



INVITATION TO BID FOR THE PURCHASE OF SERVICES

Bid No.: 6638

Closing Date: Tuesday, November 10, 2015

Time: 1:00 PM (PT)

Description: Semi-Annual Super Clean Janitorial Services.

Procurement Analyst: Julie Schmoyer **Phone:** (503) 540-1284

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THIS IS A GENERAL PROCUREMENT AS DEFINED IN OAR 177-037-0040

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1. TECHNICAL REQUIREMENTS / SCOPE OF WORK

1.1 Purpose:

The Oregon State Lottery Commission ("Lottery") is seeking bids for semi-annual super cleaning janitorial services ("Semi-Annual Janitorial Services" or "Services") as described below.

Lottery intends to enter into a written agreement ("Agreement" or "Contract") with the successful, responsible Bidder as set forth in Section 2.5.2. Lottery anticipates that the Agreement will have an initial term of five (5) years ("Initial Term"). Lottery and the awarded Contractor may negotiate additional one, two, or three year extensions to the Agreement, the total which are not anticipated to exceed ten (10) years, unless deemed in Lottery's best interest as documented by Lottery.

1.2 Semi-Annual Janitorial Services Requirements:

The awarded Contractor shall provide Semi-Annual Janitorial Services for Lottery in accordance with the requirements and Services outlined in Section 1.

1.2.1 Travel, Labor, Equipment and Supplies:

1.2.1.1 Awarded Contractor Obligations:

Provide all travel, labor, equipment, and supplies necessary to perform Services for the Lottery building located at 500 Airport Road SE, Salem, OR 97301.

Maintain equipment according to the manufacturer's recommended standard requirements for all equipment to be used for Services.

1.2.1.2 Lottery Obligations:

Lottery shall furnish and supply for the awarded Contractor's use in their performance of the Services: paper towels, toilet tissue, paper toilet seat protectors, liquid hand soap, liquid dish soap, trash bags, deodorants and sanitary supplies for use in the restrooms, kitchens and lunchroom.

1.2.1.3 Cleaning Supplies:

The awarded Contractor shall not use any cleaning product – hazardous or not – that Lottery prohibits on site, in accordance with the State of Oregon Office of the Governor's Executive Order 12-05:

<http://www.oregon.gov/gov/admin/Pages/executive-orders.aspx>

1.2.2 Hazard Communication:

The awarded Contractor shall submit to Lottery, Safety Data Sheets ("SDS") for any items (s) containing hazardous chemicals that will be used in Lottery facilities. Lottery's Safety Committee must approve all hazardous chemicals prior to their introduction and use in the Lottery facility.

Products which contain hazardous chemicals, as defined in OAR chapter 437, must be labeled, tagged or marked with the following information:

1.2.2.1 Identity of the hazardous chemical(s);

1.2.2.2 Appropriate hazard warning; and

1.2.2.3 Name and address of the chemical manufacturer, importer or other responsible Party.

The awarded Contractor shall be responsible for the removal and disposal of all supplies including hazardous materials and wastes. Disposal shall be in compliance with all state and federal regulations.

1.2.3 Sample Map(s) of Lottery Building: Lottery will provide the awarded Contractor with sample map(s) of the Lottery building that indicates the approximate location of various departments and rooms where Services are to be performed. See Exhibit C.

1.2.4 Semi-Annual Janitorial Services: All Services in this Section 1.2.4 must comply with the Tasks Performance Standards and Technical Specifications outlined in Exhibit D. The awarded Contractor shall perform the following Services no less than twice per one (1) year period, about once every six months.

1.2.4.1 Semi-Annual Janitorial Services:

- a. Perimeter Window, Window Ledges and Glass Cleaning:
 - i. Wash clean and dry both sides of all building perimeter windows.
 - ii. Wipe clean and remove spider webs and debris from all window ledges of building perimeter window ledges. The awarded Contractor shall not move plants.
- b. Exterior Light Fixture Cleaning:
Wash and dry all light fixtures attached to main facility and warehouse building.
- c. Player Services Lobby:
Sweep/dust-mop then strip, wet-mop, seal and wax all tile flooring.
- d. Awning Cleaning:
 - i. Pressure wash front entryway awning.
 - ii. Pressure wash east awnings, two each.
 - iii. Pressure wash southeast awning.
- e. Carpet Cleaning:
 - i. Vacuum all carpeted flooring, includes elevator.
 - ii. Clean all carpeted areas, using a hot water extraction method.
- f. Kitchenettes (Quantity: 8):
 - i. Sweep/dust-mop then strip, wet-mop, seal and wax flooring.
 - ii. Wipe clean and disinfect refrigerators, interiors and exteriors.
- g. Restrooms (Quantity: 12):
Sweep/dust-mop then strip, wet-mop and seal ceramic tile floor and vinyl flooring then wax vinyl flooring.
- h. Restroom/Shower/Locker Rooms (Quantity: 2):
Sweep/dust-mop then strip, wet-mop and seal ceramic tile floor and

vinyl flooring then wax vinyl flooring.

- i. Mail Room:
 - i. Remove mats and chairs.
 - ii. Sweep/dust-mop then strip, wet-mop, seal and wax vinyl tile flooring.
- j. Lunchroom/Breakroom (Quantity: 1):
 - i. Wipe clean and disinfect refrigerators, interiors and exteriors.
 - ii. Remove all tables, chairs, recycle bins, garbage cans, bookshelves and end tables prior to cleaning area and replace upon completion of cleaning area. Do not move vending machines or computer tables.
 - iii. Sweep/dust-mop then strip, wet-mop, seal and wax flooring.

1.2.4.2 Semi-Annual Janitorial Services Supervision: The awarded Contractor shall provide one (1) on-site supervisor for supervision of all their employees performing the Semi-Annual Janitorial Services.

1.2.5 Service Hours for Semi-Annual Janitorial Services:

Services for each one (1) day semi-annual super cleaning shall be completed on a Saturday between the hours of 7:00 a.m. and 4:00 p.m. (PT) and shall be scheduled with the awarded Contractor approximately thirty (30) calendar days in advance or as mutually agreed upon in writing between the parties.

1.3. Performance of the Services:

The awarded Contractor shall perform the Services described in this Section 1 in a professional manner, within the specified time, and consistent with industry standards for the type of work required by the resulting Contract. Unless the methods of performing a task are specified elsewhere in this document, the awarded Contractor shall employ methods that are generally accepted and used by the industry.

1.4 Inspections:

1.4.1 Lottery's Facilities Supervisor or designee shall perform random on-site walk-through inspections during the awarded Contractor's performance of the scheduled Semi-Annual Janitorial Services, as described in this Section 1 ("Inspection(s)").

1.4.2 Upon completion of each Inspection, Lottery's Facilities Supervisor or designee shall make a written summary of the Inspection results. Lottery's Facilities Supervisor or designee may forward written results of the Inspection to the awarded Contractor for immediate action to correct any problems found during the Inspection and may notify the awarded Contractor of any deficiencies in writing (the "Deficiency Notice").

The awarded Contractor shall correct all Service deficiencies within two (2) business Days following the date of the Deficiency Notice, or as soon as practical, unless additional time is otherwise negotiated. Failure to cure Service deficiencies within the specified amount of time shall be considered a material breach of the resulting Contract and Lottery reserves the right to terminate the resulting Contract in accordance with

Section 17 of the resulting Contract. Any minor performance or Services deficiency that needs to be addressed in a timely manner shall be responded to and remedied within one (1) hour by the awarded Contractor.

