



Columbia Development Authority

**REQUEST FOR PROPOSALS FOR  
PROFESSIONAL AUDITING  
SERVICES**

**PO Box 200**

**Two Marine Drive, Ste 201  
Boardman, OR 97818**

**November 7, 2023**

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## **I. Background Information**

### **CDA OVERVIEW**

CDA was formed by Intergovernmental Agreement between the County of Morrow, County of Umatilla, CDA of Morrow, CDA of Umatilla and the Confederated Tribes of the Umatilla Indian Reservation for the purpose of

- a. to administer the transition of the Umatilla Army Depot (Depot) located in Morrow and Umatilla Counties from military to civilian use;
- b. to develop a final Umatilla Army Depot Land Reuse Plan (Reuse Plan) for approval by the Department of Defense;
- c. to oversee the development of an economic diversification strategy to address the adverse economic impacts associated with realignment of the Depot and to develop economic opportunities through transition of the Depot to civilian uses;
- d. to implement the final Reuse Plan;
- e. to coordinate all levels of assistance and intergovernmental efforts involving the Authority, the final Reuse Plan and transition to civilian use;
- f. to review and comment upon the environmental cleanup at the Depot so as to accommodate future civilian uses of the Depot; and
- g. to perform such other functions as may be necessary for implementation of the final Reuse Plan.

#### **a. Previous Financial Statements**

Below is a link to the previous financial statement for the Columbia Development Authority:

[www.columbiadevelopmentauthority.com](http://www.columbiadevelopmentauthority.com)

#### **b. Recent and/or Upcoming Changes**

The Columbia Development Authority became owners of 9,511.37 acres of land that was transferred from the Army to the CDA on March 3, 2023. The CDA intends to transfer 4019 acres of the parcel to the Confederated Tribes of the Umatilla Indian Reservation by January 2024.

The CDA registered with the State Audits Department in August 2023.

The CDA was awarded 7 million dollars to design and construct a road. The contract has been awarded to Anderson Perry and Associates.

**c. Accounting Records**

Currently the CDA uses QuickBooks for its checking account and reconciliation. CDA has been funded for several years through OLDCO Grant, the Port of Morrow is the grant financial manager.

## **II. General Information**

### **a. General Description**

Columbia Development Authority is seeking proposals for the audit of its annual financial statements and Single Audit from qualified certified public accounting firms. A complete description of the services to be provided is described under Section III. The first reporting period to be audited is July 1, 2023, through June 30, 2024, extending through four subsequent fiscal years.

March 1<sup>st</sup> each year to submit a financial report to the US Army.

### **b. Points of Contact**

Questions, inquiries, or comments regarding this Request for Proposals (RFP), should be directed to: Greg Smith, Executive Director, or Debbie Pedro Assistant at 541-481-3693.

### **c. RFP Responses**

Your proposal must be received no later than November 30, 2023 at 4:00 pm PST. Responses should be emailed to [columbiadirector@gmail.com](mailto:columbiadirector@gmail.com) (in PDF or MS Word):

Emailed proposals shall not be deemed received until a confirmation email sent by the primary point of contact is received in reply to the submitted proposal, confirming the emailed proposal was received and the format was readable.

Any amendments to this RFP will be in writing and will be issued to all persons or businesses that have indicated an interest to receive RFP addenda or have obtained the proposal materials. The addenda will be posted on [www.umadra.com](http://www.umadra.com) and issued by email to the address furnished by those responding to this announcement. Your proposal must acknowledge receipt of all addenda issued either when you submit your proposal or separately prior to opening. No proposal will be considered that is not responsive to any issued addenda.

### **d. Tentative Schedule for Selection Process**

Proposal Due:	November 30, 2023 at 4:00 pm PST
Notice of Intent to Award:	January 4, 2024
Contract Negotiations:	January 5, 2024
Governing Body Approval & Contract Execution	February 23, 2024

This is a tentative schedule and is provided as a courtesy to potential proposers. The actual schedule may vary from the one provided above without notice to potential proposers. Any changes made to the closing date of the RFP will be made in the form of an addendum provided to all potential proposers who have received RFP documents and contacted Greg Smith at [columbiadirector@gmail.com](mailto:columbiadirector@gmail.com).

**e. Proposal Evaluation**

The following criteria will be used to evaluate proposals and select the most qualified certified public accounting firm:

<b>Evaluation Criteria</b>	<b>Scoring</b>
1. Firm’s municipal audit expertise and experience and qualifications of key personnel	30%
2. Audit approach and schedule	20%
3. References	20%
4. Fees for service	20%
5. Differentiators	10%

The selection team will review the applications and select the most qualified proposers to interview. The selection team will then select the most qualified proposal based on the evaluation criteria listed above.

