



Oregon Business Development Department for the Oregon Arts Commission

Percent for Arts Program CoordinatOR services

Request for Qualifications (RFQ) #**C2021103**

**Proposal cutoff date:** **May 27, 2022 at 3:00 p.m. Pacific Time**

[This RFQ may also be re-opened at a future date to be advertised]

Single Point of Contact:

Jon.Walton@oregon.gov

971-600-4902

775 Summer St. NE, Suite 200

Salem, OR 97301

1. **Overview**

The Oregon Business Development Department (“Business Oregon”) has already recruited a pool of contractors that may be called upon as needed to perform Percent for Art in Public Places project coordination services for the Oregon Arts Commission. Business Oregon is re-opening an application period to join that pool, and anticipates (but is not required) selecting two to three additional project coordinators. Business Oregon reserves the right to re-open this request for qualifications at any time to augment the pool of contractors; and any such re-openings will be published in the same manner as this solicitation.

Business Oregon intends to establish Agreements for Services contracts for a five-year duration, and reserves the right to amend any of them for additional time as allowed by law if agreed upon by both parties. A contract may also be amended for additional services reasonably related to the Percent for Art in Public Places Program. The initial contracts are expected to pay for services at the rate of $36.50 per hour. The following payrate scale is used:

$36.50/hr - Base rate (1-3 years of experience)

$40/hr - Completion of 5 Arts Commission projects and 4-6 years of experience

$42.50/hr - Completion of 10 projects

$45/hr - Completion of 15 projects

$47.50/hr - Completion of 20 projects

$50/hr - Completion of more than 25 projects

Business Oregon will determine, in its sole discretion, the work assignment allocation process, and projects will be assigned with individual Work Assignment Contracts on an as-needed basis. Project coordinators are estimated to work between 30 to 120 hours per month, depending on project assignment availability and project coordinator preference. Projects arise at different times, and there is no guarantee of any specific level of work.

Percent for Art project coordination services include some or all aspects of managing public art projects for the Percent for Art in Public Places Program, described more below. For renovation and construction of state buildings when the construction budget is $100,000 or more, state agencies are required to reserve 1% of the direct construction budget for acquisition of art. The Percent for Art in Public Places Program (“Program”), managed by the Oregon Arts Commission (“Arts Commission”), guides the acquisition of artwork. The Oregon Administrative Rules for the Program may be found via the following link: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=213>. Art projects take place at state-owned or state funded facility construction throughout Oregon, including public universities and colleges.

2. Background

The [Oregon Arts Commission](http://www.oregonartscommission.org) was established in 1967 to foster the arts in Oregon and ensure their excellence. Nine commissioners, appointed by the Governor, determine arts needs and establish policies for public support of the arts. In 1993, the Arts Commission became a division of [Business Oregon](http://www.oregon4biz.com/) in recognition of the expanding role the arts play in the broader social, economic and educational arenas of Oregon communities.

Oregon's Percent for Art in Public Places Program guides the acquisition of the state's Percent for Art Collection. Public art program discussions in Oregon began in 1975. In 1977, the program extended to state buildings in all Oregon counties. Oregon Revised Statutes require that no less than 1% of the construction budget be set aside for the acquisition of public-facing artwork, in state building construction projects with budgets over $100,000.

Over 275 state construction projects have qualified for Percent for Art funds and more than 1,500 Oregon residents have participated on Art Selection Committees. Hundreds of thousands of state workers, citizens, and visitors have noticed, admired, debated, questioned, appreciated, and been in contact with public art all over the state. There are now over 2,500 pieces in Oregon's state art collection in public spaces throughout Oregon, including drawings, paintings, mixed media, photography, sculpture, ceramics, glass, mosaics, murals, textiles, and both site specific and structurally integrated art installations. Over one thousand artists have been involved with Percent for Art and have earned over $6 million throughout the program's history. More information about the [Percent for Art in Public Places Program](https://www.oregonartscommission.org/programs/art-public-places) can be found on the Arts Commission website.

**3. Art Selection and Acquisition Process**

Program artwork and artists are selected by project-specific committees composed of Oregon residents representing the user state agency or university, community members, arts professionals, and a project architect. The Art Selection Committee evaluates possible styles, materials, locations, and themes in order to select artwork appropriate for each building. Through shared discussion and a thorough review of proposals, the Art Selection Committee makes final selections of artists and works of art for the buildings.

Program artwork may be acquired in several ways. Existing pieces may be purchased from an artist or a gallery. Or, artists may be asked to respond to a Request for Qualifications or Proposals, which may be ‘Limited’: specific artists are invited to submit proposals, or ‘Open’: a broad call for proposals is issued and interested artists propose ideas. A prequalified Artist Roster is also used as a tool for review and selection of artists. The selected artist is then brought on contract to create a commissioned site-specific artwork.

