



## Legislative Policy and Research Office

### STATE OF OREGON CONTRACT FOR THE PURCHASE OF SERVICES ("Contract")

This Contract is between the State of Oregon ("State") acting by and through the Legislative Policy and Research Office under ORS 173.635 ("LPRO"), and Rocky Mountain Institute, referred to as RMI ("Contractor"). In this Contract, "Party" or "the Parties" means one or more of the entities described in this paragraph.

This Contract is effective on the date that all Parties have signed the Contract and obtained all required State of Oregon approvals. This Contract expires on the later of the date Contractor has completed all Services in accordance with the requirements of this Contract or on **January 31, 2023**. The Parties may mutually agree to renew this Contract additional terms that each do not exceed two years.

#### RECITALS

- A. LPRO desires to engage Contractor to enable LPRO to achieve LPRO's business and mission objectives by means of Contractor's providing the Services (defined below) in support of the Joint Task Force on Resilient Efficient Buildings (the "Task Force").
- B. Contractor desires to perform the Services for LPRO.

#### AGREEMENT

LPRO and Contractor agree to give effect to the recitals above by mutually establishing the terms and conditions below and agree that the promises of performance exchanged in this Contract constitute adequate consideration for this Contract.

#### DEFINITIONS

As used in this Contract:

"Amendment" means an alteration of a term or condition of this Contract, the contents of any appendices or attachments or any other material alteration of this Contract.

"Authorized Representative" means a person that represents a Party to this Contract who has authority to make commitments and decisions on the Party's behalf regarding the performance of this Contract.

"Confidential Information" is defined in section 3.Z.

"Contract" means the documents described in section 3.Y. and the agreement or agreements embodied in the documents.

"Services" means all services that Contractor performs under this Contract in accordance with the specifications set forth in section 1.B - Services Under This Contract.

"Statement of Work" means the complete description of the Services, work product and other items that this Contract, together with any Amendments to this Contract, requires Contractor to provide to LPRO.

Other capitalized terms that are not defined in this section have the meaning ascribed to the terms elsewhere in this Contract or in OAR 137-046-0110. The definitions in OAR 137-046-0110 are incorporated into this Contract by this reference. To the extent that a definition in OAR 137-046-0110 conflicts with a definition in this section, the definition in this section controls for the purposes of this Contract.

## ORGANIZATION

For the convenience of the Parties, this Contract consists of several parts denominated as sections and numbered with Arabic numerals. Within each section may be one or more paragraphs sequentially numbered with alphabetic characters (for example, paragraph A), and within each paragraph may be subparagraphs sequentially numbered with lowercase Roman numerals (for example, subparagraph i). References within this Contract to specific sections, paragraphs or subparagraphs refer only to the provisions in those specific sections, paragraphs or subparagraphs, except that references to sections include the provisions of all paragraphs and subparagraphs within the sections, and references to paragraphs include the provisions of all subparagraphs within the paragraph. With the exception of such references or as otherwise stated within this Contract, the division and organization of this Contract does not control or affect the meaning or construction of this Contract.

### 1. STATEMENT OF SERVICES.

Contractor shall perform the Services described below and in the Statement of Work referred to as Tasks A-E.

#### A. GENERAL INFORMATION

The Legislative Policy and Research Office (LPRO), created by the Legislative Assembly in Senate Bill 1569 (2016), provides centralized, professional and nonpartisan research, issue analysis and committee management services for the Legislative Assembly. LPRO may contract or enter into other agreements to carry out these functions.

#### B. SERVICES UNDER THIS CONTRACT

Contractor shall develop building decarbonization policy recommendations by performing policy research on the energy, carbon, and economic effects of building decarbonization strategies as recommended by the Task Force. Quantitative analysis of economic, energy and carbon impacts will utilize existing models and tools available to Contractor. Contractor shall advise the Task Force on cost-effective strategies for the State of Oregon to reduce greenhouse gas emissions from the buildings sector.

Under this Contract, Contractor shall develop a series of analyses and reports that will enable the Task Force to assess a range of decarbonization strategies that meet policy goals and objectives as identified by the Legislative Assembly. The final comprehensive report (Task D) must also include a report on strategies proposed by the Task Force to improve Oregon's resiliency to climate change and related events.

#### **Specific Tasks and Deliverables**

Contractor shall provide the Services to LPRO and on behalf of the Task Force as five distinct Tasks. Tasks A-D must take place in parallel with Task Force engagement in Task E. Task Force engagement meetings and processes must be used to solicit and incorporate feedback into the research and analysis being done in Tasks A-D. The final result of Tasks A-D shall be the report summarizing findings and recommendations outlined in Task D, which requires Contractor to inform and engage the Task Force in developing recommendations throughout the research and analysis process.

Tasks A through E are:

- Task A – Identify Building Decarbonization Strategies
- Task B – Data and Analysis for Decarbonization Strategies
- Task C – Sector and System Economic Impact Analysis
- Task D – Report on Strategies to Improve Resiliency
- Task E – Stakeholder Engagement and Task Force Facilitation

The following descriptions outline each Task in detail.

#### Task A – Identify Building Decarbonization Strategies

For Task A, Contractor shall summarize decarbonization strategies undertaken in other U.S. states, and internationally, to address emissions from the buildings sector with a focus on existing policies and programs. Contractor shall first solicit input from the Co-Chairs and Task Force on priority areas of focus to ensure that the research reflects the Task Force's areas of interest and the information that will be most valuable to the Oregon

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Legislative Assembly. Building from that input, Contractor shall incorporate experience supporting other jurisdictions, as well as information from available policy and program databases, best practices reports, and contacts with jurisdiction representatives. At the conclusion of Task A, Contractor shall deliver to the Task Force a memo summarizing the decarbonization strategies. Contractor shall incorporate any feedback Contractor receives from the Task Force on the memo into the final findings and recommendations report under Task D.

Task A must include a summary of relevant building-related policies and programs to provide a basis for consideration and deliberations by the Task Force. Based on this summary information, and input from the Task Force, Contractor shall model a selection of policies or programs under Tasks B and C.

Deliverables under Task A consist of:

- No later than July 15, 2022: Memo summarizing current decarbonization policies, and the research supporting those policies, in other states and countries, with recommendations for Oregon statutes and programs to be considered by the Task Force. Feedback from the Task Force on this memo (including any additional policies or programs to incorporate) must be included in the final report Contractor delivers under Task D.

### Task B – Data and Analysis for Decarbonization Strategies

For Task B, Contractor shall research and identify datasets, standards and tools available to measure the energy and carbon impact of the decarbonization strategies described in Task A.