**f. Contract Duration and Budget**

The selected certified public accounting firm shall be designated as the Columbia Development Authority auditor for a four-year term commencing with the fiscal year ending June 30, 2024. Either party may cancel the contract effective at fiscal year-end, by written notice delivered prior to December 15<sup>th</sup> of that fiscal year. Columbia Development Authority reserves the right to extend the contract beyond the original period, negotiating each year separately as to price and work performed.

**g. Acceptance or Rejection and Negotiation of Proposals**

The Columbia Development Authority reserves the right to reject any or all proposals, to waive any irregularities in the RFP, to accept or reject any item or combination of items in a proposal in accordance with ORS 279B.100 and Local Contract Review Board Rule (LCRBR) 30.125 or 30.130, to request additional information or clarifications from respondents, and to negotiate or hold interviews with any one or more of the respondents. By requesting proposals, the Columbia Development Authority is in no way obligated to award a contract or to pay the expenses of the proposing firms in connection with the preparation or submission of a proposal. Furthermore, Columbia Development Authority reserves the right to reject any and all proposals prior to execution of a contract, with no penalty to Columbia Development Authority, if doing so in the public interest. Any protest or objection to the award must comply with LCRBR 30.135 and/or 30.140.

**III. Scope of Auditor Services**

**a. General**

Columbia Development Authority is requesting proposals from qualified certified public accounting firms, duly authorized to practice as such by the State of Oregon, to audit the Columbia Development Authority financial statements, commencing with the fiscal year ending June 30, 2024, and extending through

the next four subsequent fiscal years.

Columbia Development Authority desires the auditor to express opinions on the fair presentation of the Columbia Development Authority's basic financial statements, in conformity with generally accepted accounting principles (GAAP). The auditor shall also be responsible for performing certain limited procedures involving required supplementary information and other supplementary information required by the Governmental Accounting Standards Board (GASB) as well as required under Oregon Minimum Standards.

Due to the Federal funds the Columbia Development Authority receives and expends, Columbia Development Authority requires a Single Audit each fiscal year.

For this approved EDC, the Department of Defense and the Army require that the CDA submit annual financial statements, certified by an independent Certified Public Accountant (CPA) that account for the reinvestment of proceeds generated from the EDC property into one or more of the allowable categories. The Army also requires a U.S. Army Audit Agency review and report of the CDA's annual financial statements. The Army requires the following from the CDA to fully evaluate whether proceeds were properly invested:

- Submit financial statements certified by an independent certified public accounting firm. The CPA's audit report should express an opinion on the CDA's financial position, results of its operations, and whether the financial statements were presented fairly in all material respects.
- Include in the statements (or as supplemental statements) a breakdown of the revenues and expenditures generated from the Property conveyed to the CDA under the EDC authority. Expenditures need to be broken down into the 12 categories to show where the proceeds were reinvested. In addition, the Army requires notes to the financial statements and supplemental schedules that further explain the sources of revenues, expenditures, and the CDA's plans for redeveloping the discounted EDC property.

For your consideration, **Enclosure 2** is a framework for financial statements that the Army finds acceptable. These examples are intended to provide only a framework for the minimum amount of data required for preparing financial statements. **Enclosure 3** is an example of notes to the financial statement explaining revenues, expenses, and future plans for the discounted EDC property. **Enclosure 4** is an example of a supplemental schedule detailing the sources of revenues. **Enclosure 5** contains the mailing addresses for the annual financial statements.

Your accounting reports must also include accurate statements of gross revenues received for Army review and verification of income. The Army will review your annual reports to include monthly totals of gross income for each source of income received by the District. Each source of revenue must be reported separately (i.e., agricultural leases, real property sales, land and building lease revenues, etc.), in line with the sources of income. These reports must be supported by transactional details that would be made available if requested by the Army. The Army will require annual reports of gross income for a period of seven (7) years following the date of Closing. Annual reporting of gross revenues by source of income must be included in the reporting required to show reinvestment of revenues and expenditures under the EDC legislation, as discussed

The selected auditor shall submit for management's review a draft of all reports. The final reports are subject to review by the Columbia Development Authority Governing Body. The selected auditor shall incorporate, as part of the basic proposal, meeting time with the finance staff and the Governing Body for the purpose of discussing the audit, management letter, and conclusions.