**4. Needed Services from Project Coordinators**

The Arts Commission manages the Program, including assigning and overseeing contracted project coordinators that facilitate the selection and commissioning process as a non-voting chair of each Art Selection Committee. General tasks for project coordinators include:

1. Follow Program Administrative Rules to facilitate Percent for Art selection processes for state agency or public university (“Clients”) projects as assigned by Contract Adminstrator. Projects take place throughout Oregon, and may require travel to Ashland, Bend, Corvallis, Eugene, Klamath Falls, La Grande, Portland and other locations.
2. Communicate with Clients and architects to inform assembling an Art Selection Committee.
3. In coordination with Clients, invite appropriate local arts professionals to serve as art consultant members of an Art Selection Committee. This may include working with other Percent for Art providers, such as Portland Regional Arts and Culture Council.
4. Schedule and professionally facilitate meetings and conduct ongoing communication with the Art Selection Committee as needed to determine best uses of Percent for Art funds.
5. Utilizing provided templates, draft a Call to Artists or other solicitation document; answer incoming questions by email, phone and in-person regarding RFQs or RFPs; review and organize artist images; solicit information about artists' past work; coordinate the interviewing of finalists or review of proposals; and facilitate the selection of an artist or artists.
6. Provide ongoing status reports and communication with "Project Stakeholders" (Arts Commission staff, artists, Clients and project managers, and members of the construction/design team) related to the building project, existing artwork in the building, potential art locations, artist solicitation and selection process, design process for commissioned works, art installation plans, Percent for Art budget, and any challenges, questions or issues that arise.
7. Utilizing provided templates, assist Clients in practical aspects of negotiating and creating a contract for the selected artist(s). Clients are legally responsible for these contracts.
8. Communicate with and assist contracted artists: to schedule research, informational meetings and site visits; regarding deliverable and contractual mid-point reviews; to review and provide feedback on art projects in progress, including consideration of sustainability and maintenance needs of artwork materials; and to schedule installation of artwork.
9. Communicate with Project Stakeholders to request construction and design drawings, measurements, engineering information, material samples or photographs; review and understand these materials; provide and explain to artist(s).
10. Provide written and phone updates to Arts Commission staff on a monthly basis, including a written overview of progress with each invoice; update Arts Commision staff when projects are 50% and 100% complete. Immediately contact the Arts Commission if issues or problems arise.
11. Manage time to stay within each project’s allocated administrative budget.
12. Attend in-person or virtual training and subsequent teleconference trainings or meetings with Arts Commission staff.
13. Use standard documents, logo, font and graphic standards as supplied by Arts Commission and identify Arts Commission in all relevant project documentation.
14. Protect and back up any key project material throughout the project and deliver documentation to Art Commission at close of project.

**5. Questions and Clarifications**

All inquiries, whether relating to the RFQ process, administration, deadline or award, or to the intent or technical aspects of the services, must be submitted by email to the Contracts Officer identified as the Single Point of Contact on the cover page. All questions must be received **not later than (7) calendar days prior** to Proposal due date specified on the title page of this RFQ. The email subject or reference line for all submittals must include the RFQ title and RFQ number.

Substantive questions and answers will be issued as official addenda to this RFQ. Changes or modifications to this RFQ shall be binding on Business Oregon only if in the form of written addenda issued by Business Oregon.

Business Oregon will advertise addenda only on the State of Oregon system for procurement opportunities, “OregonBuys”: <https://oregonbuys.gov/bso/> and on Business Oregon’s internet address: <http://www.oregon4biz.com/>, under About Us: Contracting Opportunities. Anyone who has received a copy of this RFQ from a source other than Business Oregon is responsible for checking with designated procurement staff, OregonBuys or Business Oregon’s internet address for the existence of any addenda. Proposers are responsible for checking these sources to determine whether or not an addendum has been issued, and then must either download or request an electronic copy. Aside from requested copies, Business Oregon is not responsible for sending addenda to any potential Proposers.

Business Oregon may require any clarification it needs to understand a Proposal.

### 6. RFQ Protest Requirements

Proposers who believe RFQ specifications are unnecessarily restrictive or limit competition may submit a protest to the Contracts Officer. Protests concerning the RFQ, including requests for change of particular provisions, specifications, or Personal / Professional Services Agreement for Services Contract terms and conditions, must be submitted in writing to the Contracts Officer not later than (7) calendar days prior to the Proposal due date specified on the cover page of this RFQ. A protest must clearly, specifically and in detail explain the reason(s) for the protest and specify any proposed changes to the RFQ specifications. Business Oregon will respond to protests in writing. Business Oregon will not consider any solicitation protest submitted after the deadline established in this subsection.

### 7. Award Protest Requirements

Every Proposer that submits a Proposal will be notified of its selection status. Proposers who have been notified that they are not selected may make an appointment to view the selection file. Any Proposer who claims to have been adversely affected by the selection of a competing Proposer must deliver a written protest to the Contracts Officer within **(7) calendar days after receiving notification of its selection status**. A protest must meet all applicable requirements in OAR 137-047-0740. Business Oregon will review protests and respond in writing. Business Oregon will not consider any protest submitted after the protest submission deadline established in this subsection.