- 1.4.3** The awarded Contractor shall meet with the Lottery's Facilities Supervisor or their designee prior to each semi-annual super cleaning, on a day and time as mutually agreed upon in writing, to review and discuss the Services to be performed. If requested by Lottery, the awarded Contractor shall meet with the Lottery's Facilities Supervisor or their designee after a semi-annual super cleaning, on a day and time as mutually agreed upon in writing, to review and discuss the Services performed and any complaints or performance issues.

1.5 Licenses:

The awarded Contractor shall hold all state and local certificates and licenses required to perform the Services under the resulting Contract. This requirement applies to the awarded Contractor and any employee assigned to perform Services under the resulting Contract.

1.6 Qualified Service Contractors:

Lottery will consider Bids only from Bidders who are actively engaged in Services similar to those required by this ITB. Bidders' primary or core business must be providing janitorial services and Bidder shall have a minimum of five (5) years of experience in providing janitorial services.

2. INSTRUCTIONS TO BIDDERS

2.1 Lottery Procurement Rules and Definitions:

Oregon Administrative Rules (“OAR”) Chapter 177, Division 36, Lottery Procurement Rules, apply to this Invitation to Bid (“ITB”) and to any Contract resulting from this ITB. In addition to terms defined in this ITB, capitalized terms used but not defined in this ITB are defined in OAR 177-036-0000.

2.2 Single Point of Contact / Tentative Schedule:

2.2.1 There will be only one point of contact for the entire ITB process. The contact point is the Procurement Analyst listed on page one of this ITB. Any questions regarding the specifications, the bidding process, or the award process shall be directed to the Lottery Procurement Analyst listed on page one.

2.2.2 The schedule below is the anticipated schedule for this ITB process. If a specified date, such as the Closing Date, is delayed, the rest of the schedule may be adjusted by the same number of days of the delay. **This schedule is provided as a courtesy. The actual schedule may change without notice to potential Bidders. However, Lottery will make any changes to the Inquiry Deadline or to the Bid Submission Deadline by Addendum.**

ACTIVITY	DATE
Invitation to Bid Released:	Monday, October 19, 2015
Pre-Bid Conference and Walk-Through (Voluntary):	Thursday, October 29, 2015 – 9:00 AM to 11:00 AM (PT)
Inquiry Submission Deadline:	Monday, November 2, 2015 - 1:00 PM (PT)
Inquiry Response:	Monday, November 2, 2015
Bid Submission Deadline (last day to submit Bids):	Tuesday, November 10, 2015 - 1:00 PM (PT)
Intent to Award Notification:	Tuesday, November 10, 2015
Contract Award:	Thursday, December 17, 2015

2.3 BID PREPARATION:

2.3.1 Bid Format:

Bids must be typewritten or prepared in ink and submitted on the form(s) provided in the ITB.

2.3.2 Conformance to Bid Requirements:

Bids shall conform to the requirements of the ITB. All necessary attachments shall be submitted with the bid and in the required format. Bid prices shall be for the unit indicated on the bid. Failure to comply with all requirements may result in bid rejection.

2.3.3 Requests for ITB Clarification or Change, Questions concerning ITB:

2.3.3.1 Inquiries:

By submitting a Bid, Bidder agrees that it understands the requirements of this ITB, and that Bidder fully understand the obligations if Bidder were to enter into a Contract with Lottery. Potential Bidders must submit any questions concerning this ITB, requests for change to this ITB and requests for clarification of this ITB (collectively "Inquiries") on or before the Inquiry Submission Deadline stated in Section 2.2.2.

Potential Bidders may submit Inquiries to Julie Schmoyer at the e-mail address or facsimile number listed on page one of the ITB. **POTENTIAL BIDDERS MUST CLEARLY LABEL ALL INQUIRIES AS FOLLOWS: "INQUIRIES REGARDING SEMI-ANNUAL JANITORIAL SERVICES, ITB 6638, ATTENTION: Julie Schmoyer."**

Lottery will not identify the potential Bidders who submit Inquiries. Lottery will provide to all ITB recipients, a copy of the Inquiries submitted and Lottery's responses to those Inquiries. If a potential Bidder discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission or other error in this ITB and fails to notify Lottery on or before the Inquiry Submission Deadline, the Bidder submits its Bid at its own risk.

2.3.3.2 Response to Inquiries:

Lottery will promptly respond to each properly-submitted Inquiry. Where appropriate, Lottery will issue ITB revisions by Addenda through ORPIN (see Section 2.3.5). Lottery may informally respond to questions but all informal responses are not binding on Lottery and do not affect or change the ITB in any manner.

2.3.4 VOLUNTARY Pre-Bid Conference and Walk-Through:

2.3.4.1 Lottery will conduct a voluntary pre-Bid conference on the date and time specified in Section 2.2.2, at the Lottery building located at 500 Airport Road, S.E., Salem, Oregon 97301. (If parking space is not available at the Lottery building, parking is available at the DAS Motor Pool and walk across the footbridge past DAS Printing and the State Data Center to Lottery. The entrance to the DAS Motor Pool is located to the south of the Lottery building on the east side of Airport Road.)

The pre-Bid conference is designed to clarify the information requested in this ITB, provide an opportunity for questions and answers, and perform an on-site walk-through of general areas within the Lottery building to represent typical conditions that can be expected. ATTENDANCE OF THIS PRE-BID CONFERENCE IS OPTIONAL.

2.3.4.2 Statements not Binding: All statements of any nature that are made at this pre-Bid conference will not change this ITB and are not binding upon Lottery until Lottery issues an Addendum making the change applicable to this ITB.

2.3.5 ITB Documents:

ITB documents, including any issued Addenda, may be downloaded from the State of Oregon's Procurement Information Network, commonly referred to as "ORPIN." ORPIN can be accessed through the following link: <http://orpin.oregon.gov>.

2.4 BID SUBMISSION

2.4.1 Bid Submission Process and Deadline:

Bids will be accepted via the following:

2.4.1.1 Via Email: lottery.bidssubmit@state.or.us
CC: Julie.schmoyer@state.or.us

Indicate on subject line:

ITB # 6638

Closing: Include Bid Submission Deadline indicated in Section 2.2.2.

2.4.1.2 Via Fax: (503)540-1040

Indicate on cover sheet:

ITB # 6638

Closing: Include Bid Submission Deadline indicated in Section 2.2.2.

Attention: Julie Schmoyer, Procurement Analyst

Number of pages including cover sheet: ____

2.4.1.3 Via Delivery: Oregon Lottery
500 Airport Road SE
Salem, OR 97301

Indicate on package or envelope:

ITB # 6638

Closing: Include Bid Submission Deadline indicated in Section 2.2.2.

Attention: Julie Schmoyer, Procurement Analyst

All Bids must be in Lottery's possession no later than the Bid Submission Deadline specified in Section 2.2.2. Lottery will reject Bids Lottery receives after the Bid Submission Deadline. Bidders bear the risk of Bids Lottery receives after the Bid Submission Deadline as a result of any fax or e-mail failure, regardless of the reason for the failure.

2.4.2 Required Pages :

Bidder must complete, sign, and return the following pages with their bid response:

- Section 3 - Pricing Page
- Section 4 - Bid Form
- Any issued Addenda that requires acknowledgement/signature.