## **b. Reports to be Issued**

Upon completion of the audit of the financial statements, the auditor shall issue the following:

- Independent Auditor's Report
- AU-C 260 Letter to Those Charged with Governance
  - AU-C 260 Letter: including Findings, statements, observations, opinions, comments, and recommendations
- Audit Comments and Disclosures Required by State Regulation
- Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*
- Independent Auditor's Report on Compliance with Requirements Applicable to Each Major Program and Internal Control over Compliance in Accordance with OMB Uniform Guidance
- Schedule of Findings and Questioned Costs

## **c. Additional Reports to be Issued Dependent on Applicability**

- AU-C 265 Communicating Internal Control Related Matters Identified During the Audit
  - AU-C 265 Letter: including material weaknesses and/or significant deficiencies

## **d. Supplemental Reports / Studies**

Reports on other audits or agreed-upon procedures may be agreed to in writing as stated in a supplemental services agreement. Prior to beginning work, the scope and associated costs shall be approved by the Columbia Development Authority.



#### **e. Financial Statement Preparation**

Columbia Development Authority requires the auditors to draft the financial statements and all related schedules and statements due to a lack of staffing in the Finance Department. Please include the cost of drafting services in Attachment A: Proposed Fees for Services.

#### **f. Standards to be Followed**

To meet the requirements of this RFP, these audits are to be performed in accordance with all applicable professional standards including, but not limited to, applicable standards set forth for financial audits by the Governmental Accounting Standards Board (GASB), *Government Auditing Standards* (GAS), as promulgated by the Government Accountability Office (GAO) (if applicable), and requirements described in the U.S. Office of Management and Budget (OMB) Uniform Guidance and Compliance Supplement (if applicable).

In addition, all aspects of the engagement shall be performed in accordance with the highest professional standards and comply with all applicable federal, state, and local laws.

#### **g. Special Considerations**

The firm receiving the contract for audit services shall procure and maintain, for the duration of the contract, insurance as required in the standard services contract (see attached). The firm must provide a Certificate of Insurance. The firm will also be required to obtain and maintain a valid business license for the term of the contract.

#### **h. Working Paper Retention and Access to Working Papers**

All working papers and reports must be retained, at the auditor's expense, for a minimum of seven (7) years following completion of the audit, unless the firm is notified in writing by Columbia Development Authority of the need to extend the retention period. The auditor will be required to make working papers available, upon request, to the following parties or their designees:

- Columbia Development Authority
- Parties designated by the federal or state governments or by Columbia Development Authority as part of an audit quality review process
- Oregon Secretary of State, Audits Division

In addition, the firm shall respond to the inquiries of successor auditors and allow successor auditors to review working papers related to matters of accounting significance and internal control.

#### **i. Assistance to be provided by Columbia Development Authority**

- Staff will prepare the final closing of the books. Columbia Development Authority will provide the auditors with a Trial Balance by fund and all of the accounting detail necessary to perform the audit.
- Staff will prepare all workpapers requested by the Auditor prior to the start of

- interim and/or final fieldwork.
- Staff will generate the necessary confirmation letters based on templates provided by the auditors.
  - Staff will review the draft financial statements prepared by the auditors and all related schedules and statements. Staff will provide any edits/feedback necessary to the audit firm to arrive at the final statements.
  - Staff will be available during the audit to assist in providing information, documentation and explanations as needed as well as access to the financial system to view records and print reports. All requests will first be directed to the Finance Director.
  - Columbia Development Authority will provide the auditor with reasonable workspace including access to the internet, a telephone line, and photocopier.
  - The Executive Director will provide the auditor with a signed Representation Letter at the conclusion of the audit.

## **IV. Proposal Requirements**

### **a. Proposal Requirements**

The proposal should address, at a minimum, the information requested in Section IV, subsection (b), Minimum Content of Responses. Responses should be limited to a total of ten (10) pages, excluding the title page, letter of transmittal, and required attachments.

### **b. Minimum Content of Responses**

- I. **Title Page:** A title page showing the firm's name, the date of proposal, point of contacts, business address, telephone numbers, and email addresses.
- II. **Letter of Transmittal:** A signed letter of transmittal briefly stating that the firm submitting the proposal is properly licensed to perform such audits in the State of Oregon, agrees to perform all of the work outlined in the RFP within the established time periods, is independent of Columbia Development Authority and understands that the firm's proposal is a firm and irrevocable offer through the June 30, 2024 audit period. The letter must also contain a certification that the person signing the proposal is entitled to represent the audit firm, empowered to submit the bid, and authorized to sign a contract on behalf of the audit firm.
- III. **Firm Qualifications and Experience:** Provide a brief overview of the firm's experience performing municipal audits. Include the results of the audit firm's most recent external quality review, any findings discovered as part of that review and actions taken to correct those findings. The audit firm must also disclose information on the circumstances and status of any disciplinary action taken or pending against the audit firm during the past three (3) years with state regulatory bodies or professional organizations, as well as any pending or settled litigation within the past three (3) years.
- IV. **Experience and Qualifications of Key Personnel:** Identify all key personnel who will be assigned to work on this project including names, CPA license

numbers, and Oregon Municipal Audit Roster numbers. Include a summary of their background and experience in auditing similar organizations as well as their roles and assigned responsibilities under the proposal.