- Contractor shall collect the necessary data to perform the analysis to complete Task B. In consultation with the Task Force, Contractor shall model results for Oregon to identify policy scenarios with high-level climate impacts. Contractor shall then conduct deeper analysis on these high-impact policy pathways using industry standard data sets. Those datasets may include but are not limited to: weather data files representative of both the eastern and western regions of the state; utility data and/or rate schedules from up to three utilities; census data; ASHRAE reference building energy model run results; National Renewable Energy Laboratory's (NREL's) Cambium; BeOpt outputs for building energy modeling; and Energy Information Administration data.
- Contractor shall utilize the datasets and standards gathered, to analyze the energy and carbon impacts from buildings, as required to complete Task B. This analysis must prioritize existing data sets and readily available models due to the scope and timeline of the project. Any analysis that requires significant modifications or iterations, or construction of new models are not included in Task B. Analysis that requires the purchase of new data sets is also not included in Task B. Contractor shall advise the Task Force on which policies can be analyzed with readily available data sets and models, and which would require analysis beyond the scope of this proposal.
- Contractor shall combine results into a spreadsheet tool with functionality to allow for modification of policy inputs that Contractor shall deliver to the Task Force. Contractor shall include the findings from this analysis in the final report Contractor delivers under Task D.

Deliverables under Task B consist of:

- No later than September 30, 2022: Contractor shall provide a deliverable as an Excel Workbook that summarizes the outputs from the tools to produce high-level energy and emissions projections for residential and commercial buildings for the business-as-usual (no policy) scenario, as well as the priority policy scenarios identified in Task A. Where feasible, Contractor shall do an integrated analysis to show synergies and ensure that policy scenarios are not double counting potential energy and emissions savings. Contractor shall include feedback from the Task Force on this deliverable (including any additional policies or programs to incorporate) in the final report Contractor delivers under Task D.

### Task C – Sector and System Economic Impact Analysis

For Task C, Contractor shall assess the economic impact of the building decarbonization policies described in Task A. Contractor shall apply existing analytical tools to understand the sector- and system-wide financial implications of the policies modeled in Task B. These existing analytical tools will include a range of existing, validated analytic tools and models used by industry experts. Any analysis that requires the use of models that are not readily available is beyond the scope of Task C. Contractor shall advise the Task Force on which economic impacts can be analyzed with readily available models, and which would require analysis beyond the scope of this proposal.

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- Where existing models allow, Contractor shall model the costs and benefits of the building decarbonization measures, including applying the social cost of carbon. Contractor will work with the Task Force to ensure that a reasonable social cost of carbon metric is chosen that aligns with Oregon guidelines.
- Where existing models allow, Contractor shall also model the avoided health impacts from the selected policies to provide information on the economic implications of improved health outcomes from reduced fossil fuel combustion in Oregon.

Deliverables under Task C consist of:

- No later than September 30, 2022: Contractor shall provide an Excel Workbook that includes a high-level projection of costs and/or savings for utility customers, upfront construction costs, and overall societal impact for the residential and commercial building sectors. This projection must include the results of the models described for the business-as-usual (no policy) scenario, as well as for each policy scenario described in Task A. Where feasible, Contractor shall conduct an integrated analysis to show synergies and ensure that policy scenarios are not double counting potential costs and/or savings. Feedback from the Task Force on this deliverable (including any additional policies or programs to incorporate) must be included in the final report Contractor delivers under Task D.

### Task D – Report on Strategies to Increase Building Decarbonization

For Task D, Contractor shall summarize the efforts undertaken in Tasks A-C and Contractor's role in facilitating Task Force meetings and recording member and public feedback under Task E, to prepare a final report of Task Force findings and its recommendations. While the primary audience for this work includes the Task Force and the full Legislative Assembly, the audience also includes Oregon stakeholders and constituents who may be impacted by policy choices made by the Legislative Assembly. As such, Contractor must include relevant summary information and data to support the Legislative Assembly's decision making and must also include relevant contextual information for Oregon residents and businesses.

Because Tasks A-C require the Contractor to (1) identify precedent policies and programs that support building decarbonization in Oregon to simulate their environmental and economic impacts and their impacts on resiliency to climate change and to (2) collect and consider feedback and direction from the Task Force, Contractor shall ensure that the final deliverable under Task D reflects recommendations best suited to Oregon's circumstances.

The final report must include a summary of the work undertaken in Tasks A through C to identify and evaluate decarbonization strategies in Oregon's current and future building stock. This must include the summary of all relevant policies and programs related to building decarbonization under Task A, as well as the analysis and simulation of the selected policies in Tasks B and C.

Deliverables under Task D consist of:

- July 15, 2022: Outline for report of findings and recommendations, for review and feedback by Task Force.
- September 30, 2022: Draft report on initial set of strategies proposed by the Task Force to improve Oregon's strategies to increase buildings decarbonization.
- November 30, 2022: Final report on strategies proposed by the Task Force to improve Oregon's strategies to increase buildings decarbonization.

### Task E – Stakeholder Engagement and Task Force Facilitation

Contractor shall establish a project panel, the membership of which must consist of the Task Force Co-Chairs, representatives of Contractor, and LPRO staff supporting the Task Force. Contractor shall also meet with Task Force members one-on-one to understand each member's key substantive and procedural concerns. Contractor shall then develop a written summary, seek feedback and review by LPRO, and, if appropriate, seek concurrence with the overall process by Task Force. For Task E, Contractor shall facilitate 12 Task Force meetings to be held virtually.

The following services under Task E shall include:

- Facilitate kick-off meeting with the project panel: To discuss the project, understand panel members' history and perspectives on this issue, as well as the political and stakeholder environment. These discussions should include the key goals of the stakeholder engagement and Task Force process
- Facilitate weekly Contractor meetings: The initial kick-off meeting will set the scope and pace of ongoing task force meetings with weekly one-hour meetings with the project panel. The purpose of the meetings is to formulate Task Force meeting agendas, refine presentation materials, conduct a dry run for Task Force

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meetings, debrief from Task Force meetings, and resolve issues in a timely manner. The contractor will schedule, develop, and circulate agendas for all meetings with the Task Force and develop a simple summary of follow-up action items.