2.4.3 Signature on Bid

Bids shall be signed in ink by an authorized representative of the Bidder. Signature on a bid certifies that the bid is made without connection with any person, firm or corporation making a bid for the same goods and/or services and is in all respects fair and made without collusion or fraud. Signature on a bid also certifies that the Bidder has read, fully understands and agrees with all bid specifications, terms and conditions. No consideration will be given to any claim resulting from bidding without fully

comprehending all requirements of the Invitation to Bid.

Bidders shall only enter information within the bid document where it is requested or required. Bidders shall NOT make any alterations to the Original Solicitation Document. Any bid that has been altered may be rejected.

2.4.4 Bids are Binding Offers:

Each Bid submitted in response to this ITB is an offer that is binding, valid and firm for ninety (90) days following the Bid Submission Deadline.

2.4.5 ITB Addenda:

Lottery may change this ITB only by written Addenda, which will be issued through the ORPIN system prior to the Bid Submission Deadline. If required by Addendum, Bidder must sign and return the Addendum to Lottery with its Bid.

Because this ITB is being issued through the ORPIN system, it is the Bidder's sole responsibility to check ORPIN regularly through the Bid Submission Deadline to obtain (and to avoid missing) any issued Addenda.

2.4.6 Bid Modification:

Bidders may modify submitted Bids only in writing and before the Bid Submission Deadline. A Bidder's last Bid submitted replaces and supersedes in its entirety all prior Bids submitted by the Bidder. Bidders may modify Bids after the Bid Submission Deadline only in accordance with OAR 177-036-0100.

2.4.7 Bid Withdrawals:

A Bidder may withdraw its Bid prior to the Bid Submission Deadline by submitting a written request for withdrawal that is signed by Bidder's authorized representative. The Bidder must submit the written request for withdrawal to the Procurement Analyst listed on page one before the Bid Submission Deadline by means specified in Section 2.4.1. Bidders may withdraw Bids after the Bid Submission Deadline only in accordance with OAR 177-036-0100.

2.4.8 Cost of Bid:

Bidder is responsible for all costs Bidder incurs in association with Bid preparation or submission, or both, including but not limited to costs incurred for making necessary studies or designs for Bid preparation.

2.4.9 Method of Bidding:

Bidders must clearly specify the price for each designated quantity in the space(s) provided on the Pricing Page (Section 3). Failure to do so may result in bid rejection.

2.5 BID EVALUATION AND AWARD:

2.5.1 Non-Responsive Bids:

Lottery may reject Bids that are not Responsive as defined in OAR 177-036-0000(28).

2.5.2 Method of Award:

Lottery intends to Award the resulting Contract to the Responsible Bidder who submits the Responsive Bid with the lowest overall price for Services.

2.6 Investigation of References and Past Performance:

Lottery reserves the right to investigate the references and the past performance of any Bidder with respect to its successful performance of similar services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, subcontractors, and employees. The Lottery may postpone the Award or execution of the resulting Contract after the announcement of the apparent successful Bidder in order to complete its investigation.

2.7 Prior Acceptance of Defective Bids:

Due to limited resources, Lottery will not completely review or analyze any Bid response which on its face fails to comply with the requirements of this ITB or which clearly is not the best Bid, nor will the Lottery investigate the references or qualifications of those who submit Bids that are not Responsive.

2.8 Public Records and Requests for Confidentiality:

All information submitted with a Bid may be public record and subject to disclosure under the Oregon Public Records Law, ORS 192.410 through 192.505, unless an exemption from disclosure under the Oregon Public Records Law applies. Bidders must specifically identify those sections in the Bid and briefly explain how and why the information may be exempt from disclosure. Bidders must also include the name, address, and telephone number of the person Bidder authorizes to respond to Lottery's inquiries concerning the nature of the materials Bidder deems exempt from disclosure. Lottery's non-disclosure of documents or any portion of a document submitted as part of a Bid may depend upon official or judicial determinations based upon the Oregon Public Records Law.

2.9 Notice of Intent to Award:

Lottery will provide written notice of its intent to Award a Contract once Lottery has determined the Responsible Bidder who submitted the lowest priced responsive Bid.

2.10 Security Investigation:

The awarded Contractor agrees that all individuals performing the work required under the resulting Contract on behalf of the awarded Contractor will be subject to a security background investigation performed by Lottery's Security Section. The investigation may include, but is not limited to, the completion of forms that shall be provided by the Security Section, and a fingerprint check. The Lottery in its sole discretion reserves the right to determine the level of security background investigation required for the work performed under the resulting Contract.

2.10.1 Upon notice of Contract award, the awarded Contractor shall supply to Lottery's Security Section a complete list of persons selected to work in the Lottery building for fingerprint checks and background investigations.

Lottery will send the awarded Contractor security related forms which are necessary for Lottery to complete security investigations. The awarded Contractor is required to complete and submit to Lottery all security related forms. No Services shall be delivered by the awarded Contractor without pre-approval by Lottery Security Section.

2.10.2 After the initial performance of the Services, the awarded Contractor shall supply to Lottery's Security Section a complete list of persons selected to work in the Lottery building for additional Semi-Annual Janitorial Services, at least twenty (20) business days prior to performing the Service for security review and background check.

2.11 Contract Form:

Lottery's resulting Contract with the Bidder receiving the Contract Award will be substantially in the form attached to this ITB as Exhibit A.

2.12 Lottery's Reservation of Rights:

The Lottery reserves the right, in its sole discretion to:

2.12.1 Modify this ITB;

2.12.2 Extend the Bid Submission Deadline;

2.12.3 Determine whether a Bid does or does not substantially comply with the requirements of this ITB;

2.12.4 Waive any minor informality pursuant to OAR 177-036-0100(2)(a);

2.12.5 Include in the resulting Contract some or all of the items priced in the Bid; and

2.12.6 At any time prior to the resulting Contract execution:

2.12.6.1 Reject any Bid that fails to comply with all requirements specified in this ITB; and

2.12.6.2 Reject all Bids and cancel this ITB upon Lottery's determination that cancellation is in the Lottery's best interest.

2.13 Equipment Maintenance Records:

Immediately upon receipt of Lottery's notice of Intent to Award the Contract, the apparent Contractor shall provide to Lottery a list of all equipment to be used for Services and shall include a maintenance history and maintenance schedule for that equipment.

3. PRICING PAGE

3.1 Pricing.

Bidders must clearly specify the price(s) for Semi-Annual Janitorial Services in the spaces provided below. Bidder must state the prices in US dollars with no more than two (2) digits to the right of the decimal point.

Lottery intends to Award a Contract to the Responsible Bidder who submits the Responsive Bid with the lowest overall cost for Services. Pricing is firm for the first two (2) years of the Initial Term of the Contract. Pricing for the remainder of the Initial Term may be negotiated based on any increase or decrease related to performance of the Semi-Annual Janitorial Services prior to the end of the first two (2) year period. Pricing for any extended terms will be negotiated based on any increase or decrease related to performance of the Semi-Annual Janitorial Services at the time of renewal.