- V. **Audit Approach and Schedule:** Describe the firm's audit approach and proposed schedule.
- VI. **References:** Provide contact information for three (3) of the firm's current municipal auditing clients in Oregon and two (2) non-current clients served within the last three (3) years. Contact information should include the name of the public agency, name and title of contact person, telephone number, and email address.
- VII. **Proposed Fees for Service:** Provide expected hours required for the fiscal year ending June 30, 2024 and the not to exceed (NTE) price on attachment A. For proposal purposes, provide a NTE price for providing a single audit assuming one major program and assuming the Organization is a low-risk auditee.

Describe the firm's policy on other charges including special requests and special reports or broadening the scope of the engagement and list the audit firm's billing rates for all other applicable professional services.

- VIII. **Differentiators:** Describe what makes your firm different from other firms providing the same service and describe how that will translate to the level of services received.

## **V. Attachments**

**Attachment A: Fee Proposal**

In accordance with the Request for Proposals for Professional Auditing Services, the firm referenced below submits the following hourly fee quotation and hours proposed for all positions to be assigned to the audit:

Fee for Fiscal Year End June 30, 2024

<i>Key Personnel</i>	<i>F/S Audit Hours</i>	<i>Single Audit Hours</i>	<i>Financial Statement Prep Hours</i>	<i>Total Hours</i>	<i>Hourly Rate</i>	<i>Total</i>
<b>Engagement Partner</b>						
<b>Engagement Manager</b>						
<b>Engagement Senior</b>						
<b>Engagement Staff</b>						
<b>Clerical/Support Staff</b>						
<b>Other</b>						

In accordance with the Request for Proposals for Professional Auditing Services the firm referenced below submits the following cost proposal for the term of the contract:

Fee proposal for Fiscal Years Ending June 30<sup>th</sup>,

	2023	2024	2025	2026
<b>Financial Statement Audit</b>				
<b>Single Audit</b>				
<b>Financial Statement Prep</b>				
<b>Cost of Supplies and Materials</b>				
<b>Additional Fees (if applicable*)</b>				
<b>Total</b>				

\*Technical assistance, as needed, is expected from the audit firm throughout the fiscal year that may include inquiries regarding accounting, reporting and internal control issues. If fees related to this technical assistance are not included in the firm's financial statement audit fee, please include them here.

I hereby certify that the undersigned is authorized to represent the firm stated below, and empowered to submit this bid, and if selected, authorized to sign a contract for the services identified in the RFP.

Firm Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

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

**Attachment B: Personal Service Audit Contract**

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES CONTRACT (“Contract”) is made by and between Columbia Development Authority (CDA), the CDA was formed by Intergovernmental Agreement between the County of Morrow, County of Umatilla, CDA of Morrow, CDA of Umatilla and the Confederated Tribes of the Umatilla Indian Reservation for the purpose of the State of Oregon (“CDA”), and **Enter contractor legal name** (“Contractor”). The parties agree as follows:

### 1. SCOPE OF WORK.

The Columbia Development Authority has need for **Enter services description** services to the Intergovernmental Organization (the “Work”). The scope of work and cost of services shall be described in ‘Exhibit A: Request for Proposal (“RFP”) Response’. The Contractor agrees to provide the necessary services under the terms and conditions as outlined herein.

### 2. CONTRACT DOCUMENTS.

The contract documents consist of the following, listed in order of precedence:

- This Contract;
- Exhibit A: Request for Proposal (“RFP”) Response;
- Exhibit B: Request for Proposal (“RFP”) and Addendums

### 3. EFFECTIVE DATE AND DURATION OF CONTRACT.

This Contract shall become effective on **enter a date**. Unless earlier terminated, this Contract shall remain in full force and effect until **Click here to enter a date**. The term of this Contract may be extended in accordance with section 9. Expiration of this Contract shall not extinguish or prejudice Columbia Development Authority right to enforce this Contract with respect to any breach of a warranty of Contractor or any default or defect in Contractor performance that has not been cured.

### 4. TIME.

Time for this Contract is as stated in the timeline.

### 5. INVOICING.

Contractor shall invoice and shall make payment as per Exhibit A. The Contractor will render to the Columbia Development Authority an itemized bill, for compensation for such services performed. The invoices shall describe all work performed with particularity, by whom it was performed and shall itemize and explain all expenses for which reimbursement is claimed. The Columbia Development Authority will not reimburse Contractor for any expenses unless the type, amount and rate of reimbursement are specified in an Exhibit to this Contract without any markup by the Contractor.

