

**CITY OF PORTLAND
AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES**

CONTRACT NUMBER 30003398

**TITLE OF WORK PROJECT
Arbitrage Compliance Services**

This contract is between the City of Portland ("City," or "Bureau") and Arbitrage Compliance Specialists, Inc., hereafter called "Consultant". The City's Project Manager for this contract is Ken Bartocci.

Effective Date and Duration

This contract shall become effective on October 1, 2013. This contract shall expire, unless otherwise terminated or extended, on September 30, 2018.

Consideration

- (a) City agrees to pay Consultant a sum not to exceed \$200,000.00 for accomplishment of the work.
 (b) Interim payments shall be made to Consultant according to the schedule identified in the STATEMENT OF THE WORK AND PAYMENT SCHEDULE.

CONSULTANT DATA AND CERTIFICATION

Name (print full legal name): Arbitrage Compliance Specialists, Inc.

Address: 5975 South Quebec Street #205, Centennial, Colorado 80111

Employer Identification Number (EIN): 84-1277337

[INDEPENDENT CONTRACTORS: DO NOT PROVIDE SOCIAL SECURITY NUMBER (SSN) - LEAVE BLANK IF NO EIN]

City of Portland Business Tax Registration Number: 676315

Citizenship: Nonresident alien ☐ Yes

☒ No

Business Designation (check one): ☐ Individual

☐ Sole Proprietorship

☐ Partnership

☒ Corporation

☐ Limited Liability Co (LLC)

☐ Estate/Trust

☐ Public Service Corp.

☐ Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval.

TERMS AND CONDITIONS

1. Standard of Care

Consultant shall perform all services under this contract using that care, skill, and diligence that would ordinarily be used by similar professionals in this community in similar circumstances.

2. Effect of Expiration

Passage of the contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance that has not been corrected.

3. Order of Precedence

This contract consists of these Terms and Conditions, the Statement of Work and Payment Schedule, and any exhibits that are attached. Any apparent or alleged conflict between these items will be resolved by using the following order of precedence: a) these Terms and Conditions; b) Statement of Work and Payment Schedule; and c) any exhibits attached to the contract.

4. Early Termination of Contract

- (a) The City may terminate this Contract for convenience at any time for any reason deemed appropriate in its sole discretion. Termination is effective immediately upon notice of termination given by the City.
 (b) Either party may terminate this Contract in the event of a material breach by the other party that is not cured. Before termination is permitted, the party seeking termination shall give the other party written notice of the breach, its intent to terminate, and fifteen (15) calendar days to cure the breach. If the breach is not cured within 15 days, the party seeking termination may terminate immediately by giving written notice that the Contract is terminated.

5. Remedies and Payment on Early Termination

- (a) If the City terminates pursuant to 4(a) above, the City shall pay the Consultant for work performed in accordance with the Contract prior to the termination date. No other costs or loss of anticipated profits shall be paid.
- (b) If the City terminates pursuant to 4(b) above, the City is entitled all remedies available at law or equity. In addition, Consultant shall pay the City all damages, costs, and sums incurred by the City as a result of the breach.
- (c) If the Consultant justifiably terminates the contract pursuant to subsection 4(b), the Consultant's only remedy is payment for work prior to the termination. No other costs or loss of anticipated profits shall be paid.
- (d) If the City's termination under Section 4(b) was wrongful, the termination shall be automatically converted to one for convenience and the Consultant shall be paid as if the Contract was terminated under Section 4(a)
- (e) In the event of early termination the Consultant's work product before the date of termination becomes property of the City.

6. Assignment

Consultant shall not subcontract, assign, or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subconsultant, the Consultant shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Consultant hereunder. The Consultant agrees that if subconsultants are employed in the performance of this Agreement, the Consultant and its subconsultants are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

7. Compliance with Applicable Law

Consultant shall comply with all applicable federal, state, and local laws and regulations. Consultant agrees it currently is in compliance with all tax laws. Consultant shall comply with Title VI of the Civil Rights Act of 1964 and its corresponding regulations as further described at: <http://www.portlandoregon.gov/bibs/article/446806>.