- Convene 25-minute interviews with all Task Force members: questions will be reviewed by LPRO for acceptance. Contractor will provide a high-level written summary to LPRO, Task Force co-chairs, and members.
- Facilitate Task Force meetings: Contractor shall provide professional facilitation services in support of regular meetings of the Task Force. Contractor shall focus on achieving outcomes that include: (1) consideration of current decarbonization policies in other states and countries; (2) identification of decarbonization policies most appropriate for Oregon (Task A); (3) review of analysis conducted by Contractor and feedback for further analysis (Tasks B and C); and (4) prepare final policy recommendations and final product for the Legislative Assembly
- Prepare agendas and annotated agendas for Task Force meetings: Contractor shall develop clearly written meeting agendas for distribution to participants, as well as detailed annotated meeting agendas for internal use by Contractor, co-chairs, and LPRO staff. Annotated agendas must include details such as meeting logistics, agenda topic transitions, virtual meeting details, etc.
- Prepare written input on policy recommendations documents related to Tasks A-D to ensure they are reflective of Task Force member perspectives.

LPRO staff will develop meeting summaries and action items following Task Force meetings.

Both LPRO and the Contract reserve the right to negotiate a timeline related to Task Force facilitation; reports and presentation materials must be completed and approved by LPRO prior to delivery. The following are the estimated completion dates for activities required within this scope of work:

**Table 1: Tasks and Schedule of Deliverables**

Task	Activity	Type of Deliverables	Due Dates* (all in 2022)
A	Memo summarizing current decarbonization policies, with recommendations for task force	Written memo	July 15
B	Data and analysis for decarbonization strategies	Excel Workbook	September 30
C	Sector and system economic impact analysis	Excel Workbook	September 30
D	Comprehensive report on strategies to improve resiliency in Oregon	Draft Written report Final Written report	September 30 November 30
E	Task force facilitation	Agendas, annotated agendas	Monthly May-December

\*The dates listed above are subject to change in response to unforeseeable scheduling issues.

### C. RETENTION OF SERVICES AND SCHEDULE OF DELIVERY

- LPRO and Contractor agree that Contractor, in as expeditious a manner and with as much priority as is commercially feasible for Contractor given Contractor's other duties and responsibilities, shall make Contractor's personnel and facilities available to perform any Services specified in Section 1B. Contractor agrees that if Contractor is unable to undertake the Services within the delivery schedule agreed upon, Contractor within three business days after receiving a notice shall advise LPRO that the proposed schedule is not feasible and shall propose an alternative schedule for delivering the Services.
- Contractor shall actively participate, present, and facilitate 12 meetings of the Task Force between May 2022, and December 2022.

### D. ACCEPTANCE CRITERIA

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Payment under this Contract is contingent on LPRO's acceptance of Contractor's performance of the Services. LPRO shall not withhold acceptance unreasonably. LPRO shall accept Contractor's performance of the Services if Contractor:

- i. Uses professional facilitation methods that are reasonable and are consistent with best practices in professional facilitation;
- ii. Uses methods and performs actions that are reasonable, that are consistent with best practices in Contractor's industry, trade or profession and that are chosen and implemented to elicit all relevant facts and issues and supporting evidence for contractor's findings and conclusions;
- iii. Produces data sets and written products that are clearly organized, written and comprehensible, and are pertinent to the work of the Task Force;
- iv. Delivers written materials that are clearly organized, written and comprehensible, that have clear findings and conclusions and clearly delineated evidence and support for the findings and conclusions and that includes executive summaries where appropriate;
- v. Responds timely and with diligence to requests for other Services under this Contract that LPRO may specify; and,
- vi. Delivers reports that adhere to the specifications agreed for each task and deliverables in Tasks A-D, which include, but are not limited to, addressing the requirements set forth in Senate Bill 1518 (2022).

Contractor shall submit draft reports according to the timeline previously specified (see dates in Schedule of Deliverables above). LPRO will review draft reports and return with comments within five (5) business days of receipt. Contractor shall then amend the report, as appropriate, and provide a final draft of the report(s) to the Task Force within five (5) business days after receiving LPRO comments.

LPRO shall inspect or evaluate Contractor's performance of each Service under this Contract and either accept or reject the performance within 10 calendar days after Contractor concludes performing the Service. If LPRO does not provide written notice of acceptance or rejection within 10 calendar days, LPRO has accepted the performance. If LPRO rejects Contractor's performance of the Services, LPRO in a written notice of rejection shall give Contractor a minimum of five business days to correct Contractor's performance and resubmit any goods or materials in connection with the Services that LPRO requests. In LPRO's written notice of rejection, LPRO shall, at a minimum, itemize the apparent defects and include:

- i. A description of nonconformance between Contractor's performance and the requirements and specifications for the performance, including warranties, specified in this Contract;
- ii. A description of any other nonconformance of the performance (including late delivery); and
- iii. A statement indicating whether Contractor will cure the nonconformance and if so, the method by which and time period within which Contractor will cure.

Contractor's failure to perform the Services in accordance with the requirements of this Contract is a material breach of this Contract.

### E. SPECIAL REQUIREMENTS - KEY PERSONS.

- i. Contractor and LPRO agree that each individual specified below is an individual whose special qualifications and involvement in Contractor's performance of the Services forms part of the basis of the agreement between the Parties to this Contract and is the individual through whom Contractor shall provide to LPRO the expertise, experience, judgment, and personal attention required to perform the Services ("Key Person"). Each of the following persons is a Key Person under this Contract:

**Rachel Golden, Principal, Carbon Free Buildings, RMI**  
**Denise Grab, Principal, Carbon Free Buildings, RMI**

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**Jonny Kocher, Senior Associate, Carbon Free Buildings, RMI**  
**Edie Taylor, Senior Associate, Carbon Free Buildings, RMI**

Contractor and any Key Person of Contractor or subcontractors may not delegate performance of Services any Key Persons must perform under this Contract to any other person without first obtaining LPRO's written consent. Further, Contractor may not, without first obtaining LPRO's prior written consent, re-assign or transfer any Key Person to other duties or positions so that the Key Person is no longer available to provide LPRO with that Key Person's expertise, experience, judgment, and personal attention. If Contractor requests LPRO to approve a re-assignment or transfer of a Key Person, LPRO has the right to interview, review the qualifications of, and approve or disapprove the proposed replacement for the Key Person. Any individual LPRO approves as a replacement for a Key Person is a Key Person under this Contract.