### 6. PAYMENT.

Columbia Development Authority Columbia shall pay Contractor within 30 days after receiving Contractor’s correct invoice. Columbia Development Authority shall not pay any amount in excess of the compensation amounts set forth above nor shall not Columbia Development Authority pay Contractor any fees or costs which Columbia Development Authority reasonably disputes.

### 7. REIMBURSEABLE EXPENSES.

If this paragraph is checked: Under this contract, Contractor is to be reimbursed for the following reimbursable expenses: **List eligible expenses such as printing, mailing, courier services, etc.** Such reimbursement shall be at cost. Administration or overhead markups for travel and related expenses shall not be considered.

**8. CHANGES.**

This Contract, including all exhibits attached hereto, shall not be waived, altered, modified, supplemented, extended, or amended, in any manner whatsoever, except by written instrument, executed by both parties. Such waiver, alteration, modification, supplement, extension, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given. The parties acknowledge and agree that, to the extent permitted by law, this Contract may be amended to specifically provide for additional Contractor services that are within or directly related to the Scope of Work.

**9. KEY PERSONNEL.**

Contractor acknowledges and agrees that the Columbia Development Authority selected Contractor for award of this Contract because of the special qualifications of Contractor's key personnel. Contractor must obtain Columbia Development Authority consent prior to replacing any Key Personnel assigned to perform or support the Work specified in this contract. In the event Contractor requests that Columbia Development Authority approve a reassignment or transfer of the key personnel, Columbia Development Authority shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s).

If this paragraph is checked, the Key Personnel are: **List key personnel by name**

**10. INDEPENDENT CONTRACTOR STATUS/CONTRACTOR WARRANTIES.**

Contractor shall be free from Columbia Development Authority direction and control over the means and manner of providing the labor or service, subject only to the specifications of the desired results. Contractor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law. Contractor shall furnish the tools or equipment necessary for the contracted labor or services.

**10.1. Contractor represents and warrants that:**

10.1.1. Contractor has the power and authority to enter into and perform this Contract and when executed and delivered, this Contract shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

10.1.2. Contractor is engaged as an independent contractor and will be responsible for any federal or state taxes applicable to any payments made under this Contract.

10.1.3. Contractor is not eligible for any federal social security, unemployment insurance, pension, PERS or workers' compensation benefits from compensation or payments paid to Contractor under this Contract.

10.1.4. Contractor is not an employee of the Columbia Development Authority, any special district, local government, the federal government, or the State of Oregon.

10.1.5. Contractor has complied and will continue to comply with all Oregon laws relating to the performance of Contractor's obligations under this Contract. Contractor shall be qualified, professionally competent, and duly licensed to perform the work and services at all times during the term of this Contract.

10.1.6. Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and will apply that skill and knowledge with care and diligence to perform the Work under this Contract in a professional manner and in accordance with standards prevalent in the Contractor's industry, trade, or profession.



10.1.7. Contractor has read, understands, and agrees to be bound by each of the terms and conditions of this Contract.

10.1.8. Contractor prepared its Proposal for this Work independently from all other proposers, and without collusion, fraud or other dishonesty.

10.1.9. Any Goods / Items / Equipment / Components / Hardware / Software / Intellectual Property Rights, etc. delivered to or granted to the Columbia Development Authority under this Contract, and Contractor's Services rendered in the performance of Contractor's obligations under this Contract, are provided to the Columbia Development Authority free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and are free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

10.2. Upon Columbia Development Authority request, Contractor shall provide Columbia Development Authority with evidence reasonably satisfactory to the Columbia Development Authority confirming the foregoing representations and warranties. The representations and warranties set forth in this section 11 are in addition to, and not in lieu of, any other representations and warranties that Contractor provides.

#### **11. OTHER CONTRACTORS.**

Columbia Development Authority may undertake or award other contracts for additional or related work, and Contractor shall fully cooperate with such additional contractors and with any Columbia Development Authority employees concerned with such additional or related work and shall coordinate the performance of work under this Contract and contract documents, with such additional or related work. Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by any Columbia Development Authority employee.

#### **12. SUBCONTRACTORS, ASSIGNMENT; SUCCESSORS-IN-INTEREST.**

Except as specifically authorized in the contract documents, Contractor shall not make any subcontract with any other party for furnishing any of the work and services contemplated under the contract documents or assign or transfer any interest in this Contract, without obtaining the express prior written consent of Columbia Development Authority. In any case, this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

#### **13. NO THIRD-PARTY BENEFICIARIES.**

The Columbia Development Authority 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 or 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.

