

**Procurement Services Division**

Public Services Building
2051 Kaen Road
Oregon City, OR 97045
(503) 742-5444 (Office)

REQUEST FOR QUOTES (RFQ) #2017-21

Issue Date: April 3, 2017

Project Name:	Learning and Development Digital Content		
Quote Due Date/Time:	April 27, 2017, 1:00 PM		
Analyst	Patricia Bride	Phone:	(503) 742-5447
		Email:	pbride@clackamas.us

**SUBMIT QUOTES VIA EMAIL TO PROCUREMENT@CLACKAMAS.US
OR MAIL/HAND DELIVERY TO THE ABOVE ADDRESS**

**PLEASE NOTE: EMAIL SUBMISSIONS SHOULD HAVE
“LEARNING AND DEVELOPMENT DIGITAL CONTENT” IN THE SUBJECT LINE**

1. ANNOUNCEMENT AND SPECIAL INFORMATION

Quoters are required to read, understand, and comply with all information contained within this Request for Quotes (“RFQ”). All quotes are binding upon Quoter for sixty (60) days from the Quote Due Date/Time. Quotes received after the Quote Due Date/Time may not be considered. If authorized in the RFQ and resulting contract, travel and other expense reimbursement will only be reimbursed in accordance with the Clackamas County travel reimbursement policy in effect at the time the expense is incurred.

It will be the responsibility of potential Quoters to refer daily to the Bids and Contract Information Page (www.clackamas.us/bids/index.html) to check for any available addenda, response to clarifying questions, cancellations or other information pertaining to this RFQ.

2. SCOPE

The purpose of this RFQ is to purchase a digital microlearning content. The County has approximately 1800 regular employees who work in a wide range of fields including, but not limited to human services, justice and law enforcement, public works, and community services.

Our intention is that those employees who have access to a computer or mobile device will be able to access short practical learning tools, in the moment they need it, regardless of their shift or location. This number will be smaller than 1800 as some employees (Road workers, swim instructors) do not have access to the technology on the job.

Ideally the County would have the microlearning solution implemented by no later than XXX.

3. Quote

Quotes should be short and concise with the following information:

- A. Company experience in these types of projects;
- B. Quality and range of content (MS Office Suite required);
- C. References;
- D. Ease of Implementation/Administration/Use;
- E. Compatibility with SaaS systems and browsers for use and tracking;
- F. Reporting function including completion of required training;
- G. Mobile capabilities;
- H. Production value and quality;
- I. Outline Fees. If a subscription on an annual basis, provide the annual cost and the maximum percentage escalator of the annual fee; and

- J. Any additional information that Clackamas County should take into consideration for the project or qualifications.

4. Evaluation

Quotes will be evaluated based on subjective factors including, but not limited to: Company experience, proposed software solution, ease of implementation/administration/use, mobile capabilities, and fees for the proposed software solution.

CLACKAMAS COUNTY CERTIFICATIONS
RFQ #2017-21

Each Quoter must read, complete and submit a copy of this Clackamas County Certification with their Quote. Failure to do so may result in rejection of Quote. By signature on this Certification the undersigned certifies that they are authorized to act on behalf of the Quoter and that under penalty of perjury the undersigned will comply with the following:

SECTION I. OREGON TAX LAWS

As required in ORS 279B.110(2)(3), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Quoter is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321, 323, and elderly rental assistance program under ORS 310.630 to 310.706, and local taxes administered by the Department of Revenue under ORS 305.620, all as applicable. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Quoter to 28% backup withholding.

SECTION II. NON-DISCRIMINATION

The undersigned hereby certifies that the Quoter has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, national origin, or any other protected class. Nor has Quoter or will Quoter discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emergency small business that is certified under ORS 200.055.

SECTION III. CONFLICT OF INTEREST

The undersigned hereby certifies that no elected official, officer, agency or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFQ, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its Commissioners, officers, agents, or employees had induced Quoter to submit this Quote. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a quote for the same material, and is in all respects fair and without collusion or fraud.

SECTION IV. COMPLIANCE WITH SOLICITATION

The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFQ (including any attachments); and
2. Are an authorized representative of the Quoter, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Quote or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFQ and Quote; and
4. Will use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this RFQ.

Firm Name: _____ Date: _____

Signature: _____ Title: _____

Name: _____ Telephone: _____

Email: _____ OR CCB # (if applicable): _____

Business Designation (check one):

☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Non-Profit ☐ Limited Liability Company

☐ Resident Quoter, as defined in ORS 279A.120

☐ Non-Resident Quote. Resident State: _____

Oregon Business Registry Number: _____

CLACKAMAS COUNTY INSTRUCTIONS TO QUOTERS

Quotes are subject to the applicable provisions and requirements of the Clackamas County Local Contract Review Board Rule C-047-0270 (Intermediate Procurements) and Oregon Revised Statutes.