Contractor's Key Person must have these qualifications:

- a. Be available to expeditiously perform the Services described in this Contract upon notice from LPRO and set the Services as a top priority for Contractor, consistent with Contractor's other obligations;
  - b. Have previously conducted Services similar to the Services specified in this Contract for the legislative branch or for other governmental agencies in Oregon or a government municipality in another state; and
  - c. Have a minimum of two years of experience performing the Services or services of a similar or closely related type.
- ii. In addition to providing the services of the Key Persons listed in paragraph i. of this section 1.E, Contractor shall use Contractor's best professional efforts to recruit, contract with and obtain the services of other firms and persons with special expertise that Contractor can make use of in performing the Services. Notwithstanding the requirements for Contractor to obtain written authorization to subcontract Services under section 3.R. of this Contract, persons from which Contractor may obtain services without further written approval from LPRO include, but are not limited to, the following firms and individuals:

**Jim Edelson, Director of Policy, NBI**  
**Kim Cheslak, Director of Codes, NBI**  
**Erin Beddingfield, Associate Director of Codes and Policy, NBI**  
**Mark Lyles, Senior Project Manager, NBI**  
**Kevin Carbonnier, Senior Technical Associate, NBI**  
**Ben Rabe, Project Manager, NBI**  
**Liepa Braciulyte, Project Analyst, NBI**  
**Sylvia Ciborowski, Vice President and Senior Facilitator, Kearns and West**  
**Ariella Dahlin, Project Coordinator, Kearns and West**

## 2. COMPENSATION

The Maximum Not-To-Exceed Compensation payable to Contractor for all Services under each term of this Contract is \$265,501, including all allowable expenses.

### A. METHOD OF PAYMENT FOR SERVICES

LPRO shall pay Contractor, but not in excess of the Maximum Not-To-Exceed Compensation, for completing all Services required under this Contract. LPRO shall pay Contractor in accordance with the compensation schedule set forth below that corresponds with Contractor's deliverables.

- i. Project Management and Oversight during completion of tasks A-E: \$45,931
- ii. Completion of the activities and deliverables in Task A: \$33,340
- iii. Completion of the activities and deliverables in Task B: \$20,775

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- iv. Completion of the activities and deliverables in Task C: \$19,830
- v. Completion of the activities and deliverables in Task D: \$30,095
- vi. Completion of the activities and deliverables in Task E: \$115,530

### B. BASIS OF PAYMENT FOR SERVICES.

LPRO shall pay Contractor payments upon LPRO's approval of Contractor's invoice to LPRO for Services Contractor has performed up until the date of the invoice by deliverable (2A. i-vi) but only after LPRO has determined that Contractor has completed, and LPRO has accepted, deliverables provided under this Contract in accordance with sections 1.C and 1.A.

### C. EXPENSE REIMBURSEMENT.

LPRO will not reimburse Contractor for any expenses.

### D. GENERAL PAYMENT PROVISIONS.

- i. LPRO's Payment. LPRO shall pay Contractor for Services performed in accordance with the deliverables listed in section 1.A above. Contractor shall look solely to LPRO for payment of all amounts due to Contractor under this Contract. Contractor may not be compensated by any agency or department of the State of Oregon other than LPRO for Services performed under this Contract.
- ii. If Contractor is a nonresident alien as defined in 26 USC § 7701(b)(1)(B), then Contractor shall, upon execution of this Contract, deliver to LPRO a completed and signed W-8 form, 8233 form, or W-9 form, as applicable, from the Internal Revenue Service ("IRS"), as evidence that LPRO is not required by 26 USC 1441 to withhold part of Contractor's payment. Such forms are currently available at <http://www.irs.gov>. LPRO may withhold payments to Contractor pending LPRO's receiving from Contractor the applicable, completed and signed form. If LPRO does not receive the applicable, completed and signed form from Contractor, or if the IRS provides notice to LPRO that Contractor's information on the form provided is incorrect, LPRO will withhold as federal income tax 30% of all amounts the State of Oregon owes to Contractor under this Contract.
- iii. Funds Available and Authorized; Payments. Contractor understands and agrees that LPRO's payment of amounts under this Contract is contingent on LPRO receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow LPRO, in the exercise of LPRO's reasonable administrative discretion, to make payments under this Contract.

### E. INVOICES

- i. Contractor shall send invoices to LPRO no more often than monthly for Services performed and accepted by LPRO in accordance with Section 1. Contractor shall include in each invoice:
  - a. The applicable solicitation number, if any, or the Contract number, if any;
  - b. A description of Services Contractor performed, including the name or names of the individuals who performed Services to which the invoice applies, the dates the individuals performed the Services, the rate or rates for Services performed, and the total cost of Services;
  - c. An itemization and explanation of all expenses for which Contractor claims reimbursement authorized under this Contract; and
  - d. The total amount due and the payment address.
- ii. Contractor shall send all invoices to LPRO's Contract Administrator at the address specified in section 6 or to any other address that LPRO indicates in writing to Contractor. Contractor's claims to LPRO for overdue payments on invoices are subject to ORS 293.462.



**3. GENERAL TERMS AND CONDITIONS**

**A. INTELLECTUAL PROPERTY & OPEN SOURCE; TITLE TO GOODS**

- i. Definitions. As used in this section:
  - a. "Contractor Intellectual Property" means any intellectual property Contractor owned and developed independently from the Services.
  - b. "Open Source Elements" means any Work Product that is subject to any open source initiative certified license, including Work Product based upon any open source initiative certified licensed work.
  - c. "Third Party Intellectual Property" means any intellectual property that parties other than LPRO or Contractor own, specifically including, but not limited to, any models, business processes, tools or materials that Contractor's subcontractors own and that Contractor uses or incorporates into any deliverable Contractor delivers under this Contract.
  - d. "Work Product" means all Services and any reports or other materials Contractor delivers or must deliver to LPRO under the terms of this Contract.
- ii. Contractor Intellectual Property. If intellectual property rights in the Work Product are Contractor Intellectual Property, Contractor shall grant to LPRO an irrevocable, non-exclusive, perpetual, royalty-free license to use, make, reproduce, prepare derivative works based upon, distribute copies of, perform and display Contractor Intellectual Property, and to authorize others to do the same on LPRO's behalf., solely for the following limited purposes: share with and inform the Oregon Legislative Assembly including legislative members, policy committees, and relevant agencies of the executive branch.
- iii. Third Party Intellectual Property. To the extent that Contractor has the authority, Contractor shall sublicense or pass through to LPRO all Third Party Intellectual Property. Contractor represents and warrants that Contractor has disclosed to LPRO in writing all Third Party Intellectual Property that LPRO must license independently to fully enjoy the benefit of the Work Product. If Contractor failed to provide the written disclosure, Contractor shall secure on LPRO's behalf and in LPRO's name 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, and to authorize others to do the same on LPRO's behalf, solely for the following limited purposes: share with and inform the Oregon Legislative Assembly including legislative members, policy committees, and relevant agencies of the executive branch.
- iv. Open Source Approval and Notice. LPRO must approve any Open Source Elements in the Work Product in advance and in writing. If LPRO approves the use of Open Source Elements, Contractor shall:
  - a. Notify LPRO in writing that the Work Product contains Open Source Elements;
  - b. Identify the specific portion of the Work Product that contain Open Source Elements; and
  - c. Provide a copy of the applicable license for each Open Source Element to LPRO.

