall pay immediately any excess to Agency upon written demand.

14.6. Termination.

14.6.1. Agency's Right to Terminate at its Discretion. Agency may terminate this Contract:

14.6.1.1. Upon 30 calendar days' prior written notice by Agency to Contractor;

14.6.1.2. Immediately upon written notice by Agency to Contractor if Agency fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Services or Work Products; or

14.6.1.3. Immediately upon written notice by Agency to Contractor if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Agency's purchase of the Services or Work Products under this Contract is prohibited or Agency is prohibited from paying for such Services or Work Products from the planned funding source.

14.6.2. Agency's Right to Terminate for Cause. In addition to any other rights and remedies Agency may have under this Contract, Agency may terminate this Contract immediately upon written notice by

Agency to Contractor, or at such later date as Agency may establish in such notice, if Contractor is in default under Section 14.1.

14.6.3. **Contractor's Right to Terminate for Cause.** Contractor may terminate this Contract immediately upon written notice to Agency, or at such later date as Contractor may establish in such notice, if Agency is in default under Section 14.4.

14.7. **Return of Property.** Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any Services or Work Products for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such Agency property is expressed or embodied at that time.

14.8. **Effect of Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Services and the Deliverables.

15. Compliance with Law.

15.1. **Compliance with Law Generally.** Contractor shall comply, and cause all subcontractors to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract and the performance of the Services. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Title V and Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act portion of the American Recovery and Reinvestment Act of 2009 (ARRA), including the Privacy and Security Rules found at 45 CFR Parts 160 and 164, as the law and its implementing regulations may be updated from time to time; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) Section 188 of the Workforce Investment Act (WIA) of 1998, as amended; (ix) ORS Chapter 659, as amended; (x) all regulations and administrative rules established pursuant to the foregoing laws; and (xi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. Agency's performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

15.2. Compliance with Oregon Tax Laws.

15.2.1. Contractor shall, throughout the duration of this Contract, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes the tax laws described in Section 8.1.5.1 through 8.1.5.4.

15.2.2. Any violation of Section 15.2.1 constitutes a material breach of this Contract. Further, any violation of Contractor's warranty in Section 8.1.5 of this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also constitutes a material breach of this Contract. Any violation entitles Agency to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

15.2.2.1. Termination of this Contract, in whole or in part;

15.2.2.2. Exercise of the right of setoff, or garnishment if applicable, and withholding of amounts otherwise due and owing to Contractor without penalty; and

15.2.2.3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Agency is entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services.

15.2.3. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

15.3. Compliance with Federal Law. Contractor shall comply with all applicable federal laws, including, without limitation, those set forth in Exhibit D, which is attached and incorporated into this Contract by this reference.

15.4. Pay Equity. As required by ORS 279B.235 or ORS 279C.520, as applicable, Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles Agency to terminate this Contract for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

16. Governing Law; Venue and Jurisdiction.

16.1. Governing Law. This Contract is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

16.2. Venue and Jurisdiction. Any claim, action, suit or proceeding between Agency (or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. In no event may this section be construed as (i) a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or

otherwise, from any claim, action, suit or proceeding, or (ii) consent by the State of Oregon to the jurisdiction of any court.

17. Miscellaneous Provisions.

- 17.1. Records Maintenance; Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract ("Records") in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to such financial records and other Records that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records and other Records for a minimum of 6 years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 17.2. Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract. Contractor shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to entering into this Contract.
- 17.3. Force Majeure.** Neither Agency nor Contractor may be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 17.4. Survival.** All rights and obligations cease upon termination or expiration of this Contract, except for the rights and obligations and declarations which expressly or by their nature survive termination of this Contract, including without limitation this Section 17.4, and provisions regarding Contract definitions, warranties and liabilities, independent Contractor status and taxes and withholding, maximum compensation, Contractor's duties of confidentiality, ownership and license of intellectual property and Deliverables, confidentiality and non-disclosure, Contractor's representations and warranties, control of defense and settlement, remedies, return of Agency property, dispute resolution, order of precedence, maintenance and access to records, notices, severability, successors and assigns, third party beneficiaries, waiver, headings, and integration.
- 17.5. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.
- 17.6. Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder must be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the email address, postal address or telephone number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section 17.6. Any communication or notice so addressed and mailed is effective five business days after mailing. Any communication or notice delivered by facsimile is effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Agency, any notice transmitted by facsimile must be confirmed by telephone

notice to Agency's Contract Administrator. Any communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.