### 8. Due Date; No Late or Misdirected Submission of Proposals

Proposals must be received by May 27, 2022, on or before 3:00 p.m. Pacific Time. Absolutely no Proposals will be accepted after this date and time - submittals that are late or misdirected will be considered non-responsive without exception. Business Oregon relies on the State of Oregon email system clock to determine the correct time. Business Oregon is not responsible for errors of any kind involved with electronic submission, nor for notifying Proposers of complete or incomplete receipt of a Proposal. Proposers are welcome to send a test email to the email address of the Contracts Officer prior to transmitting their Proposals. **Please do not wait until the last minute to email your Proposal; it will be too late to correct any problems.**

### 9. Electronic Responses by Email Only

Only electronic proposals sent by email are acceptable. Proposals sent by fax, regular mail, and physical deliveries are not acceptable. Business Oregon will accept Proposals in electronic files compatible with MS Office applications, typically MS Word or Adobe PDF. The signed cover sheet must be submitted as a .PDF file. Files in excess of 13 megabytes must be submitted incrementally. Proposals must not be submitted as .zip, .exe or .com files.

### Proposals will be received only at the Single Point of Contact’s email address provided on the cover page.

The email subject or reference line for all submittals must include the RFQ title and RFQ number.

### 10. Format for Proposals

### A Proposal must be organized in accordance with the list of scored criteria in section 14. The narrative portion of the Proposal must not exceed six pages. Business Oregon will consider the pages up to that allowable number and discard all pages in excess of the allowable number.

One (1) page is defined as: one side of a single 8-1/2" x 11" page, with 12-point minimum font size for the substantive text. Proposers may use their discretion for the font size of other materials (e.g., graphics, charts). Any page over this size will be counted as two (2) pages. Any page or partial page with substantive text, graphics, charts, resumes, etc., will be counted as one (1) page.

### 11. Cover Sheet – Pass or Fail

### A Proposal must include a completed Cover Sheet (substantially in the form of Attachment 1), signed by the Proposer or a duly authorized representative of the Proposer empowered to bind the Proposer. Any proposal without a completed Cover Sheet will be rejected as non-responsive.

### 12. Public Records

This RFQ, and one copy of every proposal accepted in response to it, will be kept by Business Oregon and made a part of its records. All accepted Proposals will become part of the public file without obligation to Business Oregon. If a Proposal contains any information that may be exempt from disclosure under the Oregon Public Records Law, ORS 192.410 through 192.505, the Proposer must clearly designate that portion of its Proposal it considers to be exempt, along with a justification and citation to the authority relied upon. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure. Identifying an entire Proposal as exempt from disclosure is not acceptable and will not be effective to exempt the Proposal or any part of it from disclosure. Failure to identify the portion of the Proposal claimed as exempt from disclosure, and to specify a justification and the authority relied upon, will be deemed a waiver of any future claim based on disclosure of that information.

### 13. Terms and Conditions

Except as may be modified through a protest, followed by an official addendum to this RFQ, by submitting its Proposal, the selected Proposer agrees to be bound by the terms and conditions of the State of Oregon Personal/Professional Services Agreement for Services Contract that is attached to this RFQ as Attachment 2, including requirements for insurance as determined by Business Oregon. Any Proposal that is received conditioned on Business Oregon’s acceptance of any other terms and conditions or rights to negotiate will be rejected as non-responsive. Business Oregon in its sole discretion reserves the right to negotiate any terms and condition in Attachment 2.

INFORMATION ONLY - PROPOSAL SUBMISSION CHECKLIST FOR USE BY PROPOSERS

[ ]  Due Date Met

[ ]  Proposal Addressed Correctly

[ ]  Proposal in Acceptable Electronic File Type(s)

[ ]  Proposal Format and Page Limit Requirements Met

[ ]  Signed Cover Sheet Included

[ ]  Proposal Does Not Include Conditional Language About Terms and Conditions

[ ]  Public Records Disclosure Exemption Statement Included (If Applicable)

**14. Proposal Contents and Scoring Values**

Your Proposal must contain each of the following elements. Proposals are limited to no more than six (6) pages long. Proposals must be sent to the Single Point of Contact’s email address provided on the cover page with RFQ title and RFQ number in the subject line.

1. PROPOSER INFORMATION AND CERTIFICATION SHEET (Attachment 1) Pass/Fail; no points
2. Three references that are most relevant to your performance of the activities Pass/Fail; no points
described in Needed Services from Project Coordinators, above.
3. Resumé and Narrative 45 points max
	1. Please submit a current resumé.
	2. Please submit a narrative describing Proposer’s experience managing complex projects and related skills, especially where relevant to managing art projects as described above. Include specialty experience or skills related to: process facilitation, stakeholder relationships, contracts, budgets, architecture, construction, artwork handling and installation, specific materials and/or fabrication.
4. Answer the following question: 30 points max

What do you feel is the top challenge and opportunity within the field of art in public places today? Describe your interest in the field of public art and why you are a good fit for this opportunity.

1. The minimum and maximum hours per month Proposer would be available, 10 points max
and describe any schedule unavailability. Do you have other commitments that would restrict your availability to coordinate Percent for Art projects? Flexibility and availability score higher, and will carry over to contract.
2. The geographic regions of Oregon that Proposer is willing to work in. 15 points max
Indicate preference and willingness to coordinate projects in the following regions: Central, Coast, Columbia Gorge, Eastern, Southern, Portland Metro, and Willamette Valley. Flexibility and availability score higher.