**B. OTHER REPRESENTATIONS AND WARRANTIES**

- i. Contractor represents and warrants that:
  - a. Contractor has the authority to enter into and perform in accordance with this Contract and that this Contract, when executed and delivered, is a valid and binding obligation of Contractor that is enforceable in accordance with the terms of this Contract;
  - b. Contractor has the skill and knowledge possessed by well-informed members of Contractor's industry, trade or profession and Contractor will apply that skill and knowledge with care and

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diligence and perform the Services in a timely, professional and workmanlike manner in accordance with standards applicable to Contractor's industry, trade or profession;

- c. Contractor is and shall remain, at all times during the term of this Contract, qualified, professionally competent, and duly licensed to perform Services; and
  - d. When used as authorized by this Contract, Work Product that Contractor creates does not infringe and LPRO's use, duplication or transfer of the Work Product does not infringe any copyright, patent, trade secret or other proprietary right of any third party.
- ii. The warranties specified in this section are in addition to, and not in lieu of, any other warranties provided. All warranties are cumulative and must be interpreted broadly to give LPRO the greatest warranty protection available.

### C. COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS

Contractor makes the following additional warranties and provides the following covenants:

- i. Contractor shall comply with all federal, state and local laws, regulations, ordinances and rules applicable to this Contract or to Contractor's obligations under this Contract, including but not limited to the Legislative Branch Personnel Rules as those rules apply to Contractor's performance of the Services, as the laws, regulations, ordinances or rules may be adopted or amended from time to time.
- ii. Contractor represents and warrants that Contractor has complied with all tax laws of this state and political subdivisions of this state, including but not limited to ORS chapters 316, 317 and 318 and contractor covenants to continue to comply with the tax laws of this state and political subdivisions of this state during the term of this Contract. Contractor understands and agrees that a failure to comply with the tax laws of this state and political subdivisions of this state before Contractor executed this Contract or during the term of this Contract is a material breach of this Contract for which LPRO may terminate this Contract and seek damages and other relief available under this Contract or under applicable law.
- iii. Contractor represents and warrants that Contractor has in place a policy and practice of preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class in accordance with the requirements of ORS 279A.112 and that Contractor shall maintain the policy and practice for the duration of the term of this Contract.
- iv. Contractor represents and warrants that Contractor has carefully examined the Scope of Work for this Contract, has identified any opportunities for subcontracting portions of the Services required under this Contract to other individuals or entities and, to the extent that subcontracting opportunities exist, has made good faith efforts, as described in ORS 200.055, to encourage required participants, as defined in ORS 200.055, to participate in providing Services under this Contract.
- v. LPRO's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated by this reference into this Contract. Contractor shall, to the maximum extent economically feasible in performing this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

### D. AMENDMENTS

All Amendments to this Contract must be in Writing and must have obtained all required approvals before becoming effective. OAR 137-047-0800 applies to all Amendments to this Contract.

### E. TIME IS OF THE ESSENCE

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Contractor agrees that time is of the essence in performing this Contract.

### F. FORCE MAJEURE

LPRO and Contractor are not responsible for any failure to perform or for any delay in performing any obligation under this Contract if the failure or delay is caused by fire, riot, acts of God, terrorism, war, or any other cause which is beyond the breaching party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of Contractor's delay or breach and shall, upon the cessation of the cause, continue performing under this Contract. LPRO may terminate this Contract upon written notice to Contractor after reasonably determining that the delay or breach will likely prevent successful performance of this Contract.

### G. INSURANCE

Contractor shall obtain the insurance required under section 4 before performing under this Contract and shall maintain the required insurance throughout the duration of this Contract and all warranty periods.

### H. INDEPENDENT CONTRACTOR STATUS; RESPONSIBILITY FOR TAXES AND WITHHOLDING

- i. Contractor shall perform all Services as an independent Contractor. Although LPRO has the right (a) to determine and modify the delivery schedule for Services Contractor performs and (b) to evaluate the quality of the completed performance, LPRO 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 Services required under this Contract. Contractor certifies, represents and warrants that Contractor is an independent contractor under all applicable state and federal law. Contractor is not an "officer", "employee", or "agent" of LPRO or the State of Oregon as those terms are used in ORS 30.265.
- ii. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract represents and warrants that Contractor's performance of this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's performance of this Contract.
- iii. Contractor is responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract, and unless applicable federal law or regulations so requires, LPRO will not withhold from compensation or payments to Contractor any amount to cover Contractor's federal or state tax obligations unless Contractor is subject to backup withholding. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.

### I. INDEMNIFICATION

- i. GENERAL INDEMNITY. CONTRACTOR SHALL, SAVE, HOLD HARMLESS, AND INDEMNIFY THE OREGON LEGISLATIVE ASSEMBLY, LPRO AND THE STATE OF OREGON AND THE AGENCIES, OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES OF THE OREGON LEGISLATIVE ASSEMBLY, LPRO AND THE STATE OF OREGON FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ("CLAIMS") RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ALLEGED NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF CONTRACTOR OR ANY BREACH OF THIS CONTRACT BY CONTRACTOR OR CONTRACTOR'S OFFICERS, EMPLOYEES, SUBCONTRACTORS OR AGENTS UNDER THIS CONTRACT.
- ii. INDEMNITY FOR INFRINGEMENT CLAIMS. WITHOUT LIMITING THE GENERALITY OF SECTION 3.1.i, CONTRACTOR SHALL SAVE, HOLD HARMLESS AND INDEMNIFY THE OREGON LEGISLATIVE ASSEMBLY, LPRO AND THE STATE OF OREGON AND THE AGENCIES, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES OF THE OREGON LEGISLATIVE ASSEMBLY, LPRO AND THE STATE OF OREGON FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING ATTORNEY FEES, THAT ARISE

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OUT OF OR RELATE TO ANY CLAIMS THAT THE SERVICES, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEM CONTRACTOR DELIVERS UNDER THIS CONTRACT THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR LPRO'S REASONABLE USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY ("INFRINGEMENT CLAIM"); PROVIDED, THAT LPRO SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