Line:	Description:	Quantity:	Unit of Measure:	Unit Cost:	Extended Cost (Overall Cost for Services):
1.	Semi-Annual Janitorial Services:	One (1) Saturday twice per twelve (12) month period.	Each	\$	\$ (Unit Cost x 2)

4. BID FORM

The undersigned agrees and certifies that:

- a. The undersigned has read and understands all instructions, specifications, terms and conditions contained in this ITB and agrees that the State of Oregon is not liable for any claims or subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder's failure to understand all instructions, specifications, terms and conditions of this ITB;
- b. The undersigned is Bidder's authorized representative, that the information provided in this Bid is true and accurate, and that providing incorrect or incomplete information may be cause for Bid rejection or Contract termination;
- c. Bidder is submitting an offer that is binding, valid and firm for a period of no less than 90 days following the Bid Submission Deadline;
- d. The Bid information was arrived at independently, without fraud, other dishonesty or collusion with any other party competing for a contract under this Invitation to Bid.
- e. Bidder certifies it will take reasonable steps to ensure an equal opportunity is provided to Oregon certified Minority, Women, and Emerging Small businesses to compete for and participate in the performance of any subcontracted work under the awarded contract. Oregon MWESB certified firms, as defined in ORS 200.055, have an equal opportunity to participate in the performance of contracts financed with state funds. A list of Oregon certified MWESB businesses can be located at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>
- f. The undersigned accepts and agrees on behalf of Bidder to be bound by the terms and conditions of any resulting Contract between Bidder and Lottery.

The undersigned hereby acknowledge having received and duly considered the following addenda to this ITB: Addenda No. _____ to Addendum No. _____ inclusive.

Bidder (COMPANY) Name FEIN ID# or SSN (REQUIRED)

Bidder Address

Authorized Representative Signature Date

Title of Authorized Representative

Contact Person (print)	Phone	Email
Bidder is an Oregon Certified MWESB	<input type="checkbox"/> Yes	Certification No. _____
	<input type="checkbox"/> No	

EXHIBIT A
SAMPLE SERVICES CONTRACT

(Note to Bidders: This Exhibit A is a sample only. Do not complete this section.)



It Does Good Things.

**OREGON STATE LOTTERY
SERVICES CONTRACT**

FOR _____ SERVICES

This Contract # _____ ("Contract") is between the State of Oregon, acting by and through its Oregon State Lottery Commission ("Lottery") and _____, ("Contractor"), collectively the "Parties".

Lottery's Contract Administrator for this Contract is _____.

1. Effective Date and Duration.

- a. This Contract shall become effective on the date this Contract has been signed by every party hereto and, when required, approved by the Oregon Department of Justice ("Effective Date").

Unless terminated or extended, this Contract shall expire upon Lottery's acceptance of all Services, or _____, whichever occurs last. Neither expiration nor termination shall extinguish or prejudice Lottery's right to enforce this Contract with respect to any breach of a Contractor warranty or any default or defect in Contractor's performance that has not been cured.

- b. The initial term of this Contract shall be five (5) years ("Initial Term"). This Contract may be extended for additional period(s), subject to agreement by the Parties, on the term and price of the services hereunder. The maximum term for this Contract will not exceed ten (10) years unless deemed in Lottery's best interest as documented by Lottery.

2. Consideration.

- a. The maximum, not to exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is \$ _____.
- b. Payments shall be made to Contractor in accordance with the Payment Methodology in Exhibit A.

3. Amendments.

No waiver, consent, modification or change to the terms of this Contract shall bind either party unless in writing and signed by both parties and all approvals by law have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

4. Definitions.

In addition to the terms defined in this Contract, all other capitalized terms used but not defined in this Contract are defined in OAR 177-036-0000.

5. Statement of Work.

The Statement of Work (the “Services”), including deliverables and the delivery schedule for such Services, if applicable, is contained in Exhibit A, and is attached and incorporated by reference into this Contract. Contractor agrees to perform the Services as specified in Exhibit A and in accordance with the terms and conditions of this Contract.

6. Pricing

- a. Contractor’s pricing established in Exhibit B.1 is firm for the first two (2) years of the Initial Term following the Effective Date of this Contract. Exhibit B is attached and incorporated by reference into this Contract.
 - i. For the remainder of the Initial Term, the parties may negotiate a price adjustment. Contractor may submit a request for a price adjustment within sixty (60) calendar days prior to the end of the first two (2) year period of the Initial Term.
 - ii. If the Contract is extended beyond the Initial Term, the parties may negotiate a price adjustment. Contractor may submit a request for a price adjustment within 60 calendar days prior to expiration of the then-current Contract term.
- b. Lottery may require Contractor to present acceptable documentation verifying the affected increase. Lottery will determine what constitutes acceptable documentation. The Parties shall mutually agree to any price adjustment by written amendment to this Contract.
- c. If Lottery rejects Contractor’s proposed price increase, or proposes a lesser amount of increase, Contractor may either agree to extend the term with no price increase, or at the lesser price increase, or allow the Contract to expire.
- d. Lottery shall be given the immediate benefit of any price decrease. Contractor shall promptly notify Lottery’s Purchasing Analyst listed in Section 28 of the amount and effective date of each decrease. Decreases shall apply to Services performed on or after the effective date of the decrease.

7. Invoicing and Payment.

a. Submission.

Contractor shall submit itemized invoice(s) to Lottery upon acceptance of the Services and deliverables by Lottery. Invoice(s) shall be submitted to Lottery’s electronic mailbox: lottery.ap@state.or.us, or via US mail to: Oregon State Lottery, Attn.: Accounts Payable Dept., PO Box 12649, Salem, OR, 97309.

b. Payment Terms.

Lottery's payment terms are NET 30 days from receipt of an accurate invoice.

c. Late Charges.

Contractor may assess late payment charges to the extent permitted by ORS 293.462.

d. Conditions Precedent to Payment.

As a condition precedent to Lottery's obligation to pay Contractor, Contractor shall, upon execution of this Contract, deliver to Lottery the applicable Internal Revenue Service form, whether a W-9 form, W-8 form, 8233 form or other similar form, based upon Contractor's status as a United States person, resident alien or nonresident alien, as those terms are defined in 26 USC §7701. These forms are currently available at <http://www.irs.gov>. Lottery may withhold payments to Contractor pending Lottery's receipt from Contractor of the applicable, completed and signed form.

e. Invoice Review / Dispute Process.

Lottery will review each invoice within ten (10) business Days of receipt, and will either approve payment of the amount invoiced or notify Contractor of any errors or disputed charges.

If an error or dispute arises concerning charge(s) on an invoice, Lottery will notify Contractor of the disputed charge. Upon notification of dispute, Contractor shall submit to Lottery documentation to support the amount charged. Lottery will have seven (7) business Days to consider the validity of the supporting documentation, however, Lottery's failure to respond to Contractor by the end of the seven (7) business Day period shall not be deemed Lottery's acceptance of the documentation and shall not obligate Lottery to pay the disputed amount in full.

Lottery, in its sole and absolute discretion, will determine if the supporting documentation provides sufficient justification for the charges set forth in the disputed invoice. If Lottery determines that the supporting documentation is sufficient, Lottery will notify pay Contractor the amount claimed due in the invoice. If Lottery determines the supporting documentation supports payment in an amount less than originally invoiced, Lottery will notify Contractor of the amount Lottery believes is due under the invoice. Contractor may resubmit an invoice for the lesser undisputed amount following Lottery's review, and Lottery will pay the invoice as set forth in Section 7(b).

8. Independent Contractor; Responsibility for Taxes and Withholding.

- a. Contractor shall perform all required Services as an independent contractor. Although the Lottery reserves the right (i) to determine the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Lottery 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.