#### **14. PAYMENT OF LABORERS; PAYMENT OF TAXES.**

Contractor shall:

14.1. Make payment promptly, as due, to all persons supplying to the Contractor labor and material for the prosecution of the work provided for in the contract documents (ORS 279B.220(1));

14.2. Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Contract (ORS 279B.220(2));

- 14.3. Not permit any lien or claim to be filed or prosecuted against the Columbia Development Authority on account of any labor or material furnished (ORS 279B.220(3)); and
- 14.4. Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to the Contractor under this Contract and pay to the Department of Revenue all sums withheld from employees under ORS 316.167. Unless the Contractor is subject to backup withholding, the Columbia Development Authority will not withhold from such compensation or payments any amount(s) to cover the Contractor's federal or state tax obligation (ORS 279B.220(4)).
- 14.5. If Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Contract as such claim becomes due, Columbia Development Authority 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 Contractor by reason of the Contract.
- 14.6. The payment of a claim in this manner shall not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims.
- 14.7. The Contractor shall promptly as due, make payment to any person, co-partnership or association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employee of such 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 employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. (ORS 279B.230(1)).
- 14.8. Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements (ORS 279B.230(2)).

**15. COMPLIANCE WITH APPLICABLE LAW.**

- 15.1. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal, state and municipal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. The Columbia Development Authority performance under the Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.225, 279B.230, and 279B.235 which are incorporated by reference herein.

**16. CONTRACTOR WARRANTY AND COVENANT CONCERNING TAX LAW COMPLIANCE**

16.1. Pursuant to ORS 279B.045, Contractor represents and warrants that:

16.1.1. Contractor (to the best of Contractor's knowledge, after due inquiry), for a period of no fewer than six calendar years preceding effective date of this Contract, has faithfully complied with:

16.1.1.1. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

16.1.1.2. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;

16.1.1.3. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and

16.1.1.4. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

16.2. Pursuant to ORS 279B.045, Contractor shall comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state throughout the duration of this Contract. For the purposes of this section, "tax laws" includes all the provisions described in subsection 17.1 of this Contract.

16.2.1. Any violation of this section 17 or any subsection under it shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in section 17.1 of this Contract, guaranteeing that the 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 the Columbia Development Authority 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:

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

16.2.1.2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to the Authority's setoff right, without penalty; and

16.2.1.3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Columbia Development Authority 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 a replacement contractor.

16.3. These remedies are cumulative to the extent the remedies are not inconsistent, and the Columbia Development Authority may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**17. INSURANCE.**

17.1. Contractor shall obtain prior to beginning any work under this Contract and shall maintain in full force and effect for the term of this Contract, at Contractor's expense:

17.1.1. **Comprehensive general liability** to include bodily injury and property damage for at least \$2,000,000 per occurrence and at least \$5,000,000 aggregate per project.

17.1.2. **Workers' Compensation and Employers' Liability Insurance.** Contractor and its subcontractors, if any, are subject to Oregon Workers' Compensation Law, which requires all employers that employ subject workers who work under this Contract in the State of Oregon to comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors, if any, complies with these requirements. Unless otherwise exempt, Contractor shall provide the Columbia Development Authority with certification of Workers' Compensation Insurance and shall maintain Employers' Liability Insurance with limits not less than \$500,000 for each accident, \$500,000 for disease each employee and \$500,000 each policy limit.

17.2. The policies shall be primary to and non-contributory with any insurance or self- insurance carried by the Columbia Development Authority, issued by a company authorized to do business in the State of Oregon. **The Contractor shall provide the Columbia Development Authority with written notice within thirty (30) days of cancellation or material modification of the insurance contract at the address listed below.** Contractor shall provide certificates of insurance and **additional insured policy endorsement** to Columbia Development Authority prior to commencement of any work under this Contract. If requested, complete copies of insurance policies shall be provided to the Columbia Development Authority. Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance used to satisfy these requirements.

17.3. Contractor shall name the Columbia Development Authority, Board of Directors and appointed officials, officers, agents, employees, and volunteers as additional insureds. This applies to all Contractor insurance policies required by this contract.

#### 18. **PROFESSIONAL LIABILITY INSURANCE.**

If box is checked, this provision applies to this Contract. In addition to other insurance requirements stated above, and if this insurance is applicable, Contractor shall also provide Columbia Development Authority evidence of professional liability insurance in the amount of not less than \$2,000,000 per claim. Contractor shall keep in force and effect the professional liability policy for at least one year after the expiration of the contract with Columbia Development Authority. In any case, Contractor shall notify Columbia Development Authority in the event of a cancellation or reduction in limits. Unless such cancellation or reduction is immediately cured by Contractor, such cancellation or reduction constitutes a breach of this Contract.