- iii. THE STATE OF OREGON SHALL REASONABLY COOPERATE IN GOOD FAITH, AT CONTRACTOR'S REASONABLE EXPENSE, IN THE DEFENSE OF CLAIMS AND INFRINGEMENT CLAIMS, AND CONTRACTOR SHALL SELECT COUNSEL REASONABLY ACCEPTABLE TO THE OREGON ATTORNEY GENERAL TO DEFEND ANY CLAIMS AND INFRINGEMENT CLAIMS AND SHALL BEAR ALL COSTS OF SUCH COUNSEL. COUNSEL MUST ACCEPT APPOINTMENT AS A SPECIAL ASSISTANT ATTORNEY GENERAL UNDER ORS CHAPTER 180 BEFORE COUNSEL MAY ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, THE OREGON LEGISLATIVE ASSEMBLY OR THE STATE OF OREGON OR THE AGENCIES, OFFICERS, EMPLOYEES OR AGENTS OF THE OREGON LEGISLATIVE ASSEMBLY OR THE STATE OF OREGON. THE STATE OF OREGON MAY ELECT TO ASSUME THE STATE OF OREGON'S OWN DEFENSE WITH AN ATTORNEY OF THE STATE OF OREGON'S OWN CHOICE AND AT THE STATE OF OREGON'S OWN EXPENSE AT ANY TIME THE STATE OF OREGON DETERMINES THAT IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE. SUBJECT TO THE LIMITATIONS NOTED ABOVE, CONTRACTOR MAY DEFEND CLAIMS AND INFRINGEMENT CLAIMS WITH COUNSEL OF CONTRACTOR'S OWN CHOOSING PROVIDED THAT A SETTLEMENT OR COMPROMISE OF ANY CLAIMS AND INFRINGEMENT CLAIMS MAY NOT OCCUR WITHOUT THE CONSENT OF THE STATE OF OREGON, WHICH SHALL NOT UNREASONABLY WITHHOLD, CONDITION OR DELAY CONSENT.

### J. ASSIGNMENT OF ANTITRUST RIGHTS

- i. CONTRACTOR IRREVOCABLY ASSIGNS TO LPRO ANY CLAIM FOR RELIEF OR CAUSE OF ACTION THAT CONTRACTOR NOW HAS OR WHICH MAY ACCRUE TO CONTRACTOR IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY SERVICES CONTRACTOR PROVIDES FOR THE PURPOSE OF CARRYING OUT CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT, INCLUDING, AT LPRO'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON THE CLAIM FOR RELIEF OR CAUSE OF ACTION.
- ii. CONTRACTOR SHALL REQUIRE ANY SUBCONTRACTORS HIRED TO PERFORM ANY OF CONTRACTOR'S DUTIES UNDER THIS CONTRACT TO IRREVOCABLY ASSIGN TO LPRO, AS THIRD PARTY BENEFICIARY, ANY RIGHT, TITLE OR INTEREST THAT HAS ACCRUED OR WHICH MAY ACCRUE IN THE FUTURE BY REASON OF ANY VIOLATION OF 15 U.S.C. § 1-15 OR ORS 646.725 OR ORS 646.730, IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED TO THE SUBCONTRACTOR FOR THE PURPOSE OF CARRYING OUT THE SUBCONTRACTOR'S OBLIGATIONS TO CONTRACTOR IN PURSUANCE OF THIS CONTRACT, INCLUDING, AT LPRO'S OPTION, THE RIGHT TO CONTROL ANY SUCH LITIGATION ON SUCH CLAIM FOR RELIEF OR CAUSE OF ACTION.

### K. EVENTS OF BREACH

- i. Breach by Contractor. Contractor breaches this Contract if:
  - a. Contractor institutes or has instituted against Contractor insolvency, receivership or bankruptcy proceedings, if Contractor makes an assignment for the benefit of creditors, or if Contractor ceases doing business on a regular basis;
  - b. Contractor no longer holds a license or certificate that is required for Contractor to perform Contractor's obligations under this Contract and Contractor has not obtained the license or certificate within fourteen (14) calendar days after LPRO delivers notice of breach to Contractor or a longer period as LPRO may specify in the notice; or

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- c. Contractor commits any material breach of any covenant, warranty, obligation or certification under this Contract, fails to perform Contractor's obligations under this Contract within the time specified or any extension of that time, and Contractor fails to cure the breach within fourteen (14) calendar days after LPRO delivers notice of breach to Contractor or a longer period as LPRO may specify in the notice.
- ii. Breach by LPRO. LPRO breaches this Contract if:
  - a. LPRO fails to pay Contractor any amount pursuant to the terms of this Contract, and LPRO fails to cure LPRO's failure to pay within fourteen (14) calendar days after Contractor delivers notice of breach to LPRO or a longer period as Contractor may specify in the notice; or LPRO commits any material breach of any of LPRO's covenants, warranties, or obligations under this Contract or fails to perform LPRO's obligations under this Contract within the time specified or any extension thereof and fails to cure the breach within fourteen (14) calendar days after Contractor delivers notice of breach to LPRO or a longer period as Contractor may specify in the notice.

### L. REMEDIES

- i. LPRO's Remedies. If Contractor is in breach under section 3.K.i, then in addition to the remedies afforded elsewhere in this Contract, LPRO may recover for 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. LPRO may, at LPRO's option, pursue any or all of the remedies available under this Contract and at law or in equity, including, but not limited to:
  - a. Terminating of this Contract under section 3.M.ii.;
  - b. Withholding payment of all amounts in Contractor's invoices for Services that Contractor is obligated to but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively;
  - c. Initiating an action or proceeding for damages, specific performance, declaratory or injunctive relief; or
  - d. Exercising the right of setoff and withholding amounts otherwise due and owing to Contractor in an amount equal to the State of Oregon's setoff right, without penalty.

These remedies are cumulative to the extent the remedies are not inconsistent, and LPRO may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If it is determined for any reason that Contractor was not in breach under section 3.K.i, the rights and obligations of the Parties are the same as if this Contract was terminated pursuant to section 3.M.ii.a.