- 17.7. No Third Party Beneficiaries.** Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or may be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 17.8. Severability.** The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17.9. Merger Clause; Waiver.** This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract will bind the parties unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Contract in one instance will not constitute a waiver by Agency of its right to enforce that or any other provision.
- 17.10. Amendments.** Agency may amend this Contract to the extent permitted by applicable statutes and administrative rules. No amendment to this Contract is effective unless it is in writing signed by the parties, and has been approved as required by applicable law.
- 17.11. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed constitutes an original.
- 17.12. Oregon False Claims Act.** Contractor acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Contractor pertaining to this Contract, including the procurement process relating to this Contract, that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Contract, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Contract. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Contractor. Contractor understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or Agency under this Contract or any other provision of law.
- 17.13. Certifications.** The individual signing on behalf of Contractor hereby:

- 17.13.1. Certifies and swears under penalty of perjury to the best of the individual's knowledge that: (a) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to

backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (b) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, that Contractor is not in violation of any Oregon tax laws and that for a period of no fewer than six (6) calendar years preceding the Effective Date of this Contract, Contractor faithfully has complied with: (i) all tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions; (c) Contractor is an independent contractor as defined in ORS 670.600; and (d) the supplied Contractor tax identification numbers are true and accurate;

17.13.2. Certifies that, to the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against any disadvantaged business enterprise, minority-owned business, woman-owned business, business that service-disabled veteran owns or emerging small business certified under ORS 200.055 in obtaining any required subcontracts;

17.13.3. Certifies that Contractor has a written policy and practice that meets the requirements, described in ORS 279A.112, of preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of the Contract, to maintain the policy and practice in force during the entire Contract term.

17.13.4. Certifies that the information provided on the attached Exhibit E, Independent Contractor Certification, is true and correct as of the Effective Date; and

17.13.5. Certifies that Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>.

[SIGNATURE BLOCKS]

EXHIBIT A – SAMPLE CONTRACT

Exhibit A

Statement of Work

SAMPLE

EXHIBIT A – SAMPLE CONTRACT

Exhibit B

Required Insurance

To complete a risk assessment and access the insurance requirement templates, go to the DAS Risk website at:

<http://www.oregon.gov/das/Risk/Pages/CntrctrInsReq.aspx>

SAMPLE

EXHIBIT A – SAMPLE CONTRACT

Exhibit C

Special Terms and Conditions

SAMPLE

EXHIBIT A – SAMPLE CONTRACT

Exhibit D

Independent Contractor Certification

Contractor certifies he/she meets the following standards:

1. I am registered under ORS chapter 701 to provide labor or services for which such registration is required.
2. I have filed federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, or expect to file federal and state income tax returns, for labor or services performed as an independent contractor in the previous year.
3. I will furnish the tools or equipment necessary for the contracted labor or services.
4. I have the authority to hire and fire employees who perform the labor or services.
5. I represent to the public that the labor or services are to be provided by my independently established business as four (4) or more of the following circumstances exist. **(Please check four or more of the following):**

 A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.

 B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership.