8. Indemnification for Property Damage and Personal Injury

Consultant shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from all claims, losses, damages, and costs (including reasonable attorney fees) for personal injury and property damage arising out of the intentional or negligent acts or omissions of the Consultant, its Subconsultants, suppliers, employees or agents in the performance of its services. Nothing in this paragraph requires the Consultant or its insurer to indemnify the City for claims of personal injury or property damage caused by the negligence of the City. This duty shall survive the expiration or termination of this contract.

9. Insurance

Consultant shall obtain and maintain in full force at Consultant expense, throughout the duration of the Contract and any warranty or extension periods, the required insurance identified below. The City reserves the right to require additional insurance coverage as required by statutory or legal changes to the maximum liability that may be imposed on Oregon cities during the term of the Contract.

- (a) Workers' compensation insurance as required by ORS Chapter 656 and as it may be amended. Unless exempt under ORS Chapter 656, the Consultant and all subconsultants shall maintain coverage for all subject workers.

☒ Required and attached // ☐ Proof of exemption (i.e., completion of Workers' Compensation Insurance Statement)

- (b) General commercial liability (CGL) insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in per occurrence limit of not less than \$1,000,000, and aggregate limit of not less than \$2,000,000.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

- (c) Automobile liability insurance with coverage of not less than \$1,000,000 each accident, and an umbrella or excess liability coverage of \$2,000,000. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

☐ Required and attached // ☒ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

- (d) Professional Liability and/or Errors & Omissions insurance to cover damages caused by negligent acts, errors or omissions related to the professional services, and performance of duties and responsibilities of the Consultant under this contract in an amount with a combined single limit of not less than \$1,000,000 per occurrence and aggregate of \$3,000,000 for all claims per occurrence. In lieu of an occurrence based policy, Consultant may have claims-made policy in an amount not less than \$1,000,000 per claim and \$3,000,000 annual aggregate, if the Consultant obtains an extended reporting period or tail coverage for not less than three (3) years following the termination or expiration of the Contract.

☒ Required and attached // ☐ Waived by Bureau Director or designee // ☐ Reduce by Bureau Director or designee

Continuous Coverage; Notice of Cancellation: The Consultant agrees to maintain continuous, uninterrupted coverage for the duration of the Contract. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non renewal of coverage without thirty (30) days written notice from Consultant to the City. If the insurance is canceled or

terminated prior to completion of the Contract, Consultant shall immediately notify the City and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.

Additional Insured: The liability insurance coverages, except Professional Liability, Errors and Omissions, or Workers' Compensation, shall be without prejudice to coverage otherwise existing, and shall name the City of Portland and its bureaus/divisions, officers, agents and employees as Additional Insureds, with respect to the Consultant's activities to be performed, or products or services to be provided. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

Certificate(s) of Insurance: Consultant shall provide proof of insurance through acceptable certificate(s) of insurance, including additional insured endorsement form(s) and all other relevant endorsements, to the City prior to the award of the Contract if required by the procurement documents (e.g., request for proposal), or at execution of Contract and prior to any commencement of work or delivery of goods or services under the Contract. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insureds (or Loss Payees). Insurance coverages required under this Contract shall be obtained from insurance companies acceptable to the City of Portland. The Consultant shall pay for all deductibles and premium. The City reserves the right to require, at any time, complete, certified copies of required insurance policies, including endorsements evidencing the coverage the required.

Subconsultant(s): Consultant shall provide evidence that any subconsultant, if any, performing work or providing goods or service under the Contract has the same types and amounts of coverages as required herein or that the subconsultant is included under Consultant's policy.