**19. INDEMNIFICATION.**

Contractor shall indemnify, defend, save, and hold harmless Columbia Development Authority, its Board of Directors, elected and appointed officials, officers, agents, employees and volunteers (the "Indemnified Parties") from and against all damages, costs (including reasonable attorney fees), liabilities, claims, suits or actions of any nature, for injury or death to persons or damage to property arising out of or related to the acts or omissions of Contractor, its subcontractors, suppliers, agents or any other person or entity acting on Contractor's behalf in connection with, or incidental to, the Work. Without limiting the generality of the Contractor's obligation to indemnify, defend, save and hold harmless the Indemnified Parties, the obligation includes damages, costs (including reasonable attorney fees), liabilities, claims, suits or actions arising out of or related to any claims that the Work, the Work Product, or any other tangible or intangible items delivered to Columbia Development Authority by Contractor may be the subject of protection under any state or federal intellectual property law or doctrine, or the Columbia Development Authority's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design or other proprietary right of any third party.

**20. CONFIDENTIALITY.**

20.1. No reports, information and data given to or prepared or assembled by Contractor under the contract documents shall be made available by Contractor to any individual or organization (except CDA) without the prior written approval of Columbia Development Authority.

20.2. Any obligation of Columbia Development Authority to maintain the confidentiality of Contractor's proprietary information provided to Columbia Development Authority under the Contract Documents is conditioned by and subject to Columbia Development Authority's obligations under the Oregon Public Records Law, ORS 192.311 to 192.478, which may require disclosure of proprietary information as a "public record" unless exempt under ORS 192.345 or ORS 192.355.

**21. RECORDKEEPING.**

Contractor shall maintain all fiscal records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document the Contractor's performance hereunder. All such fiscal records, books, documents, papers, plans, and writings shall be retained by Contractor and kept accessible for a minimum of six (6) years, except as required longer by 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.

**22. ACCESS TO RECORDS.**

Contractor agrees that Columbia Development Authority and its authorized representatives shall have access to all books, documents, papers, and records of the Contractor which are directly related to the Contract for the purpose of making any audit, examination, copies, excerpts, and transcripts.

**23. FOREIGN CONTRACTOR.**

If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Contract.

**24. GOVERNING LAW; JURISDICTION; VENUE.**

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, suit or proceeding (collectively, "the claim") between Columbia Development Authority and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the circuit court of Morrow County where the Columbia Development Authority offices are located for the State of Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor, by its execution of this Contract, hereby consents to the in personam jurisdiction of said courts.

**25. OWNERSHIP OF WORK PRODUCT.**

25.1. As used in this section 256, and elsewhere in this Contract, the following terms have the meanings set forth below:

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

25.1.2. "Third-Party Intellectual Property" means any intellectual property owned by parties other than Columbia Development Authority or Contractor.

25.1.3. "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to Columbia Development Authority pursuant to the Work.

25.2. All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Columbia Development Authority. Columbia Development Authority and Contractor agree that such original works of authorship are "work made for hire" of which Columbia Development Authority is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Contractor hereby irrevocably assigns to Columbia Development Authority any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Columbia Development Authority's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Columbia Development Authority. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, 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.

25.3. In the event that Work Product created by Contractor under this Contract is Contractor Intellectual Property, a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to County an irrevocable, non-exclusive, perpetual, royalty- free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on Columbia Development Authority's behalf.

25.4. In the event that Work Product is Third-Party Intellectual Property, a derivative work based on Third Party Intellectual Property, or a compilation that includes Third-Party Intellectual Property, Contractor shall secure on Columbia Development Authority's behalf and in the name of the Columbia Development Authority, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third-Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Columbia Development Authority's behalf.

**26. ERRORS.**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Contract without undue delays and without additional cost to Columbia Development Authority.

**27. TERMINATION.**

27.1. This Contract may be terminated at any time by mutual consent of both parties.

27.2. Contractor may terminate this Contract upon thirty (30) days' written notice to Columbia Development Authority if Columbia Development Authority fails to pay Contractor pursuant to the terms of this Contract and County fails to cure within thirty (30) days after receipt of Contractor's notice or such longer period of cure as Contractor may specify in such notice.

27.3. CDA, in its sole discretion, may terminate this Contract, in whole or in part, upon thirty (30) days' notice to Contractor.

27.4. Columbia Development Authority may terminate this Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as may be established by Columbia Development Authority in such notice, upon the occurrence of the following events: (i) federal or state laws, regulations or guidelines are modified or interpreted in such a way that the work or services provided under this Contract are prohibited or Columbia Development Authority is prohibited from paying for such work or services from the planned funding source; (ii) Contractor no longer holds any license or certificate that is required to perform the work or services; or (iii) Contractor commits any material breach or default of any covenant, warranty, obligation, certification or agreement under this Contract, fails to perform the work or services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the work or services as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within ten (10) days after delivery of Columbia Development Authority's notice or such longer period as Columbia Development Authority may specify in such notice.