- b. If Contractor is currently performing services for the State of Oregon or the federal government, Contractor by signature to this Contract declares and certifies that: Contractor's Services to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's Services under this Contract. If applicable, Contractor meets the specific independent contractor standards of ORS 670.600. Contractor is not an "officer," "employee," or "agent" of the Lottery, as those terms are used in ORS 30.265(1) and (4). Contractor shall have no right or authority to incur or create any obligation for or legally bind the Lottery in any way.
- c. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments to Contractor under this Contract and, unless Contractor is subject to backup withholding, Lottery will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any Social Security, unemployment insurance or workers' compensation benefits from compensation or payments to Contractor under this Contract, except as a self-employed individual.

9. Subcontracts and Assignment; Successors and Assigns.

- a. Contractor shall not enter into any subcontracts for any of the Services required by this Contract, or assign or transfer any of its interest in this Contract, without the Lottery's prior written consent. In addition to any other provisions the Lottery may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by Sections 7(d), 8, 9, 10, 11, 13, 15, 18, 19, 22, 23, 26, 31, and 32 of this Contract as if the subcontractor were the Contractor. Lottery's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- b. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns, if any.

10. No Third Party Beneficiaries.

Lottery and Contractor are the only Parties to this Contract and are the only Parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

11. Security Investigation(s); Changes to Approved Persons.

This contract has been classified by Lottery as a General Procurement. A General Procurement does not require a security background investigation, unless deemed necessary by the Director or the Commission. Should the Director or the Commission determine, at any time during the Term of this Contract, that a background investigation is necessary, Lottery will provide all necessary forms and fingerprint cards, as required, to the Contractor.

12. Funds Available and Authorized; Payments.

Article XV, section 4(4)(d) of the Oregon Constitution provides that Lottery is a self-supporting, revenue-raising agency and that no appropriations, loans, or other transfers of state funds shall be made to it. Accordingly, all amounts payable by Lottery under this Contract are the sole responsibility

of Lottery, and not the State, and are payable only from: (1) Revenues received by Lottery from lottery games; and (2) other miscellaneous revenues generated by Lottery. Lottery certifies that, as of the effective date of this Contract, sufficient funds are available and authorized for expenditure to finance the costs of this Contract within Lottery's current financial plan. Notwithstanding this certification, Lottery's payments under this Contract, together with all of Lottery's other obligations incurred under ORS 461.510(4), are limited by Article XV, section 4(4)(d) of the Oregon Constitution and ORS 461.500(2). If Lottery's authority or ability to conduct lottery games is removed or diminished, or if Lottery reasonably determines that expending the amounts payable by Lottery under this Contract would be in violation of the 16% (sixteen percent) limitation under ORS 461.500(2), Lottery may terminate this Contract.

13. Representations and Warranties.

a. Contractor's General Representations and Warranties.

Contractor represents and warrants to Lottery that:

- i. Contractor fully understands and shall perform its obligations under this Contract and shall not make any claims for, or have any rights to relief based on its claim that it misunderstood the terms of this Contract, or lacked information related to its required performance under this Contract.
- ii. Contractor is qualified to do business in the State of Oregon and it will take such action as may be necessary to remain so qualified.
- iii. Contractor is not in arrears with respect to the payment of any monies due and owing the State of Oregon, or any department or agency thereof, including but not limited to the payment of taxes and employee benefits, and it shall not become so during the term of this Contract.
- iv. Contractor shall comply with all federal, state, and local laws, ordinances, rules, and regulations applicable to its performance under this Contract.
- v. Contractor shall procure, at its own expense, all required licenses, certifications, permits, and governmental approvals necessary to perform its obligations under this Contract.
- vi. Contractor has the power and authority to enter into and perform this Contract;
- vii. This Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms;
- viii. The Services under this Contract must be performed in a good and workmanlike manner and in accordance with the highest professional standards; and
- ix. Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Services.

b. Warranties Cumulative.

The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

14. RESERVED

15. Indemnity.

- a. CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS AND INDEMNIFY THE LOTTERY AND THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTS OR OMISSIONS OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THE CONTRACT.
- b. IN ADDITION, CONTRACTOR, AT ITS OWN EXPENSE, SHALL SAVE INDEMNIFY, AND HOLD HARMLESS THE LOTTERY AND THE STATE OF OREGON, AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES AND DEFEND ANY ACTION BROUGHT AGAINST SAME WITH RESPECT TO ANY CLAIM, DEMAND, CAUSE OF ACTION, DEBT, LIABILITY OR EXPENSE, INCLUDING REASONABLE ATTORNEYS' FEES, TO THE EXTENT THAT IT IS (i) ARISING OUT OF THE FURNISHING OR PERFORMANCE OF THE CONTRACTOR INTELLECTUAL PROPERTY OR THIRD PARTY INTELLECTUAL PROPERTY, OR BOTH; OR (ii) BASED UPON A CLAIM THAT EITHER THE CONTRACTOR INTELLECTUAL PROPERTY OR THIRD PARTY INTELLECTUAL PROPERTY, OR BOTH, USED HEREUNDER INFRINGES OR VIOLATES ANY PATENTS, COPYRIGHTS, TRADE SECRETS, LICENSES OR OTHER PROPERTY RIGHTS OF ANY THIRD PARTY.
- c. PROVIDED, HOWEVER, THE OREGON ATTORNEY GENERAL MUST GIVE WRITTEN AUTHORIZATION TO ANY LEGAL COUNSEL PURPORTING TO ACT IN THE NAME OF, OR REPRESENT THE INTEREST OF, THE STATE OR ITS OFFICERS, EMPLOYEES AND AGENTS PRIOR TO SUCH ACTION OR REPRESENTATION. FURTHER, THE STATE, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT (i) PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED; (ii) COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES AND AGENTS; (iii) IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR (iv) THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY, CONTRACTOR'S OBLIGATION TO PAY FOR ALL COSTS AND EXPENSES SHALL INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS UNDER (i) AND (ii) ABOVE.

16. Insurance.

Contractor shall have in effect, and maintain throughout the term of this Contract, the following insurance:

a. Workers' Compensation.

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

b. Commercial General Liability.

Commercial General Liability insurance covering Bodily Injury, Death and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts:

\$1,000,000 each occurrence for bodily injury and property damage
\$2,000,000 general aggregate

c. Employee Dishonesty, Third Party Fidelity Bond, and (when applicable) Money and Securities.

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the Contract, Employee Dishonesty, Third Party Fidelity Bond, and **(when applicable)** Inside/Outside Money and Securities coverages for state-owned property in the care, custody, or control of the Contractor. Combined single limit per occurrence shall not be less than \$1,500,000.

d. Automobile Liability Insurance.

Automobile Liability insurance with a minimum of \$500,000 combined single limit for each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.

e. Additional Insureds.

The liability insurance policies that Contractor obtains pursuant to this section, except for Professional Liability insurance, shall provide that the State of Oregon, Lottery and their divisions, officers and employees are additional insureds under the policy, but only with respect to the Services provided by Contractor under this Contract.

f. Certificates of Insurance.

As evidence of the insurance coverage required under this Contract, Contractor shall furnish acceptable insurance certificates to Lottery, as requested. The certificates must specify all of the parties who are additional insureds and shall indicate all deductible amounts or retention's for all self insurance. Insuring companies shall be authorized to sell insurance in the State of Oregon. Contractor shall be financially responsible for all pertinent deductibles, self-insured retention, and self-insurance.

g. Notice of cancellation or change.