**15. Evaluation Process**

Contingent on the number and quality of proposals, Business Oregon anticipates, but is not restricted to, selecting an additional two to three Proposers to be placed on a qualified Percent for Art in Public Places Project Coordinator List and notified of that status. After the List is established, Business Oregon may enter into a contract right away, or a project coordinator may remain on the List until the time that the Business Oregon has a work assignment available.

**16. Resulting Contract**

Contracts will be in the form of the attached sample contract (Attachment 2). Approved travel and expenses will be reimbursed at state per diem rates. General liability and automobile insurance, as shown in the attached sample contract, are required at the project coordinator’s expense. Coordinators are not required to handle, transport or install artwork. However oversight of installation(s) may be required.

**17. Work Assignments**

As work assignments become available, Business Oregon will select the most suitable candidate from the List. Project coordinators will be offered Work Assignments based primarily on:

1. Experience managing complex art projects, including past performance once the Contractor has managed projects for the Oregon Arts Commission.
2. Willingness to work in specific geographic regions.
3. Availability of hours per month and any schedule unavailability.

Project coordinators may decline up to two offered work assignments per calendar year without being removed from the List. Also, while we will work with contractors to resolve any performance issues, project coordinators may be removed from the List at the Business Oregon’s reasonable discretion.

**Attachment 1 —** **PROPOSER INFORMATION AND CERTIFICATION SHEET**

Name of Proposer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Legal Name of Business, if contracting as a business: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Business entity type, if contracting as a business: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City, State, Zip: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Email \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By signing below, Proposer certifies:

1. Proposer understands and accepts the requirements of this RFQ. By submitting a Proposal, Proposer agrees to be bound by the sample contract terms and conditions in Exhibit B. 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.
2. 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, except as described here (if needed):
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Proposer does not discriminate in its employment practices with regard to race, creed, age, religious affiliation, gender, disability, sexual orientation, or 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.
4. Proposer and any of Proposer’s employees, agents, and subcontractors are not included on:
	1. 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
	2. the government wide exclusion lists in the System for Award Management found at: [https://www.sam.gov/portal/SAM/#1](https://www.sam.gov/portal/SAM/%231)
5. Proposer certifies that 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 RFQ. If any changes occur with respect to Proposer’s status regarding conflict of interest, Proposer shall promptly notify the State in writing.
6. Proposer certifies that all contents of the Proposal (including any other forms or documentation, if required under this RFQ) 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.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Print Name and Title)

**Attachment 2 – SAMPLE CONTRACT**

**State of Oregon** **Personal / Professional Services**

**Agreement for Services**

Number \_\_\_\_\_

Title: **\_\_\_\_\_**

This Agreement for Services is between the State of Oregon, acting by and through its Oregon Business Development Department (“Department” or “Business Oregon” or “OBDD”), and \_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”). Department’s Contract Administrator for this Contract is listed in the attached Exhibit A. Department may change the Contract Administrator assignment by sending written notice to Contractor.

The purpose of this Agreement for Services (or AFS) is to identify the form of contract and the general terms and conditions applicable to subsequent contracts entered into between Department and Contractor pursuant to which Contractor will render services. This Agreement, by itself, is not a binding contract. Rather, Department and Contractor intend to enter into binding contracts through execution of a Work Assignment Contract substantially in the form attached as Exhibit A that specifies the services to be performed and makes the standard terms and conditions set forth in Exhibit B and the Insurance requirements in Exhibit C applicable to the services. Each such Work Assignment Contract (“WAC”) so executed will create a separate contract between the parties (consisting of the Work Assignment Contract together with the standard terms and conditions) enforceable in accordance with the terms thereof and independent of all other such Work Assignment Contracts.

This Agreement for Services will become effective on the date it has been signed by every party. Unless terminated or extended, this Agreement for Services will apply only to Work Order Contracts whose effective date is on or before \_\_\_\_\_\_\_\_\_\_\_.

SELECTION FOR WORK ASSIGNMENT CONTRACT

As work assignments become available, Business Oregon will select the most suitable candidate from the List. Project coordinators will be offered Work Assignments based primarily on:

1. Experience managing complex art projects, including past performance once the Contractor has managed projects for the Oregon Arts Commission.
2. Willingness to work in specific geographic regions.
3. Availability of hours per month and any schedule unavailability.

Project coordinators may decline up to two offered work assignments per calendar year without being removed from the List. Also, while we will work with contractors to resolve any performance issues, project coordinators may be removed from the List at Business Oregon’s reasonable discretion.

WORK ASSIGNMENT CONTRACT REQUIREMENTS

If Department offers Contractor a WAC under this Agreement for Services, Contractor must, within four business days (or such longer time as Department may specify) after Department’s offer of the WAC, notify Department of Contractor’s intent to negotiate with Department for that WAC. If Contractor does not so notify Department, Department may offer that WAC to another contractor, or solicit separately for that work, or take other action deemed appropriate.