QUOTE PREPARATION

1. **QUOTE FORMAT:** Quotes must be submitted as indicated in the RFQ. Quotes may be submitted in writing to Clackamas County via e-mail, mail or in person.
2. **CONFORMANCE TO RFQ REQUIREMENTS:** Quotes must conform to the requirements of the RFQ. Unless otherwise specified, all items quoted are to be new, unused and not remanufactured in any way. Any requested attachments must be submitted with the quote and in the required format. Quote prices must be for the unit indicated on the quote. Failure to comply with all requirements may result in quote rejection.
3. **ADDENDA:** Only documents issued as addenda by Clackamas County serve to change the RFQ in any way. No other directions received by the Quoter, written or verbal, serve to change the RFQ document. NOTE: IF YOU HAVE RECEIVED A COPY OF THE RFQ, YOU SHOULD CONSULT THE CLACKAMAS COUNTY BIDS AND CONTRACT INFORMATION WEBSITE (www.clackamas.us/bids/index.html) TO ENSURE THAT YOU HAVE NOT MISSED ANY ADDENDA OR ANNOUNCEMENTS. QUOTERS ARE NOT REQUIRED TO RETURN ADDENDUMS WITH THEIR QUOTE. HOWEVER, QUOTERS ARE RESPONSIBLE TO MAKE THEMSELVES AWARE OF, OBTAIN AND INCORPORATE ANY CHANGES MADE IN ANY ADDENDA ISSUED, AND TO INCORPORATE ANY CHANGES MADE BY ADDENDUM INTO THEIR FINAL QUOTE. FAILURE TO DO SO MAY, IN EFFECT, MAKE THE QUOTER'S QUOTE NON-RESPONSIVE, WHICH MAY CAUSE THE QUOTE TO BE REJECTED.
4. **USE of BRAND or TRADE NAMES:** Any brand or trade names used by Clackamas County in the specifications are for the purpose of describing and establishing the standard of quality, performance and characteristics desired and are not intended to limit or restrict competition. Quoters may submit quotes for substantially equivalent products to those designated unless the RFQ provides that a specific brand is necessary because of compatibility requirements, etc. All such brand substitutions shall be subject to approval by Clackamas County.
5. **PRODUCT IDENTIFICATION:** Quoters must clearly identify all products quoted. Brand name and model or number must be shown. Clackamas County reserves the right to reject any quote when the product information submitted with the quote is incomplete.
6. **FOB DESTINATION:** Unless specifically allowed in the RFQ, ***QUOTE PRICE MUST BE F.O.B. DESTINATION with all transportation and handling charges included in the Quote.***
7. **DELIVERY:** Delivery time must be shown in number of calendar days after receipt of purchase order.
8. **EXCEPTIONS:** Any deviation from quote specifications, or the form of the Clackamas County Goods and Services Contract, may result in quote rejection at County's sole discretion.
9. **SIGNATURE ON QUOTE:** Quotes must be signed by an authorized representative of the Quoter. Signature on a quote certifies that the quote is made without connection with any person, firm or corporation making a quote for the same goods and/or services and is in all respects fair and without collusion or fraud. Signature on a quote also certifies that the Quoter has read and fully understands all quote specifications, and the Clackamas County Goods and Services Contract (including insurance requirements). No consideration will be given to any claim resulting from quoting without comprehending all requirements of the RFQ.
10. **QUOTE MODIFICATION:** Quotes, once submitted, may be modified in writing before the time and date set for quote closing. Any modifications should be signed by an authorized representative, and state that the new document supersedes or modifies the prior quote. Quoters may not modify quotes after quote closing time.
11. **QUOTE WITHDRAWALS:** Quotes may be withdrawn by request in writing signed by an authorized representative and received by Clackamas County prior to the Quote Due Date/Time. Quotes may also be withdrawn in person before the Quote Due Date/Time upon presentation of appropriate identification.

- 12. QUOTE SUBMISSION:** Quotes may be submitted by returning to Clackamas County Procurement Services Division in the location designated in the introduction of the RFQ via email, mail or in person; however, no oral or telephone quotes will be accepted. Envelopes, or e-mails containing Quotes should contain the RFQ Number and RFQ Title.