 C. Telephone listing used for the business is separate from the personal residence listing.

 D. Labor or services are performed only pursuant to written contracts.

 E. Labor or services are performed for two or more different persons within a period of one year.

 F. I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature: _____ **Date:** _____

EXHIBIT A – SAMPLE CONTRACT

Exhibit E

[Agency Specific Exhibit-If Needed]

SAMPLE

ATTACHMENT B — DISCLOSURE EXEMPTION AFFIDAVIT

 (Affiant), being first duly sworn under oath, and representing [**insert Proposer Name**] (hereafter “Proposer”), hereby deposes and swears or affirms under penalty of perjury that:

I am an employee of the Proposer, I have knowledge of the Request for Proposals referenced herein, and I have full authority from the Proposer to submit this affidavit and accept the responsibilities stated herein.

I am aware that the Proposer has submitted a Proposal, dated on or about [**insert date**] (the “Proposal”), to the State of Oregon (State) in response to Request for Proposals **RFP S-66000-00001844 DLCD Diversity, Equity and Inclusion Assessment and Racial Equity Plan**, and I am familiar with the contents of the RFP and Proposal.

I have read and am familiar with the provisions of Oregon’s Public Records Law, Oregon Revised Statutes (“ORS”) 192.311 through 192.478, and the Uniform Trade Secrets Act as adopted by the State of Oregon, which is set forth in ORS 646.461 through ORS 646.475. I understand that the Proposal is a public record held by a public body and is subject to disclosure under the Oregon Public Records Law unless specifically exempt from disclosure under that law.

I have reviewed the information contained in the Proposal. The Proposer believes the information listed in Exhibit A is exempt from public disclosure (collectively, the “Exempt Information”), which is incorporated herein by this reference. It is my opinion that the Exempt Information is exempt from disclosure under Oregon’s Public Records Law under the specifically designated sections as set forth in Exhibit A or constitutes “Trade Secrets” under either the Oregon Public Records Law or the Uniform Trade Secrets Act as adopted in Oregon because that information is either:

A formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that:

is not patented,

is known only to certain individuals within the Proposer’s organization and that is used in a business the Proposer conducts,

has actual or potential commercial value, and

gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

or

Information, including a drawing, cost data, customer list, formula, pattern, compilation, program, device, method, technique or process that:

Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

Is the subject of efforts by the Proposer that are reasonable under the circumstances to maintain its secrecy.

I understand that disclosure of the information referenced in Exhibit A may depend on official or judicial determinations made in accordance with the Public Records Law.

Affiant's Signature

State of _____)

) ss:

County of _____)

Signed and sworn to before me on _____ (date) by _____ (Affiant's name).

Notary Public for the State of _____

My Commission Expires: _____

EXHIBIT A TO ATTACHMENT B

Proposer identifies the following information as exempt from public disclosure under the following designated exemption(s):

ATTACHMENT C — PROPOSER INFORMATION AND CERTIFICATION SHEET

Legal Name of Proposer: _____

Address: _____ City, State, Zip: _____

State of Incorporation: _____ Entity Type: _____

Contact Name: _____ Telephone: _____ Email: _____

Oregon Business Registry Number (if required): _____

Any individual signing below hereby certifies they are an authorized representative of Proposer and that:

Proposer understands and accepts the requirements of this RFP. By submitting a Proposal, Proposer agrees to be bound by the Contract terms and conditions in Attachment A and as modified by any Addenda, except for those terms and conditions that Agency has reserved for negotiation, as identified in the RFP.

Proposer acknowledges receipt of any and all Addenda to this RFP.

Proposal is a Firm Offer for 180 days following the Closing.

If awarded a Contract, Proposer agrees to perform the scope of work and meet the performance standards set forth in the final negotiated scope of work of the Contract.

I have knowledge regarding Proposer's payment of taxes and by signing below I hereby certify that, to the best of my knowledge, Proposer is not in violation of any tax laws of the state or a political subdivision of the state, including, without limitation, ORS 305.620 and ORS chapters 316, 317 and 318.