Contractor shall not, and shall cause its insurers to not cancel, materially change, reduce limits, or evidence intent not to renew the insurance coverage(s) without 30 calendar days prior written notice from the Contractor or its insurer(s) to the Oregon State Lottery Commission.

17. Termination.

a. Parties' Right to Terminate for Convenience.

This Contract may be terminated at any time by mutual written consent of the Parties.

b. Lottery's Right to Terminate for Convenience.

Lottery may, at its sole discretion, terminate this Contract, in whole or in part, upon thirty (30) calendar days' written notice to Contractor.

c. Lottery's Right to Terminate for Cause.

Lottery may terminate this Contract immediately upon notice to Contractor, or at such later date as Lottery may establish in such notice, upon the occurrence of any of the following events:

- i. If Lottery funding from sales sources is not obtained and continued at levels sufficient to allow for compensation for the Services, in Lottery's sole administrative discretion, the Contract may be modified to accommodate a reduction in funds;
- ii. If federal or state laws, regulations or guidelines are modified, or interpreted in such a way that the Services are prohibited, or Lottery is prohibited from paying for such Services from the planned funding source;
- iii. If the State of Oregon enacts a statute, a court decision is issued, or an initiative passes that removes the authority or ability of Lottery to conduct lottery games;
- iv. If any license or certificate required by law or regulations to be held by the Contractor to provide the Services required by this Contract is for any reason denied, revoked, or not renewed;
- v. If any control person, as defined in ORS 461.410, of Contractor is convicted of any crime;
- vi. If the Lottery discovers that Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis of the type made subject of the Contract, or is in default for failure to pay taxes or any other amount owed to a government entity;
- vii. Contractor commits any material breach or default of any covenant, warranty, obligation or certification under this Contract, fails to perform the Services under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Services as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within ten (10) business Days after the date of Lottery's notice of default, or such longer period as Lottery may specify in such notice;
- viii. Contractor or any of Contractor's officers, employees, agents, or subcontractors commits any fraudulent or dishonest act in connection with performance under this Contract;
- ix. Contractor fails to immediately notify Lottery in writing of any material change in Contractor's financial condition;
- x. Contractor fails to promptly notify Lottery in writing of any changes to persons performing Services under this Contract as required under Section 11 Security Investigation/Security Policies; or
- xi. For adverse results of a security background investigation conducted by Lottery pursuant to Section 11.

d. Contractor's Right to Terminate for Cause.

Contractor may terminate this Contract upon thirty (30) calendar days written notice of intent to terminate to Lottery if Lottery fails to pay Contractor pursuant to the terms of this Contract and Lottery fails to cure within ten (10) business Days after receipt of Contractor's written notice, or such longer period of cure as Contractor may specify in such notice.

e. Remedies.

- i. In the event of Contract termination pursuant to Section 17(a), (b), (c)(i), (c)(ii), (c)(iii), or (d), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Lottery, less previous amounts paid and any claim(s) which Lottery has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this Subsection, Contractor shall immediately pay any excess to Lottery upon demand.
- ii. In the event of Contract termination pursuant to Section 17(c)(iv), (c)(v), (c)(vi), (c)(vii), (c)(viii), (c)(ix), (c)(x), or (c)(xi) Lottery shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under 17(c)(iv), (c)(v), (c)(vi), (c)(vii), (c)(viii), (c)(ix), (c)(x), or (c)(xi), the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 17(b).

f. Contractor's Tender Upon Termination.

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

18. Records Maintenance; Access.

Contractor shall maintain all fiscal records relating to the subject matter of this Contract and Contractor's performance hereunder, 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 Contractor's performance of its duties under the Contract. Contractor acknowledges and agrees that the Lottery and the Oregon Secretary of State's Office, the Oregon Department of Revenue, the Oregon Department of Justice and their duly authorized representatives shall have access to such records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination or expiration 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.

19. Confidential Information.

a. Confidential Information.

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 Lottery. Any and all information of any form obtained by Contractor or Contractor's employees or agents in the performance of this Contract shall be deemed to be confidential information of Lottery ("Confidential Information"). Any reports or other documents or items which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is furnished by Lottery 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 its disclosure under this Contract; or (d) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure.

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

20. RESERVED

21. Working with other Lottery Contractors.

Contractor understands and agrees that, as part of this Contract, Contractor may be required to work with other Lottery contractors who may be working on the same or similar projects. Lottery and Contractor acknowledge and agree that this cooperation is essential to the mutual goal of both Parties for accurate and valuable use by the Lottery.

In the event of a conflict between contractors who must cooperate, Contractor shall notify the Lottery's Contract Administrator and abide by the Lottery's determination.

22. Contractor Personnel ("Key Persons").

Contractor acknowledges and agrees that Lottery has selected Contractor, and is entering into this Contract because of the special qualifications of Contractor and Contractor's key personnel. Contractor and Lottery acknowledge and agree that Lottery is engaging the expertise, experience, judgment, and personal attention of both Contractor and such Key Persons under the Contract. Neither Contractor nor any of the Key Persons shall delegate to any other employee, agent or subcontractor of Contractor the performance or responsibilities that such Key Person is required to provide under the Contract, unless Lottery provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide Lottery with the Key Person's services unless Lottery provides prior written consent to such reassignment or transfer, or such transfer is required based on the termination of employment, illness, death, disability or other similar cause.

In the event Contractor requests Lottery to consent to a delegation, reassignment, transfer or other replacement of a Key Person, Lottery may review the qualifications of the proposed substitute personnel before providing its written consent or rejecting such replacement. Any such replacement shall have substantially equivalent or better qualifications than the Key Person being replaced. Contractor shall not charge Lottery and Lottery will not pay for any proposed replacement personnel while such replacement becomes familiar with the Services and acquires the necessary skills and project knowledge to proceed with the Services. Any replacement personnel or replacement subcontractor approved by Lottery shall thereafter be deemed a Key Person for purposes of this Contract and this Contract shall be deemed amended to include such Key Person. Contractor represents that any such qualified replacement shall not materially adversely impact the Services or delivery schedule.

Contractor shall provide adequate staff to complete the Services in accordance with the delivery schedule. In the event that a Key Person or other employee of Contractor is subsequently found to be unacceptable to the Lottery after Contract execution, the Lottery shall notify Contractor of such fact and Contractor shall remove such employee from all responsibilities hereunder and provide a replacement acceptable to the Lottery within three (3) business days of receipt of the Lottery's notice, or as otherwise agreed to, in writing, by the Parties. If Contractor is unable to provide a replacement Key Person or other employee acceptable to the Lottery within the stated time requirements, the Lottery, at its sole discretion, may terminate this Contract.

23. Compliance with Applicable Law.

Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract and the Services provided hereunder. Contractor expressly agrees to comply with Title VI of the Civil Rights Act of 1964, with Section V of the Rehabilitation Act of 1973, and with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations with the Americans with Disabilities Act of 1990 (Pub L. No. 101-336), including Title II of that Act, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

Contractor shall also comply with the Oregon Lottery Act, ORS Chapter 461, as it may be amended from time to time, and the Lottery's Administrative Rules, OAR Chapter 177, as they may be amended from time to time.