If Contractor does notify Department within the timeline identified above, Department and Contractor will negotiate the statement of work, delivery schedule and compensation amounts for services to be performed by Contractor. Each WAC must clearly be within the Scope of Services in the associated RFQ. If negotiations fail to conclude in an agreement, Department may offer that WAC to another contractor, or solicit separately for that work, or take other action deemed appropriate.

The projects will be assigned as needed and there is no guarantee that any specific amount of work or overall dollar amounts will be assigned during the term of the AFS or that Contractor will be offered any WACs under the AFS. No Services under a WAC or WAC amendment shall begin before Department and Contractor have signed the WAC and other required signatures are obtained on the WAC or WAC amendment.

**CONTRACTOR DATA AND CERTIFICATION**

|  |  |
| --- | --- |
| **Name (tax filing):** |  |
| **Address:** |  |
| **Email:** |  |
| **Telephone:** |  | **Facsimile:** |  |
| **Citizenship, if applicable:** | Non-resident alien |  |  Yes |  |  No |
| **Business Designation (check one):** |
|  |  Private for-profit, or non-profit Corporation |  |  Professional Corporation |
|  |  Partnership |  |  Limited Partnership |
|  |  Limited Liability Company |  |  Limited Liability Partnership |
|  |  Sole Proprietorship |  |  Other: Community College |

Above payment information must be provided prior to Agreement for Services approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer identification submitted. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject Contractor to 31 percent backup withholding.

ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for available contracts to emerging small businesses...” The IFA encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045. Additional resources are provided by the Director of Economic & Business Equity at <http://www.oregon.gov/gov/MWESB/Pages/index.aspx>. Also, the Office of Minority, Women, and Emerging Small Business at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.

**Certification:** The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: a) the number provided by Contractor to Department is its correct taxpayer identification; (b) 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; (c) 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, Contractor is not in violation of any Oregon tax laws, including those in OAR 150-305.385(6)-(B). For purposes of this certificate, ‘Oregon tax laws’ means the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan Transit District Self Employment Tax); (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the above Contractor data is true and accurate.

CONTRACTORS: NO SERVICES CAN OCCUR PRIOR TO NECESSARY STATE APPROVALS

**CONTRACTOR**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By:  |  |  |  |  |
|  |  | Title |  | Date |

**DEPARTMENT**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By:  |  |  |  |  |
|  |  | Title |  | Date |

**OREGON DOJ**

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  |  | Date |

**Exhibit A - [Sample] WORK ASSIGNMENT CONTRACT**

**Work Assignment Contract # \_\_\_\_\_\_\_\_ Agreement for Services # \_\_\_\_\_\_**

Project Name and Location:

This Work Assignment Contract is between the State of Oregon acting through its Business Development Department (“Department” or “OBDD” ), and \_\_\_\_\_\_\_\_\_\_\_\_\_, (“Contractor”), and is effective as of the date of last signature hereto (the “Effective Date”). Contractor agrees to complete and deliver to Department the Services described in the Statement of Work set forth below, in accordance with the provisions of this Work Assignment Contract and subject to the Standard Terms and Conditions set forth in Exhibit B to that certain Personal / Professional Services Agreement for Services between Department and Contractor dated as of \_\_\_\_\_\_\_\_\_\_. Department and Contractor agree and acknowledge that on the Effective Date, this Work Assignment Contract together with the Standard Terms and Conditions and the Insurance requirements will constitute a valid and binding contract between Department and Contractor enforceable in accordance with the terms of the foregoing documents. The term “Contract” as used in the Standard Terms and Conditions means the Work Assignment Contract together with the Standard Terms and Conditions and the Insurance requirements. Department and Contractor agree and acknowledge that the Contract consisting of this Work Assignment Contract and the Standard Terms and Conditions is separate from and independent of all other contracts that consist of a Work Assignment Contract and the Standard Terms and Conditions.

No Services shall occur until this Work Assignment Contract is signed by all parties and all necessary State of Oregon governmental approvals are obtained.

**Statement of Work**

[**Placeholder/Note to Proposer:** The Statement of Work for each project/need for services for which Contractor is awarded a Work Assignment Contract will be inserted here in each final Work Assignment Contract.]

**Compensation Provisions**

1. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is [**Placeholder/Note to Proposer:** The not-to-exceed will be established for each project according to budget, expected complexity of project and anticipated travel costs.]
2. Department will pay for the actual Services performed under this Contract according to hourly billing rates based on actual pay rates. Department will also pay for allowed and/or pre-approved and necessary actual direct non-labor costs itemized separately from the hourly billing rates.

Contractor agrees to invoice all Services at no greater than the hourly billing rates specified in this Contract. All travel reimbursement is subject to subsection c.

The allowable billable hours and expenses under a Work Assignment Contract may be limited in accordance with the limitations of the project budget.