- ii. Contractor's Remedies. If LPRO terminates this Contract for convenience under section 3.M.ii.a, or if LPRO is in breach under section 3.K.ii and whether or not Contractor elects to exercise Contractor's right to terminate this Contract under section 3.M.iii, Contractor's sole remedy is a claim against LPRO for unpaid invoices, hours worked but not yet invoiced, and authorized expenses for Services Contractor completed and LPRO accepted, less any claims LPRO has against Contractor. If previous amounts LPRO paid to Contractor for Services exceed the amount due to Contractor under this section 3.L.ii, Contractor shall pay the excess amount to LPRO immediately upon written demand.
- iii. Except for costs and expenses pursuant to section 3.I, the State of Oregon and Contractor may not recover attorney fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to this Contract.

### M. TERMINATION

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- i. MUTUAL CONSENT. The Parties may terminate this Contract at any time by mutual written consent.
  - ii. LPRO:
    - a. LPRO may, at LPRO's sole discretion, terminate this Contract for convenience by giving 30 days' written notice to Contractor.
    - b. LPRO may, at LPRO's sole discretion, terminate this Contract, immediately upon notice to Contractor, or at a later date that LPRO specifies in the notice, upon the occurrence of any of the following events:
      - A. LPRO fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Services;
      - B. Federal or state laws, regulations, or guidelines are modified or interpreted in a way that either LPRO's the purchase of the Services under this Contract is prohibited, or LPRO is prohibited from paying for the Services from the planned funding source; or
      - C. Contractor is in breach under section 3.K.i.
- Contractor shall stop performance under this Contract as directed by LPRO in any written notice of termination delivered to Contractor under this section 3.M.ii.
- iii. Contractor: Contractor may terminate this Contract immediately upon written notice to LPRO, or at a later date as Contractor may establish in the notice, if LPRO is in breach under section 3.K.ii.

### N. ACCESS TO RECORDS

Contractor shall retain, maintain, and keep accessible all records relevant to this Contract ("Records") for minimum of six (6) years, or a longer period as may be required by applicable law, following Contract termination or full performance, the period required by applicable law following Contract termination or full performance, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever ending is later. Contractor shall maintain all financial Records in accordance with generally accepted accounting principles. During this retention period for the Records, Contractor shall permit LPRO and the State of Oregon and the duly authorized representatives of LPRO and the State of Oregon access to the Records at reasonable times and places for purposes of examination and copying.

### O. NOTICES

All notices required under this Contract must be in writing and addressed to the Party's Authorized Representative. For LPRO, the Authorized Representative is the contact person identified in section 6. Contractor's authorized representative is the contact person identified in section 5. Mailed notices are deemed received five (5) days after the post mark date when properly addressed and deposited prepaid into the U.S. postal service. Faxed notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. Notices delivered by personal delivery are deemed received when delivered to the address specified for the receiving Party's Authorized Representative.

### P. GOVERNING LAW

The Contract is governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

### Q. VENUE; CONSENT TO JURISDICTION

Any claim, action, suit or proceeding (collectively, "Proceeding") between the State of Oregon and Contractor that arises from or relates to this Contract must be brought and conducted solely and exclusively within the Circuit Court of State for Marion County; provided, however, that if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, the proceeding must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

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CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THE FORUM IS AN INCONVENIENT FORUM. These provisions are not a waiver of LPRO's or the State of Oregon's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or jurisdiction based thereon.

### R. SUBCONTRACTS; ASSIGNMENT; SUCCESSORS

- i. SUBCONTRACTS. Contractor may not enter into any subcontracts for any of the Services required under this Contract without LPRO's prior written consent. In addition to any other provisions LPRO may require, Contractor shall include in any permitted subcontract provisions to ensure that LPRO receives the benefit of subcontractor's performance as if the subcontractor were Contractor with respect to sections 1.C, 3.A, 3.B, 3.E, 3.I, 3.J, 3.N, 3.P and 3.R. LPRO's consent to any subcontract does not relieve Contractor of any of Contractor's duties or obligations under this Contract.
- ii. Contractor may not assign, delegate, or transfer any of Contractor's rights or obligations under this Contract without LPRO's prior written consent. LPRO's written consent does not relieve Contractor of any obligations under this Contract, and any assignee, transferee, or delegate is considered Contractor's agent.
- iii. The provisions of this Contract are binding upon and inure to the benefit the Parties and the Parties' respective successors and permitted assigns, if any.

### S. THIRD PARTY BENEFICIARIES

LPRO and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. This Contract does not give to third persons or provide any benefit or right to third persons that the public does not hold or that is not generally available to the public, whether directly, indirectly or otherwise, unless the third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of the terms of this Contract. The Task Force is an intended third party beneficiary of this Contract.

### T. SEVERABILITY

If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions of this Contract are not affected, and the rights and obligations of the parties must be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

### U. 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 this Contract so executed constitutes an original.

### V. INTEGRATION AND MERGER

This Contract constitutes the entire agreement between the Parties on the subject matter of this Contract. There are no understandings, agreements, or representations, oral or written regarding this Contract that are not specified in this Contract.

### W. AMENDMENTS; WAIVER

This Contract may be amended to the extent permitted by applicable statutes and administrative rules and as the amendment scope and process may be further described in section 1, Scope of Services. A waiver, consent, or amendment of terms of this Contract does not bind either Party unless the amendment is in writing and LPRO and Contractor have signed the amendment and obtained all necessary approvals. Waivers and consents are

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effective only in the specific instance and for the specific purpose given. LPRO's failure to enforce any provision of this Contract does not constitute a waiver by LPRO of that or any other provision.

### X. SURVIVAL

In addition to all provisions which by their nature extend beyond Contract termination or full performance, the following provisions remain in effect beyond any Contract termination or full performance: sections 2.D, 3.A, 3.B, 3.G, 3.I, 3.J, 3.L, 3.N, 3.P, 3.Q, 3.S, 3.X and 4.

### Y. CONTRACT DOCUMENTS

This Contract consists solely of this Contract document.