Proposer does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, gender, disability, sexual orientation, national origin. When awarding subcontracts, Proposer does not discriminate against any business certified under ORS 200.055 as a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business. If applicable, Proposer has, or will have prior to contract execution, a written policy and practice, that meets the requirements described in ORS 279A.112 (formerly HB 3060), of preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class. Agency may not enter into a contract with an anticipated contract price of \$150,000 or more with a Proposer that does not certify it has such a policy and practice. See <https://www.oregon.gov/DAS/Procurement/Pages/hb3060.aspx> for additional information and sample policy template.

Proposer and Proposer's employees, agents, and subcontractors are not included on:

the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at:
<https://www.treasury.gov/ofac/downloads/sdnlist.pdf>, or

the government wide exclusions lists in the System for Award Management found at:
<https://www.sam.gov/portal/>

Proposer certifies that, to the best of its knowledge, there exists no actual or potential conflict between the business or economic interests of Proposer, its employees, or its agents, on the one hand, and the business or economic interests of the State, on the other hand, arising out of, or relating in any way to, the subject matter of the RFP. If any changes occur with respect to Proposer’s status regarding conflict of interest, Proposer shall promptly notify the State in writing.

Proposer certifies that all contents of the Proposal (including any other forms or documentation, if required under this RFP) and this Proposal Certification Sheet are truthful and accurate and have been prepared independently from all other Proposers, and without collusion, fraud, or other dishonesty.

Proposer understands that any statement or representation it makes, in response to this RFP, if determined to be false or fraudulent, a misrepresentation, or inaccurate because of the omission of material information could result in a "claim" {as defined by the Oregon False Claims Act, ORS 180.750(1)}, made under Contract being a "false claim" {ORS 180.750(2)} subject to the Oregon False Claims Act, ORS 180.750 to 180.785, and to any liabilities or penalties associated with the making of a false claim under that Act.

Proposer acknowledges these certifications are in addition to any certifications required in the Contract and Statement of Work in Attachment A at the time of Contract execution.

Authorized Signature

Date

(Printed Name and Title)

ATTACHMENT D - REFERENCE CHECK FORM

Proposer Name: _____

Reference Entity: _____

Reference Contact Name: _____

Contact Telephone Number: _____

Contact Email Address: _____

ATTACHMENT F –CERTIFIED DISADVANTAGED BUSINESS OUTREACH PLAN

Proposer Name: _____ Date: _____

Contact Name: _____ Telephone: _____ Email: _____

“Certified Firm” means a small business certified under ORS 200.055 by the Oregon Certification Office for Business Inclusion and Diversity (COBID) as minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own, and emerging small businesses.

Certified Firms must have an equal opportunity to participate in the performance of contracts financed with state funds. By submitting its offer, Proposer certifies that it has taken, and if there are further opportunities, will take reasonable steps to ensure that Certified Firms are provided an equal opportunity to compete for and participate in the performance of any subcontracts resulting from this procurement.

The information submitted in response to this clause will not be considered in any scored evaluation.

1. Is Proposer an Oregon certified firm? Yes No

If yes, indicate all certification type(s): DBE MBE WBE SDV ESB and supply

Oregon State Certification Number: _____

2. Include a list of Certified Firms that Proposer has had a contractual relationship with within the last two years.

3. Include a list of firms that Proposer has had a contractual relationship with within the last two years that are not Certified Firms but may be minority-owned, woman-owned, service-disabled veteran-owned or emerging small businesses.

4. Does Proposer foresee any subcontracting opportunities for this procurement? Yes No

If no, do not complete the rest of this form and submit this first page with your Proposal.

If yes, please complete the following pages and submit all pages with your Proposal.

CERTIFIED DISADVANTAGED BUSINESS OUTREACH PLAN

5. Describe the steps Proposer will take to solicit Certified Firms for subcontracting opportunities if awarded a contract from this procurement.

6. Describe the subcontracting opportunities and the approximate dollar value of each that may be available, if awarded a Contract.

7. Would Proposer be willing to report the identity of each subcontractor and the value of each subcontract to COBID if awarded a Contract from this procurement?