1. Contractor shall submit invoices requesting payment to Department’s Contract Administrator for approval. Department shall pay Contractor all amounts agreed upon for the work completed in accordance with the Statement of Work, upon Department’s approval of Contractor’s invoice submitted (not more frequently than once per month) to Department in accordance with the terms of the WAC, but only after Department has determined that Contractor has completed, and Department has accepted, all required Services, including deliverables, for the milestone at which payment is sought.
2. Approved travel and expenses may be reimbursed as long as they are within the allowable budget allocated for the Work Assignment Contract. Approved expenses may include refreshment for meetings, use of remote meeting software, one time purchase of Helvetica font, and pre-approved postage costs associated with mailing materials (such as a thumb drive with large files) to the Arts Commission. Non-reimbursable expenses include insurance, printed meeting materials, scheduling software or “dropbox” accounts. For all reasonable and necessary travel expenses, OBDD will reimburse Contractor according to the rates set forth by the State Controller at <https://www.oregon.gov/das/Financial/Acctng/Pages/Travel.aspx> that are in effect on the date when the travel occurs, or the actual expenses, whichever are less. Overnight travel is limited to locations 150 miles or more from the Contractor’s residence, and shall be no more than two nights.

**CONTRACTOR**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By: XXXXXXXXXX |  |  |  |  |
|  |  | Title |  | Date |

**DEPARTMENT**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| By: XXXXXXXXXX |  |  |  |  |
|  |  | Title |  | Date |

**OREGON DOJ**

|  |  |  |
| --- | --- | --- |
| Not required in accordance with OAR 137-045-0030 |  |  |
|  |  | Date |

**EXHIBIT B to Agreement for Services– Standard Terms and Conditions**

 **1. Effective Date and Duration**. This Contract is effective once fully executed, and approved as required by applicable law. Unless terminated or extended, this Contract expires when OBDD accepts Contractor’s performance or on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_ whichever date occurs first. Expiration or termination does not extinguish or prejudice OBDD’s right to enforce this Contract with respect to any breach of a Contractor warranty or any default or defect in Contractor performance that has not been cured.

 **2. Independent Contractor; Responsibility for Taxes and Withholding**

 **a.** Contractor will perform all required Services as an independent contractor. Although OBDD reserves the right (i) to determine the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, OBDD will not control, and Contractor is responsible for determining, the means and manner of Contractor’s performance.

 **b.** If Contractor is currently performing services for the State of Oregon or the federal government, Contractor by signature to this Contract declares and certifies that: Contractor’s Services to be performed under this Contract create no potential or actual conflict of interest as defined by ORS 244, and no rules or regulations of Contractor’s employing agency (state or federal) prohibit Contractor’s Services under this Contract. Contractor is not an “officer,” “employee,” or “agent” of OBDD, as those terms are used in ORS 30.265.

 **c.** Contractor is responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract, and unless OBDD is aware that Contractor is subject to backup withholding, OBDD will not withhold from such compensation or payments any amount(s) 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.

 **3. Subcontracts and Assignment; Successors and Assigns**

 **a.** Except as described in Exhibit A, Contractor cannot enter into any subcontracts for any of the Services required by this Contract, or assign or transfer any of its interest in this Contract, without OBDD’s prior written consent. In addition to any other provisions OBDD may require, Contractor will include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 5, 6, 10, 11, 14, 15, and 18 of this Contract as if the subcontractor were the Contractor. OBDD’s consent to any subcontract does not relieve Contractor of any of its duties or obligations under this Contract.

 **b.** The provisions of this Contract are binding upon and will inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

 **4. No Third Party Beneficiaries**. OBDD and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, or is to be construed to give any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name and expressly described as intended beneficiaries of the terms of this Contract.

 **5. Funds Available and Authorized; Payments**

 **a.** No other agency or department of the State of Oregon will compensate Contractor for Services performed under this Contract. OBDD has sufficient funds currently available and authorized for expenditure to finance the costs of this Contract within OBDD’s biennial appropriation or limitation. Contractor understands and agrees that OBDD’s payment of amounts under this Contract attributable to Services performed after the last day of the current biennium is contingent on OBDD receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow OBDD, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

 **b.** OBDD will only pay for completed Services that are accepted by OBDD.

 **6. Representations and Warranties**

 **a. Contractor’s Representations and Warranties.** Contractor represents and warrants to OBDD that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract is a valid and binding obligation of Contractor enforceable in accordance with its terms, (3) the Services under this Contract will be performed in accordance with the highest standards prevalent in the industry, and (4) Contractor will, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services.

 **b. Warranties cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

 **7. Ownership of Work Product**

 **a. Definitions.** As used in this Section 10, and elsewhere in this Contract, the following terms have the meanings set forth below:

 (i) “Contractor Intellectual Property” means any intellectual property owned by Contractor and developed independently from the Services.

 (ii) “Third Party Intellectual Property” means any intellectual property owned by parties other than OBDD or Contractor.

 (iii) “Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all Services that Contractor delivers or is required to deliver to OBDD pursuant to this Contract.

 **b. Ownership and License**. All intellectual property rights in the Work Product created by Contractor pursuant to this Contract, including derivative works and compilations, are the exclusive property of OBDD. All Work Product authored by Contractor under this Contract is deemed “work made for hire” to the extent permitted by the United States Copyright Act. To the extent the OBDD is not the owner of the intellectual property rights in such Work Product, Contractor hereby irrevocably assigns to OBDD any and all of its rights, title, and interest in such Work Product. Upon OBDD’s reasonable request, Contractor will execute such further documents and instruments reasonably necessary to fully vest such rights in OBDD. Contractor forever waives any and all rights relating to original Work Product created pursuant to this Contract, 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.