10. Ownership of Work Product

All work product produced by the Consultant under this contract is the exclusive property of the City. "Work Product" includes, but is not limited to: research, reports, computer programs, manuals, drawings, recordings, photographs, artwork and any data or information in any form. The Consultant and the City intend that such Work Product shall be deemed "work made for hire" of which the City shall be deemed the author. If for any reason a Work Product is deemed not to be a "work made for hire," the Consultant hereby irrevocably assigns and transfers to the City all right, title and interest in such work product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrines. Consultant shall obtain such interests and execute all documents necessary to fully vest such rights in the City. Consultant waives all rights relating to work product, including any rights arising under 17 USC 106A, or any other rights of authorship, identification or approval, restriction or limitation on use or subsequent modifications. If the Consultant is an architect, the Work Product is the property of the Consultant-Architect, and by execution of this contract, the Consultant-Architect grants the City an exclusive and irrevocable license to use that Work Product.

Notwithstanding the above, all pre-existing trademarks, services marks, patents, copyrights, trade secrets, and other proprietary rights of Consultant are and will remain the exclusive property of Consultant.

11. EEO Certification

In the event Consultant provides in excess of \$2,500.00 for services to the City in any fiscal year, Consultant shall obtain EEO certification from the City.

12. Equal Benefits

Consultant must comply with the City's Equal Benefits program as prescribed by Chapter 3.100 of the Code of the City of Portland. The required documentation must be filed with Procurement Services, City of Portland, prior to contract execution.

13. Successors in Interest

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

14. 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.

15. Waiver

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

16. Errors

The Consultant shall promptly perform such additional services as may be necessary to correct errors in the services required by this contract without undue delays and without additional cost.

17. Governing Law/Venue

The provisions of this contract shall be interpreted, construed and enforced in accordance with, and governed by, the laws of the State of Oregon without reference to its conflict of laws provisions that might otherwise require the application of the law of any other jurisdiction. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

18. Amendments

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Chief Procurement Officer to be valid. Any amendment that increases the original contract amount by more than 25% must be approved by the City Council to be valid.

19. Business Tax Registration

The Consultant shall obtain a City of Portland business tax registration number as required by PCC 7.02 prior to beginning work under this Contract.

20. Prohibited Conduct

The Consultant shall not hire any City employee who evaluated the proposals or authorized the award of this Contract for two years after the date the contract was authorized without the express written permission of the City and provided the hiring is permitted by state law.

21. Payment to Vendors and Subconsultants

The Consultant shall timely pay all subconsultants and suppliers providing services or goods for this Contract.

22. Access to Records

The Consultant shall maintain all records relating to this Contract for three (3) years after final payment. The City may examine, audit and copy the Consultant's books, documents, papers, and records relating to this contract at any time during this period upon reasonable notice. Copies of these records shall be made available upon request. Payment for the reasonable cost of requested copies shall be made by the City.

23. Audits

- (a) The City may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by paragraph 22. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States Government Accountability Office.
- (b) If an audit discloses that payments to the Consultant exceed the amount to which the Consultant was entitled, the Consultant shall repay the amount of the excess to the City.

24. Electronic Signatures

The City and Consultant may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

25. Merger Clause

This Contract encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether verbal or written.

26. Dispute Resolution/Work regardless of disputes

The parties shall participate in mediation to resolve disputes before conducting litigation. The mediation shall occur at a reasonable time after the conclusion of the Contract with a mediator jointly selected by the parties. Notwithstanding any dispute under this Contract, the Consultant shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Contract for undisputed portions of the work. In the event of litigation no attorney fees are recoverable. No different dispute resolution paragraph(s) in this contract or any attachment hereto shall supersede or take precedence over this provision.

27. Progress Reports: ☐ Applicable ☒ Not Applicable

If applicable, the Consultant shall provide monthly progress reports to the Project Manager as described in the Statement of the Work and Payment Schedule.

28. Consultant's Personnel: ☒ Applicable ☐ Not Applicable

If applicable, the Consultant shall assign the personnel listed in the Statement of the Work and Payment Schedule for the work required by the Contract and shall not change personnel without the prior written consent of the City, which shall not be unreasonably withheld.

29. Subconsultants

The Consultant shall use the subconsultants identified in its proposals. The Consultant shall not change subconsultant assignments without the prior written consent of the Chief Procurement Officer. The City will enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the

Consultant in its proposals. Failure to use the identified M/W/ESB subconsultants without prior written consent is a material breach of contract.