27.5. In the event of termination under sections 27.1, 27.2, 27.3 or 27.4(i), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work or services multiplied by the percentage of work or services completed and accepted by Columbia Development Authority, less previous amounts paid and any claim or claims which the Columbia Development Authority has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this section 27.5, Contractor shall pay any excess to Columbia Development Authority upon demand.

27.6. In the event of termination under section 27.4(ii) or 27.4(iii), Columbia Development Authority shall have any remedy available to it in law or equity.

27.7. Upon receiving a notice of termination, Contractor shall immediately cease all activities under this Contract, unless expressly directed otherwise by Columbia Development Authority in the notice of termination. Further, upon termination, Contractor shall deliver to Columbia Development Authority all contract documents, information, works-in-progress, and other property that are or would be deliverable had the Contract been completed. Upon Columbia Development Authority's request, Contractor shall surrender to anyone Columbia Development Authority designates, all documents, research or objects or other tangible things needed to complete the work or services.

**28. ATTORNEY FEES.**

If a suit or action is filed to enforce any of the terms of this Contract, each party is responsible for their respective costs and fees, including attorney fees.

**29. FUNDS AVAILABLE AND AUTHORIZED, NON-APPROPRIATION OF FUNDS.**

If payment for work under this Contract extends into the CDA's next fiscal year, the Columbia Development Authority's obligation to pay for such work shall be subject to approval of future Columbia Development Authority appropriations to fund this Contract. Moreover, continuation of this Contract at specified levels is conditioned on adequate funding under the Columbia Development Authority's annual budget. The Columbia Development Authority reserves the right to adjust the level of services provided for in this Contract in accordance with funding levels adopted by Columbia Development Authority Board.

**30. SEVERABILITY.**

The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions 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.

**31. FORCE MAJEURE.**

Neither Columbia Development Authority nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, Columbia Development Authority'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.

**32. WAIVER.**

The failure of Columbia Development Authority to enforce any provision of this Contract shall not constitute a waiver by Columbia Development Authority of that or any other provision.

**33. RECYCLABLE MATERIALS.**

Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(ee)), recycled PETE products (as defined in ORS 279A.010(ff)), and other recycled products (as "recycled product" is defined in ORS 279A.010(gg)).

**34. NOTICE.**

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 or mailing with postage prepaid to Contractor or Columbia Development Authority at the address set forth below. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.



**For Columbia Development Authority**

Contract Administrator Name, **Greg Smith**; Title: **Executive Director**

Address, **Two Marine Drive**, County Morrow, State OR and ZIP Code **97818**; Mailing Address: **PO Box 200, Suite 102, Boardman, OR 97818**

Telephone: **(541) 481-3693**

Email: **columbiadirector@gmail.com**

For the Contractor

Contract Administrator Name, Title: **Enter contract administrator's name and title** Address,

County, State and ZIP Code: **Enter address**

Telephone: **Enter telephone number**

Email: **Enter email address**

**35. CONTRACTOR INFORMATION AND CERTIFICATION.**

Contractor shall provide Contractor's Social Security number or Contractor's federal tax ID number and the additional information set forth below. This information is requested pursuant to ORS 305.385 and OAR 125-246-0330. Social Security numbers provided pursuant to this section will be used for the administration of state, federal and local tax laws.

Legal Name: **Enter Business Legal name, including DBA, if appropriate**

Address, County, State and ZIP Code: **Enter Contractor Address and mailing address (if different); if both addresses are the same as in 35, you may enter "see item 35"**

Citizenship, if applicable: Non-resident alien?  Yes  No

Business Designation (check one):

Professional Corporation  Partnership  Limited Partnership

Limited Liability Company  Limited Liability Partnership  Sole Proprietorship

Other

Federal Tax ID#: **Enter Federal Tax ID number**

Columbia Development Authority may report the information set forth above in conjunction with any reports it makes to the Internal Revenue Service (IRS) under the name and Social Security number, or taxpayer identification number provided.

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury that: (a) the number shown on this form is Contractor's correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge; (d) Contractor is not in violation of any Oregon tax laws named in ORS 305.380(4); (e) Contractor is an independent contractor as defined in ORS 670.600; and (f) the supplied Contractor data is true and accurate.

*[signature page follows]*

FOR Columbia Development Authority:

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*Signature*

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*Name (Printed)*

---

*Title*

---

*Date*

FOR **Enter Contractor Name:**

---

*Signature*

---

*Name (Printed)*

---

*Title*

---

*Date*

# **EXHIBIT A**

**Request for Proposal Response**

# **EXHIBIT B**

**Request for Proposals**