24. Foreign Contractor.

If Contractor is not domiciled or registered to do business in the State of Oregon, Contractor must obtain authority from the Oregon Secretary of State, Business Registry, to transact business under this Contract. Registration information can be found at:

<http://sos.oregon.gov/business/Pages/business-registration-forms.aspx>

25. Force Majeure.

Neither Lottery nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorism, war or any other like cause which is beyond the party'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. Lottery may terminate this Contract upon written notice to

Contractor after it determines that such delay or default will likely prevent successful performance of the Contract.

26. Survival.

All terms of this Contract, which by their nature are intended to survive Contract termination or expiration and Sections 12, 15, 17.e, 17.f, 18, 19, 23, 26, 32, and 34, shall survive Contract termination or expiration.

27. Time is of the Essence.

Contractor agrees that time is of the essence under this Contract.

28. Notices.

Except as otherwise expressly provided in this Contract, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, email, facsimile, or mailing the same, postage prepaid, to Contractor or Lottery at the addresses or number set forth below, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed shall be deemed to be received on the fifth (5th) business Day after the date of post mark. Any communication or notice delivered by facsimile shall be deemed to be received when receipt of the transmission is generated by the transmitting machine. Any communication or notice delivered by email shall be deemed to be received when received in the recipients email inbox. Any communication or notice by personal delivery shall be deemed to be given when actually delivered to the recipient's current address.

For Contractor:

For Lottery:

Oregon State Lottery
500 Airport Road SE, Salem, OR 97301
P.O. Box 12649, Salem, Oregon 97309-0649
Attention: Julie Schmoyer
Email: Julie.schmoyer@state.or.us
Phone: 503-540-1284
Fax: 503-540-1040

29. 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.

30. Counterparts.

This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

31. Disclosure of Social Security Number.

Contractor must provide Contractor's Social Security Number unless Contractor provides a federal tax ID number. This number is requested pursuant to ORS 305.385 and OAR 150-305.100. Social Security Numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

32. Governing Law; Venue; Consent to Jurisdiction.

This Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Lottery (and any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, that if a Claim must be brought in a federal forum, then it shall be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. **CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURT(S).**

33. Contract Documents.

This Contract consists of the following documents which shall be interpreted in the following order of precedence: (1) the Contract less exhibits; (2) Exhibit A, Statement of Work, (3) Exhibit B, Pricing, (4) Exhibit C, Map(s) of Lottery Building and (5) Exhibit D, Tasks Performance Standards/Technical Specifications.

34. Merger Clause; Waiver, Amendment.

This Contract constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change to the terms of this Contract shall bind either party unless in writing and signed by all Parties and all approvals required by law have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Lottery to enforce any provision of this Contract shall not constitute a waiver by Lottery of that or any other provision.

35. Tobacco-Free Environment.

Effective January 1, 2013, the use of all tobacco products is forbidden on state controlled properties, including the Lottery property. A map indicating the closest area to the Lottery building where tobacco can be used can be provided upon request. The Governor's Tobacco-free Initiative can be viewed at: <http://goo.gl/DBVun>

36. Equal Employment Opportunity; Affirmative Action.

Lottery is an Equal Employment Opportunity and Affirmative Action employer and encourages its contractors and their subcontractors to follow EEO/AA practices in their performance of Contract with Lottery.

37. Contractor certifications and signature of Contractor's Authorized Representative.

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 (Amusement Device Taxes), 403.200 to 403.250 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Timber and Forest Land Taxation) and 323 (Cigarettes And Tobacco Products) 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 minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any subcontracts for the work described herein.
- 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:
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>
- e. Contractor is bound by and will comply with all requirements, terms and conditions contained in this Contract; and
- f. Contractor ___ is / ___ is not a nonresident alien as defined in 26 USC § 7701(b)(1) (check one).

WHEREAS this Contract has been executed, as of the date provided below, by a duly authorized representative of _____ and the Oregon State Lottery.

FOR CONTRACTOR

By: _____
Authorized Signatory

Title: _____ Date: _____

FOR LOTTERY

The State of Oregon acting by and through its Oregon State Lottery Commission

By: _____
Authorized Signatory

Title: _____ Date: _____

EXHIBIT B
SAMPLE CONTRACT PRICING

(Note to Bidders: This Exhibit B is a sample only. Do not complete this section.)

Pricing for the Contract term beginning _____ through _____:			
Line:	Description:	Unit of Measure:	Unit Cost:
B.1	Semi-Annual Janitorial Services:	Per each scheduled Semi-Annual Janitorial Services day.	\$xx.xx

**LOTTERY MAIN BUILDING
FIRST FLOOR - OREGON**

FILE NAME:	FILE DATE:	DATE:
01-01-01-01-01-01	01/01/2001	01/01/2001

LEGEND

- ROOM
- STAIR
- ELEVATOR
- TOILET
- RESTROOM
- LOCKER
- STORAGE
- RECEPTION
- RETAIL
- WAREHOUSE

ROOMS: DIRECTORS OFFICE, SECURITY, LOBBY, MEETING ROOM, RETAIL TRAINING, FACILITIES, MAIL ROOM, WAREHOUSE, RETAIL OPERATIONS, PLAYER SERVICES, KITCHEN, RESTROOM, TOILET, LOCKER, STORAGE, RECEPTION, RETAIL, WAREHOUSE.

EXHIBIT D
Tasks Performance Standards/Technical Specifications

- 1.1 SWEEP/DUST-MOP THEN WET-MOP AND DISINFECT RESTROOM AND LOCKEROOM FLOORS:** Prior to wet-mopping, the floor surface will be swept with a broom or dust-mopped to remove all loose dirt and fine soil. Specific attention shall be given to the floor surface around and behind urinals and water closets. Floor surfaces around these areas shall be scrubbed using an appropriate cleaning tool and approved cleanser to remove nonpermanent staining and build up prior to wet-mopping. All floor surfaces shall then be cleaned with a hot water and germicidal detergent solution. After wet-mopping is complete, the floor surface shall be rinsed by mopping the floor surface with clean, clear water, using a separate mop. At the completion of task, the floor will have a uniform appearance free of odor, spots, spills, stains, dirt, oily film, mop strings, etc.
- 1.2 VACUUM CARPET (TRAFFIC AND HEAVY USE AREAS):** All high use areas such as entrances, vestibules, lobbies, and all heavily traveled aisles, corridors and walkways shall be vacuumed daily. Prior to vacuuming, easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary to allow vacuuming underneath, and surface litter such as paper, gum, rubber bands, paper clips, etc. will be removed. Contractor shall ensure employees use commercial vacuuming equipment and accessories that pass without objection in the cleaning trade and that are appropriate for the specific tasks being performed (e.g. a wide area vacuum is appropriate for hallways and corridors; an upright or backpack vacuum w/power head is appropriate around desks and workstations; and a canister or upright vacuum w/power head is appropriate for narrow aisles, path ways and offices. All units shall be equipped with beater bars and an approved dual dust filtration system. After vacuuming, the carpeted surfaces, edges and corners shall be free of visible litter and debris, and all items that were moved shall be returned to the original position.
- 1.3 VACUUM CARPET (GENERAL USE AREAS):** Vacuuming shall be performed in offices, storage and general use areas, in and around workstations, under desks, tables and equipment. Prior to vacuuming, easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary to allow vacuuming underneath, and surface litter such as paper, gum, rubber bands, paper clips, etc. will be removed. Contractor shall ensure employees use commercial vacuuming equipment and accessories that pass without objection in the cleaning trade and that are appropriate for the specific tasks being performed (e.g. a wide area vacuum is appropriate for hallways and corridors; an upright or backpack vacuum w/power head is appropriate around desks and workstations; and a canister or upright vacuum w/power head is appropriate for narrow aisles, path ways and offices. All units shall be equipped with beater bars and an approved dual dust filtration system. After vacuuming, the carpeted surfaces, edges and corners shall be free of visible litter and debris, and all items that were moved shall be returned to the original position.
- 1.4 VACUUM/CLEAN CARPETED AREAS:** Carpeted areas and carpeted floor mats shall be cleaned in accordance with manufacturer's recommendations or industry standards, whichever is the higher standard. All carpet cleaning shall be scheduled to occur during the two semi-annual super cleanings and coordinated with Lottery's Facilities Supervisor. Contractor shall be responsible for ensuring the proper ventilation and drying of these areas.