For contracts valued \$50,000 or more, the Consultant shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandoregon.gov/bibs/45475>.

30. Third Party Beneficiaries

There are no third party beneficiaries to this contract. Enforcement of this contract is reserved to the parties.

STATEMENT OF THE WORK AND PAYMENT SCHEDULE

1. SCOPE OF CONTRACTOR SERVICES

The Contractor shall provide the Office of Management and Finance, Public Finance and Treasury Division, arbitrage calculation services and assistance in ensuring compliance with all applicable arbitrage restrictions imposed by the Internal Revenue Code and regulations of the United States Treasury. Services shall include but are not necessarily limited to:

- ✓ Prepare required arbitrage rebate calculations and provide a written report describing the calculation method used, assumptions, conclusions and recommendations.
- ✓ Provide a professional opinion on the mathematical accuracy of all calculations performed. The opinion is to include a statement that the arbitrage rebate calculation results are consistent with the Internal Revenue Code.
- ✓ Prepare and maintain a computation date record for all new and outstanding City bond issues, and inform the City of approaching target dates.
- ✓ Prepare all federally required information forms, if a rebate payment is required.
- ✓ Assist the City with its responses in the event of inquiries or audits by the Internal Revenue Service.
- ✓ Prepare and file necessary forms to the Internal Revenue Service for recovery of rebate overpayments when necessary.
- ✓ Provide other advice and assistance as the City may deem necessary to ensure full compliance with the arbitrage restrictions imposed by the Internal Revenue Code and regulations of the United States Treasury.

2. SCOPE OF CITY SERVICES

To assist the Contractor in carrying out its obligations hereunder, the City will provide, at the contractor's request and in a timely manner, all financial and technical information necessary to prepare the rebate computations. This includes, but is not limited to tax certificates, completed IRS 8038G's, final official statements, and refunding plans if applicable. Bureau staff shall make available sufficient hours of staff personnel as is required to provide such information as required. The Debt Management program will oversee the work and provide support as needed.

3. COMPENSATION

The City shall pay the Contractor for work performed under this Agreement on or after the October 1, 2013 effective date as set out below. The payment shall be full compensation for work performed, for services rendered, and for all labor, materials, supplies, equipment and incidentals necessary to perform the work and services.

In no event shall the compensation for the work described above exceed \$200,000.00. Fees imposed shall be in accordance with the following:

Annual Fixed and Variable Rate Rebate Calculation fees, with investment data, of \$575 per debt issue (for issues with multiple series the fee is per tax purpose) for a computation period of up to one year.

Bona fide testing of \$300 per year with no investment data.

*Bona fide debt service fees are only applicable after all funds have been spent and the City requests that the Consultant continue to test the debt service fund to determine if the fund satisfies the bona fide test. The City will receive the Consultant's bona fide calculations and Legal Opinion stating that the debt service fund passed or failed the bona fide test. If the bona fide test fails, the Consultant will **not** charge the \$300 testing fee and will proceed with the calculation of arbitrage rebate as required by the arbitrage rebate regulations.*

The following are included in the fees referenced above:

- CPA and Legal Opinion
- Arbitrage rebate calculation services:
 - Spending Exception Calculations
 - Yield reduction calculations

Uncommingling of funds
 On-Site bond compliance training
 Transferred proceeds analysis
 Universal cap analysis
 Preparation of Form 8038-T

Legal services:
 IRS audit support

There will be no charge to the City for Arbitrage Rebate Training provided by ACS at their home office location in Centennial, Colorado.

4. BILLING AND PAYMENT PROCEDURE

The Contractor shall submit monthly or as work is requested and performed, including required documentation, to the City Project Manager. Payment shall be made within 30 days of receipt of invoice.