### Z. CONFIDENTIAL INFORMATION

- i. Contractor acknowledges that Contractor and Contractor's employees or agents may, in the course of performing Contractor's responsibilities under this Contract, be exposed to or acquire information that is confidential to LPRO, to members of the Legislative Assembly or to other persons. Any and all information of any form obtained by Contractor or Contractor's employees or agents in performing this Contract is confidential information of LPRO ("Confidential Information"). Contractor shall treat reports or other documents or items (including software) that result from Contractor's use of the Confidential Information with respect to confidentiality in the same manner as the Confidential Information. Confidential Information does not include information that (a) is or becomes (other than by disclosure by Contractor) publicly known; (b) is furnished by LPRO to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of the disclosure of the information under this Contract; (d) is obtained from a source other than LPRO without the obligation of confidentiality, (e) is disclosed with the written consent of LPRO; or (f) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.
- ii. 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 Contractor's 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 LPRO under this Contract, and to advise each of Contractor's employees and agents of the employees' and agents' obligations to keep Confidential Information confidential. Contractor shall use Contractor's best efforts, which must include at least all commercially reasonable efforts, to assist LPRO in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise LPRO immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Contractor will at Contractor's expense cooperate with LPRO in seeking injunctive or other equitable relief in the name of LPRO or Contractor against any such person. Contractor agrees that, except as LPRO directs, Contractor will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract. Contractor also, upon termination of this Contract or at LPRO's request, shall turn over to LPRO or destroy, as appropriate or as LPRO directs, all documents, papers, data, records, and any other matter in Contractor's possession, in whatever form or format or however stored or recorded, that embody Confidential Information.
- iii. Contractor acknowledges and agrees that breach of this paragraph Z., including disclosure of any Confidential Information, will give rise to irreparable injury to LPRO that is inadequately compensable in damages. Accordingly, LPRO may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained in this paragraph Z. are necessary for the protection of the legitimate business interests of LPRO and are reasonable in scope and content.



**4. INSURANCE**

**A. REQUIRED INSURANCE.**

Contractor shall obtain the insurance specified in this section 4 before performing under this Contract and shall maintain the insurance in full force and at Contractor's own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to LPRO.

- i. **WORKERS COMPENSATION.** All employers, including Contractor, that employ subject workers who work under this Contract in State shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless the employers are exempt under ORS 656.126(2). Contractor shall require each of Contractor's subcontractors, if any, to comply with, and shall ensure that each of Contractor's subcontractors, if any, complies with, these requirements.

ii. **PROFESSIONAL LIABILITY**

☒ **Required by LPRO** ☐ **Not required by LPRO**

Professional Liability Insurance with a combined single limit, or the equivalent, of not less than \$1 million for each claim, incident or occurrence LPRO requires this insurance to cover damages caused by Contractor's errors, omissions or negligent acts related to the professional services Contractor provides under this Contract.

iii. **COMMERCIAL GENERAL LIABILITY**

☒ **Required by LPRO** ☐ **Not required by LPRO**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to LPRO. This insurance must include personal and advertising injury liability and completed operations liability. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$500,000 for each job site or location. Each annual aggregate limit shall not be less than \$1 million.

iv. **AUTOMOBILE LIABILITY INSURANCE: AUTOMOBILE LIABILITY**

☐ **Required by LPRO** ☒ **Not required by LPRO**

Automobile Liability Insurance covering all owned, non-owned, and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$500,000. each accident for bodily injury and property damage.

v. **EMPLOYERS' LIABILITY**

☐ **Required by LPRO** ☒ **Not required by LPRO**

If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall obtain employers' liability insurance coverage with combined single limit per occurrence of not less than \$500,000, and annual aggregate limits of not less than \$1 million.

**B. ADDITIONAL INSURED**

The professional liability, commercial general liability insurance and automobile liability insurance required under this Contract shall include LPRO and the State of Oregon, and the agencies, departments, divisions, commissions, branches, officers and employees of LPRO and the State of Oregon as Additional Insureds with respect to Contractor's performance obligations under this Contract. Contractor shall ensure that coverage is \_\_\_\_\_

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primary and non-contributory with any other insurance and self-insurance.

### C. "TAIL" COVERAGE

If any of the required liability insurance is on a "claims made" basis, Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion of all Services and LPRO's acceptance of all Services required under this Contract, or (ii) the expiration of all warranty periods provided under this Contract. Notwithstanding the foregoing 24-month requirement, if Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under this Contract. Contractor shall provide to LPRO, upon LPRO's request, certification of the coverage required under this section 4.C.

### D. NOTICE OF CANCELLATION OR CHANGE

Contractor and Contractor's insurer may not cancel, fail to renew, materially change or potentially exhaust aggregate limits for Contractor's insurance coverage(s) without sixty (60) days' written notice from Contractor or Contractor's insurer(s) to LPRO. Any failure to comply with the reporting provisions of this clause constitutes a material breach of this Contract and is grounds for LPRO's immediate termination of this Contract.

### E. CERTIFICATE(S) OF INSURANCE

If requested by LPRO, Contractor shall provide to LPRO Certificate(s) of Insurance for all required insurance. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

## 5. CERTIFICATIONS AND SIGNATURE OF CONTRACTOR'S AUTHORIZED REPRESENTATIVE

THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF CONTRACTOR.

The undersigned certifies under penalty of perjury both individually and on behalf of Contractor that:

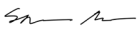
- A. The undersigned is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract and to execute this Contract on behalf of Contractor;
- B. The undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, 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, ORS Chapters 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620.
- C. To the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own or emerging small businesses certified under ORS 200.055 in obtaining any required subcontracts.
- D. Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>
- E. Contractor is bound by and will comply with all requirements, terms and conditions contained in this Contract; and

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F. Contractor \_\_\_ is / X is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one). See section 2.D.ii.


Contractor (print Contractor's name): Rocky Mountain Institute

Authorized Signature: 

By (print name): Stephanie Greene

Title: Managing Director

Date: May 6, 2022

Additional Required Signature: 

By (print name): Heather McCreery

Title: CFO

Date: May 9, 2022

Contact Person (Type or Print): Jonny Kocher

Contact Telephone Number: (619) 459-4267

Contact Fax Number: N/A

Contact E-Mail Address: jkocher@rmi.org

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### 6. SIGNATURE OF LPRO'S AUTHORIZED REPRESENTATIVE

State of Oregon acting by and through the Legislative Policy and Research Office:

Authorized Signature:  Beth Patrino (May 10, 2022 10:20 PDT)

By (print name): Beth Patrino

Title Deputy Director for Committee Services

Date: May 10, 2022

LPRO Contact Person, if different from LPRO's Authorized Representative

(Type or Print): \_\_\_\_\_

Contact Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Fax Number: (\_\_\_\_\_) \_\_\_\_\_

E-Mail Address \_\_\_\_\_











# RMI\_LPRO Personal Services Contract May 2022- Final

Final Audit Report

2022-05-09

Created:	2022-05-06
By:	Melanie Richard (mrichard@rmi.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAVJnXNgYcOllqiHmfjyxKWIDqHUGzcz_X

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-  Document e-signed by Heather McCreery (hmccreery@rmi.org)  
Signature Date: 2022-05-09 - 5:21:23 PM GMT - Time Source: server- IP address: 216.170.244.232
-  Agreement completed.  
2022-05-09 - 5:21:23 PM GMT



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