 In the event that intellectual property rights in the Work Product are Contractor Intellectual Property, Contractor hereby grants to OBDD an irrevocable, non-exclusive, perpetual, royalty-free license to use, make, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on OBDD’s behalf.

 To the extent Contractor has the authority, Contractor will sublicense or pass through to the OBDD all Third Party Intellectual Property. Contractor represents and warrants that it has provided written disclosure to the OBDD of all Third Party Intellectual Property that must be independently licensed by the OBDD to fully enjoy the benefits of the Work Product. If Contractor failed to provide such written disclosure, Contractor will secure on OBDD’s behalf and in the name of OBDD an irrevocable, non-exclusive, perpetual, royalty-free license to use, make, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on OBDD’s behalf.

 **8. Indemnity**

 **a. Claims for Other than Professional Liability.** Contractor will defend (subject to ORS chapter 180), save and hold harmless the State of Oregon, the Oregon Business Development Commission and its members, the Oregon Business Development Department, their officers, agents and employees from all claims, suits or actions of whatsoever nature, including intentional acts resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement.

 **b. Claims for Professional Liability.** Contractor will defend (subject to ORS chapter 180), save and hold harmless the State of Oregon, the Oregon Business Development Commission and its members, the Oregon Business Development Department, their officers, agents and employees, from all claims, suits or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and subcontractors, agents or employees in performance of professional services under this agreement.

 **c. Control of Defense and Settlement**. Contractor will have control of the defense and settlement of any claim that is subject to sections 11.a or 11.b; however, neither Contractor nor any attorney engaged by Contractor will defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving authority to act as legal counsel for the State of Oregon from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, nor will Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement.

 **9. Insurance.** Contractor will provide insurance as indicated on Exhibit B.

 **10. Termination**

 **a. Parties’ Right to Terminate For Convenience**. This Contract may be terminated at any time by mutual written consent of the parties.

 **b. OBDD’s Right To Terminate For Convenience**. OBDD may, at its sole discretion, terminate this Contract, in whole or in part, upon 30 days notice to Contractor.

 **c. OBDD’s Right to Terminate For Cause**. OBDD may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as OBDD may establish in such notice, upon the occurrence of any of the following events:

 (i) OBDD fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor’s Services;

 (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Contract are prohibited or OBDD is prohibited from paying for such Services from the planned funding source;

 (iii) Contractor no longer holds any license or certificate that is required to perform the Services; or

 (iv) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, or fails to perform the Services under this Contract, or so fails to pursue the Services as to endanger Contractor’s performance under this Contract, within the time specified in an applicable notice or any extension thereof.

 (v) Contractor has not complied or does not comply with Oregon tax laws as stated in the Contractor Data and Tax Law Certification.

 **d. Contractor’s Right to Terminate for Cause**. Contractor may terminate this Contract upon 30 days’ notice to OBDD if OBDD fails to pay Contractor pursuant to the terms of this Contract and OBDD fails to cure within 30 business days after receipt of Contractor’s notice, or such longer period of cure as Contractor may specify in such notice.

 **e. Remedies**

 (i) In the event of termination pursuant to Sections 13a, 13b, 13c(i), 13c(ii) or 13d, Contractor’s sole remedy is a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by OBDD, less previous amounts paid and any claim(s) which State has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor will promptly pay any excess to OBDD.

 (ii) In the event of termination pursuant to Section 13c(iii) - 13c(v), OBDD has any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Section 13c(iii) - 13c(v), the rights and obligations of the parties will be the same as if the Contract was terminated pursuant to Section 13b.

 **f. Contractor’s Tender Upon Termination**. Upon receiving a notice of termination of this Contract, Contractor will immediately cease all activities under this Contract, unless OBDD expressly directs otherwise in such notice. Upon termination of this Contract, Contractor will deliver to OBDD all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon OBDD’s request, Contractor will surrender to anyone OBDD designates, all documents, research or objects or other tangible things needed to complete the Services.

 **11. Records Maintenance; Access**. Contractor will maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor will maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor’s performance. Contractor acknowledges and agrees that OBDD and the Oregon Secretary of State’s Office and the federal government and their duly authorized representatives have access to such fiscal records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum ofsix (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.

 **12. Compliance with Applicable Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services under this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with: (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. As applicable, Contractor shall comply with the provisions of ORS 279B.220, 279B.230, 279B.235, and 279B.270, which are incorporated by this reference. Contractor shall continue to comply with the tax laws of this state or a political sub-division of this state during the term of the public contract. Contractor shall comply with the prohibition set forth in ORS 652.220, and failure to comply is a breach that entitles OBDD to terminate the contract for cause.

 **13. Business Registration**. Contractor has provided to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies to do business in the State of Oregon relative to this Contract.

 **14. Force Majeure**. Neither OBDD nor Contractor will 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 OBDD or Contractor, respectively. Contractor will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

 **15. Survival**. All rights and obligations cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections 1, 5, 6, 7, 8, 10, 11, 12, 18, 22, and 23.