QUOTE EVALUATION AND AWARD

- 1. PRIOR ACCEPTANCE OF DEFECTIVE PROPOSALS:** Due to limited resources, Clackamas County generally will not completely review or analyze quotes which fail to comply with the requirements of the RFQ or which clearly are not the best quotes, nor will Clackamas County generally investigate the references or qualifications of those who submit such quotes. Therefore, neither the return of a quote, nor acknowledgment that the selection is complete shall operate as a representation by Clackamas County that an unsuccessful quote was complete, sufficient, or lawful in any respect.
- 2. DELIVERY:** Significant delays in delivery may be considered in determining award if early delivery is required.
- 3. CASH DISCOUNTS:** Cash discounts will not be considered for award purposes unless stated in the RFQ.
- 4. PAYMENT:** Quotes which require payment in less than 30 days after receipt of invoice or delivery of goods, whichever is later, may be rejected.
- 5. INVESTIGATION OF REFERENCES:** Clackamas County reserves the right to investigate references and or the past performance of any Quoter with respect to its successful performance of similar services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, sub-contractors, and workers. Clackamas County may postpone the award or execution of the contract after the announcement of the apparent successful Quoter in order to complete its investigation. Clackamas County reserves the right to reject any quote or to reject all quotes at any time prior to Clackamas County's execution of a contract if it is determined to be in the best interest of Clackamas County to do so.
- 6. METHOD OF AWARD:** Clackamas County reserves the right to make the award by item, groups of items or entire quote, whichever is in the best interest of Clackamas County.
- 7. QUOTE REJECTION:** Clackamas County reserves the right to reject any and all quotes.
- 8. QUOTE RESULTS:** Quoters who submit a quote will be notified of the RFQ results. Awarded quote files are public records and available for review by submitting a public records request or by appointment.



**CLACKAMAS COUNTY
SAMPLE
GOODS AND SERVICES CONTRACT**

This Goods and Services Contract (this "Contract") is entered into between XXXXX ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") for the purposes of providing XXXXXX.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until XXXXX. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

II. SCOPE OF WORK

This Contract covers the Scope of Work as described in [Scope of Work, RFP, RFQ (remember name and number, issue date, and if any addenda)], attached and hereby incorporated by reference as Attachment "A." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Attachment "A", and the Contractor's [Quote/Proposal] attached and hereby incorporated by reference as Attachment "B." Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County's Representative for this contract is: .

III. COMPENSATION

- 1. PAYMENT.** The County agrees to compensate the Contractor on a [fixed fee or time and material] basis as detailed in this Contract. The maximum annual compensation authorized under this Contract shall not exceed \$ and the total Contract compensation shall not exceed \$
- 2. TRAVEL EXPENSE REIMBURSEMENT.** Authorized: ☐ Yes ☐ No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
- 3. INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Attachment A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. Invoices shall be submitted to the County Representative at: Mailing Address & Email Address

IV. CONTRACT PROVISIONS

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of three (3) 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.

2. AVAILABILITY OF FUNDS. County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.

3. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

4. COMPLIANCE WITH APPLICABLE LAW. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

5. EXECUTION AND COUNTERPARTS. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

6. GOVERNING LAW. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

7. HAZARD COMMUNICATION. Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon County's request, Contractor shall immediately provide Material Safety Data Sheets for the products subject to this provision.

8. INDEMNITY, RESPONSIBILITY FOR DAMAGES. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

9. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the

delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot 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. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except insofar as benefits are otherwise required by law if the Contractor is presently a member of the Oregon Public Employees Retirement System); and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.

At present, the Contractor certifies that he or she, if an individual is not a program, County or Federal employee. The Contractor, if an individual, certifies that he or she is not a member of the Oregon Public Employees Retirement System.

10. INSURANCE. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:

A. COMMERCIAL GENERAL LIABILITY

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

B. AUTOMOBILE LIABILITY

The Contractor agrees to furnish the County evidence of business automobile liability insurance with a combined single limit of not less than \$1,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

C. Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

D. If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be

acceptable in lieu of “tail” coverage, provided it’s retroactive date is on or before the effective date of this Contract.

F. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

11. LIMITATION OF LIABILITIES. Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

12. NOTICES. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County’s supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

13. OWNERSHIP OF WORK PRODUCT. All work product of Contractor that results from this Contract (the “Work Product”) is the exclusive property of County. County and Contractor intend that such Work Product be deemed “work made for hire” of which County shall be deemed the author. If for any reason the Work Product is not deemed “work for hire,” Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the 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.

14. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional

standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

15. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, and 21.

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

17. SUBCONTRACTS AND ASSIGNMENTS. Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

18. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in 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 shall constitute a material breach of this Contract. Any violation shall entitle County 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: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be 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 performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) 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; (C) 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 (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

20. TERMINATION. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon

delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or the County are prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research or objects or other tangible things needed to complete the work.

22. NO THIRD PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, 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.

23. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

24. FOREIGN CONTRACTOR. If the 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, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

25. FORCE MAJEURE. Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. 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.

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

27. COMPLIANCE. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract:

(A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the COUNTY on account of any labor or material furnished.

(B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract.

(C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

(D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

28. DELIVERY. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.

29. INSPECTIONS. Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

30. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Company
Address
City, OR XXXX

Clackamas County

Authorized Signature

Date

XXXXXX, Director

Date

Name / Title (Printed)

Approved as to Form:

Oregon Business Registry #

County Counsel

Date

Entity Type / State of Formation