ATTACHMENT G - RESPONSIBILITY INQUIRY

Agency will determine responsibility of a Proposer prior to award and execution of a Contract. In addition to this form, Agency may notify Proposer of other documentation required, which may include but is not limited to recent profit-and-loss history, current balance statements and cash flow information, assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims, availability of short and long-term financing, bonding capacity, insurability, credit information, materials and equipment, facility capabilities, personnel information, record of performance under previous contracts, etc. Failure to promptly provide requested information or clearly demonstrate responsibility may result in an Agency finding of non-responsibility and rejection.

Does Proposer have available the appropriate financial, material, equipment, facility and personnel resources and expertise, or ability to obtain the resources and expertise, necessary to demonstrate the capability of Proposer to meet all contractual responsibilities? **YES** / **NO** .

Within the last five years, how many contracts of a similar nature has Proposer completed that, to the extent that the costs associated with and time available to perform the contract remained within Proposer's control, Proposer stayed within the time and budget allotted, and there were no contract claims by any party? Number: ____

How many contracts did not meet those standards? Number: ____ If any, please explain.

Response:

Within the last three years has Proposer (incl. a partner or shareholder owning 10% or more of Proposer's firm) or a major subcontractor (receiving 10% or more of a total contract amount) been criminally or civilly charged, indicted or convicted in connection with:

obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract,

violation of federal or state antitrust statutes relating to the submission of bids or Proposals, or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property? **YES** / **NO** .

If "YES," indicate the jurisdiction, date of indictment, charge or judgment, and names and summary of charges in the response field below.

Response:

Within the last three years, has Proposer had:

any contracts terminated for default by any government agency, or any lawsuits filed against it by creditors or involving contract disputes? **YES** / **NO** .

If "YES," please explain. (With regard to judgments, include jurisdiction and date of final judgment or dismissal.)

Response:

Does Proposer have any outstanding or pending judgments against it? **YES** / **NO** .

Is Proposer experiencing financial distress or having difficulty securing financing? **YES** / **NO** .

Does Proposer have sufficient cash flow to fund day-to-day operations throughout the proposed contract period? **YES** / **NO**

If "YES" on the first question or second question, or "NO" on the third question, please provide additional details.

Response:

Within the last three years, has Proposer filed a bankruptcy action, filed for reorganization, made a general assignment of assets for the benefit of creditors, or had an action for insolvency instituted against it? **YES** / **NO** .

If "YES," indicate the filing dates, jurisdictions, type of action, ultimate resolution, and dates of judgment or dismissal, if applicable.

Response:

Does Proposer have all required licenses, insurance and/or registrations, if any, and is Proposer legally authorized to do business in the State of Oregon? **YES** / **NO** .

If "NO," please explain.

Response:

Pay Equity Certificate. This certificate is required if Proposer employs 50 or more full-time workers and the prospective contract price is estimated to exceed \$500,000. [This requirement does not apply to architectural, engineering, photogrammetric mapping, transportation planning or land surveying and related services contracts.] Does a current authorized representative of Proposer possess an unexpired Pay Equity Certificate issued by the Department of Administrative Services? **YES** / **NO** / **N/A** . [If the certificate was provided with the Bid or Proposal submitted for a solicitation related to the

RFP S-66000-00001844 Diversity, Equity, and Inclusion Assessment and Racial Equity Plan

prospective contract, then it is not necessary to resubmit it. Just indicate “see Bid” or “see Proposal” in the response field. **Otherwise, if applicable, submit a copy of the certificate with this form.**]

Response:

AUTHORIZED SIGNATURE

By signature below, the undersigned Authorized Representative on behalf of Proposer certifies to the best of his or her knowledge and belief that the responses provided on this form are complete, accurate, and not misleading.

Proposer Name:	RFP: S-66000-00001844 Project Name: DEI Assessment and Racial Equity Plan
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Authorized Signature Date

Print Name Title