 **16. Time is of the Essence**. Contractor agrees that time is of the essence under this Contract.

 **17. Notices and Communication**. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Contractor or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender’s receipt of confirmation generated by the recipient’s email system that the notice has been received by the recipient’s email system or 2) the recipient’s confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

 OBDD: Executive Director, Oregon Arts Commission
Oregon Business Development Department
775 Summer Street, Suite 200
Salem OR 97301-1280

 Contractor: According to the Contractor Data and Certification

 or to such other addresses or numbers as either party may later designate pursuant to this Section 20. Any notice so addressed and mailed is deemed to be given five (5) days after mailing. Any notice by personal delivery is deemed to be given when actually delivered.

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

 **19. 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.

 **20. Oregon False Claims Act.** Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to 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.

 **21. Disclosure of Social Security Number**. Contractor must provide Contractor’s Social Security number unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385. Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

 **22. Choice of Law; Designation of Forum; Federal Forum**

 **a.** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

 **b.** Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

 **c.** Notwithstanding the preceding paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This Section applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon’s sovereign immunity and is not consent by the State of Oregon to be sued in federal court.This Section is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

 **23. 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 binds either party unless in writing and signed by both parties, and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made, is effective only in the specific instance and for the specific purpose given. The failure of OBDD to enforce any provision of this Contract does not constitute a waiver by OBDD of that or any other provision.

 **24. Amendments**. OBDD may amend this Contract to the extent provided in the solicitation document, if any, from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment to this Contract is effective unless it is in writing and signed by the parties, and all approvals required by applicable law have been obtained.

 **25. Attorney Fees and Other Expenses**. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover from the other its reasonable attorney fees, costs and expenses at trial and on appeal. Reasonable attorney fees cannot exceed the rate charged to the State by its attorneys. The Contractor will, on demand, pay to the State reasonable expenses incurred by the State in the collection of such payments.

 **26. Confidential Information.** In the course of performing Services under this Contract, Contractor acknowledges that it and its employees or agents may be exposed to or acquire information that is confidential to OBDD or OBDD’s clients. Any and all information of any form specifically designated as Confidential Information by OBDD and obtained by Contractor or its employees or agents shall be deemed to be confidential information of OBDD (“Confidential Information”). Any reports or other documents or items which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (i) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (ii) is furnished by OBDD 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; or (iv) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to OBDD hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees to comply with all reasonable requests by OBDD to ensure the confidentiality and nondisclosure of the Confidential Information, including without limitation (i) obtaining nondisclosure agreements, in a form approved by OBDD, from each of Contractor’s employees and agents who are performing Services, and providing copies of such agreements to OBDD, and (ii) performing criminal background checks on each of Contractor’s employees and agents who are performing Services, and providing a copy of the results to OBDD.

**EXHIBIT C – INSURANCE**

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

**(OBDD must check boxes for #2, #3, & #4 as to whether insurance is required or not.)**

 **1. [x]  Required by OBDD of contractors with one or more workers, as defined by ORS 656.027**.

 All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, will comply with ORS 656.017 and will provide workers’ compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor will require and ensure that each of its subcontractors complies with these requirements.

 **2.** **[ ]  Required by OBDD** **[x]  Not required by OBDD**

 **Professional Liability** insurance with a combined single limit, or the equivalent, of not less than
[ ]  $200,000, [ ]  $500,000, [ ]  $1,000,000, or [ ]  $2,000,000 each claim, incident or occurrence This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract.

 **3.** **[x]  Required by OBDD** **[ ]  Not required by OBDD**

 **General Liability** insurance with a combined single limit, or the equivalent, of not less than [ ]  $200,000,
[ ]  $500,000, [x]  $1,000,000, or [ ]  $2,000,000 each occurrence for Bodily Injury and Property Damage. It will include contractual liability coverage for the indemnity provided under this Contract. The policy will be endorsed to name State of Oregon, the Oregon Business Development Department, its officers and employees as Additional Insureds but only with respect to the Contractor’s commercial services to be provided under this Contract.

 **4.** **[x]  Required by OBDD** **[ ]  Not required by OBDD**

 **Automobile Liability** Contractor will obtain, at Contractor’s expense, and keep in effect during the term of this Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence cannot be less than [ ]  Oregon Financial Responsibility Law (ORS 806.060), [ ]  $200,000, [ ]  $500,000, or [x]  $1,000,000, each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable. The policy will be endorsed to name the State of Oregon, the Oregon Business Development Department, its officers and employees as Additional Insureds but only with respect to the Contractor’s commercial services to be provided under this Contract.

**5. Notice of cancellation or change.** There will be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Contractor or its insurer(s) to OBDD.

 **6. Certificates of insurance.** As evidence of the insurance coverages required by this Contract, the Contractor will furnish acceptable insurance certificates to OBDD prior to commencing the Services. The certificate will specify **“The State of Oregon, the Oregon Business Development Department, its officers and employees”** as Additional Insureds for Automobile and General Liability. It need not reference a specific Contract name or number. Insuring companies or entities are subject to OBDD acceptance. If requested, complete copies of insurance policies, trust agreements, et cetera, will be provided to OBDD. The Contractor is financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.