- 1.5 SWEEP/DUST-MOP NON-CARPETED FLOORS:** All non-carpeted office areas shall be swept (or dust-mopped using a treated mop head) including behind doors, under coin operated machines, desks and other non-moveable furniture and equipment. Prior to sweeping/dust-mopping, easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary to allow sweeping/dust-mopping underneath, and all large surface litter, dry soil, spills and debris will be removed. After sweeping/dust-mopping, non-carpeted surfaces, including corners, abutments, edges and places accessible to the broom or dust-mop, shall be free of visible dust, dirt, litter or debris, and all items that were moved shall be returned to the original position.
- 1.6 DAMP-MOP NON-CARPETED FLOORS:** Contractor shall use clean, warm water and a mild detergent solution to remove stains and soil not removed by dry cleaning methods. Prior to damp-mopping, easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary to allow mopping underneath, and all large surface litter, dry soil, spills and debris will be removed. After damp-mopping, the floor surface will present a clean appearance, free of odor, spills, spots, film and other nonpermanent stains and soiling. When the floor surface is completely dry all items that were moved shall be returned to the original position.
- 1.7 WET-MOP NON-CARPETED FLOORS:** All accessible non-carpeted areas, such as behind doors and under equipment and furniture, shall be wet-mopped using clean hot water and appropriate chemical detergent and then rinsed with clean water. Prior to wet-mopping, easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary to allow mopping underneath, and all large surface litter, dry soil, spills and debris will be removed. After wet-mopping is complete, the non-carpeted floor surface shall have a uniform appearance, free of odor, streaks, spots, film, swirl marks, detergent residue, mop strings, nonpermanent stains or other evidence of soil. Any splash marks on baseboards or walls shall be removed. When the floor surface is completely dry all items that were moved shall be returned to the original position.
- 1.8 SURFACE CARE, NON-CARPETED FLOORS:** This task shall include the stripping, sealing and waxing, buffing and patch waxing of all varieties of floor surfaces found within the contracted facilities. There are no written specifications for these tasks, although these tasks are to be performed to the highest Industry Standards by the Contractor's employees as to pass without objection in the trade. In addition, Contractor's employees shall follow product and equipment manufacturer's guidelines and recommendations in applying products and performing these tasks. All easily moved furniture and items such as chairs, carpeted floor mats, trash and recycle receptacles, etc. will be relocated as necessary, and floor surfaces shall be wet or damp-mopped as appropriate before the surface care process begins. When the floor surface is completely dry all items that were moved shall be returned to the original position.
- 1.9 SPOT CLEANING:** Using appropriate tools and chemicals for the surfaces to be cleaned, remove smudges, fingerprints, marks, spots, streaks, heavy dust, soil and other nonpermanent stains, etc. from the following areas: entry way glass, interior glass, non-carpeted floor surfaces and all washable surfaces in hallways, stairs, landings, offices, entries, break rooms, lounges, lobbies, kitchens/kitchenettes, coffee/copy rooms, etc. Washable surfaces include: dispensers, sinks, mirrors, plumbing fixtures, exterior of refrigerators and microwaves, light switches and fixtures, fire extinguisher cabinets, walls,

cabinets, interior and exterior doors, door handles, door casings, door frames, push and kick plates, etc. After cleaning, surfaces shall have a uniform appearance free of all smudges, marks, fingerprints, nonpermanent stains and streaks etc.

- 1.10 CARPET MAINTENANCE (SPOT REMOVAL):** Carpeted surfaces shall be checked and spills, spots, marks or blots removed daily. For the purpose of this section, carpet maintenance is considered to be the treatment and removal of singular or multiple spills, spots, marks or blots on a carpeted surface which causes a difference in color from that of the surrounding material (Traffic or wear patterns are outside the scope of this section). These areas shall be treated as soon as discovered during Contractor's performance of the Services. Contractor shall follow the carpet manufacturer's procedures for the specific materials involved. After cleaning, the area should be free from visible spots and nonpermanent stains. Contractor shall ensure through proper training, supervision, equipment and materials that this task is performed consistent with current standards within the industry and appropriate for the type of materials involved. The material manufacturer's recommendations shall be followed whenever possible. Areas where spilled materials are unable to be removed shall be brought to the Contractor's On-Site Supervisor's attention and inspected immediately for further remedial action.
- 1.11 CARPET CLEANING - HOT WATER EXTRACTION METHOD:** After vacuuming carpets, Contractor shall use hot water extraction equipment to infuse and extract cleaning solution to remove soil instantaneously. Contractor shall use caution when dealing with this hot water extraction method to avoid rugs from being saturated. Upon Lottery's request, Contractor shall use fans or dehumidifiers to avoid discoloration and possible damage resulting from the moisture. Contractor shall follow the carpet manufacturer's procedures for the specific materials involved. After cleaning, the area should be free from visible spots and nonpermanent stains. Contractor shall ensure through proper training, supervision, equipment and materials that this task is performed consistent with current standards within the industry and appropriate for the type of materials involved. The material manufacturer's recommendations shall be followed whenever possible.
- 1.12 ALIGN FURNITURE:** Furniture such as chairs and tables, which have been displaced during the performance of cleaning tasks or during normal daily use, shall be arranged in a pattern consistent with the intended use of the area. Lobbies, conference, training and meeting rooms, lounge and break areas shall be arranged in a uniform appearance with tables and chairs in straight and evenly spaced rows. Designated aisles will be evenly spaced with sufficient width for occupant movement.
- 1.13 WASH CLEAN AND DRY FRONT ENTRANCE GLASS:** Using an appropriate glass cleaner, completely clean both sides of all window glass in entry ways. All glass areas immediately adjacent to exterior doors, such as light panels, vestibules and double door airlock entries, including frames and sills, will be cleaned at this time. After cleaning, these surfaces shall be free of streaks, smudges, fingerprints, non-permanent stains, spots, etc. Surrounding areas soiled by the cleaning process will be cleaned and restored.
- 1.14 WASH CLEAN AND DRY INTERIOR/EXTERIOR SIDES OF EXTERIOR WINDOW GLASS:** Using an appropriate glass cleaner, completely clean interior side of all exterior window glass. Interior window sills and ledges shall also be cleaned of dirt and debris at this time. After cleaning, these interior surfaces will present a uniform appearance free of all smudges, fingerprints, nonpermanent stains, streaks, lint, etc. Areas adjacent to any windows that become soiled by the cleaning of the glass will be cleaned and restored.