SCOPE OF WORK

CONSULTANT PERSONNEL

The Consultant shall assign the following personnel to do the work in the capacities designated:

NAME	ROLE ON PROJECT
Ira B. Sacks	Serve as tax attorney to identify the relevant regulations and elections for each debt issue that will be used to compute the lowest arbitrage rebate liability as allowed by the Tax Code.
Doug Pahnke	Authorized to enter into contract.
Carol Huller	Reconcile investment detail to each debt issue's source/use statement to ensure all gross proceeds have been accounted
Janet P. Sacks	Final report and related documentation is examined by Ms. Sacks for a final director level review to ensure the most favorable treatment of the Tax Code has been applied as permitted by the law.
Stacia Perrizo	Provide a management level review of each ACS report to ensure the accuracy of work. Review the report language to ensure compliance with the tax Code and review the invoicing to ensure compliance with the City's contract.
Robert Goubert	The project manager for the City. Will be available to attend the City's monthly meetings and provide on-site training seminars. These seminars may include one-on-one meetings with the City's accounting staff to discuss project progress and select the most beneficial accounting method in the early stages of the bond issuance. Monitor the City's report deadlines, report process flow and all aspects of the City's post issuance compliance program.

SUBCONSULTANTS

The Consultant shall assign the following subconsultants to perform work in the capacities designated:

NAME	ROLE ON PROJECT	SUBCONTRACT AMOUNT
NONE	N/A	\$

The City will enforce all social equity contracting and Minority, Women and Emerging Small Business (M/W/ESB) subcontracting commitments submitted by the Consultant in its Proposal. For contracts valued \$50,000 or more, the Consultant shall submit a Monthly Subconsultant Payment and Utilization Report (MUR), made part of this contract by reference, reporting ALL subconsultants employed in the performance of this agreement. An electronic copy of the MUR may be obtained at: <http://www.portlandoregon.gov/bibs/45475>.

COMPENSATION

The maximum that the Consultant can be paid on this contract is \$200,000.00 (hereafter the "not to exceed" amount.). The "not to exceed" amount includes all payments to be made pursuant to this contract, including reimbursable expenses, if any. Nothing in this contract requires the City to pay for work that does not meet the Standard of Care or other requirements of the Contract. The actual amount to be paid Consultant may be less than that amount.

The Consultant is entitled to receive progress payments for its work pursuant to the Contract as provided in more detail below. The City will pay Consultant based on these invoices for acceptable work performed and approved until the "not to exceed" amount is reached. Thereafter, Consultant must complete work based on the Contract without additional compensation unless there is a change to the scope of work. It is City policy to pay its vendor invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, vendors shall execute the City's standard ACH Vendor Payment Authorization Agreement. Upon verification of the data provided, the Payment Authorization Agreement will authorize the City to deposit payment for services rendered or goods provided directly into vendor accounts with financial institutions. All payments shall be in United States currency.

Any estimate of the hours necessary to perform the work is not binding on the City. The Consultant remains responsible if the estimate proves to be incorrect. Exceeding the number of estimated hours of work does not impose any liability on the City for additional payment.

If work is completed before the "not to exceed" amount is reached, the Consultant's compensation will be based on the Consultant's bills previously submitted for acceptable work performed and approved.

PAYMENT TERMS: Net 30 Days

Hourly Rates

The billing rates shall not exceed those set forth below:

Although services under this contract will be billed in accordance with the "Compensation" section above, should there be a need to bill on an hourly basis, the hourly rate will be \$150/hour.

Subconsultant Costs

Compensation for subconsultants shall be limited to the same restrictions imposed on the Consultant. The maximum markup on subconsultant services shall not exceed 0%.

Progress Payments

Progress payment do not apply to this contract as the City will be billed for work done in accordance with the Compensation section above.

On or before the 15th of each month, the Consultant shall submit to the City's Project Manager an invoice for work performed by the Consultant during the preceding month. The invoice shall contain the City's Contract Number and set out all items for payment including, but not limited to: the name of the individual, labor category, direct labor rate, hours worked during the period, and tasks performed. The Consultant shall also attach photocopies of claimed reimbursable expenses, if applicable. The Consultant shall stamp and approve all subconsultant invoices and note on the subconsultant invoice what they are approving as "billable" under the contract. The billing from the prime should clearly roll up labor and reimbursable costs for the prime and subconsultants – matching the subconsultant invoices. Prior to initial billing, the Consultant shall develop a billing format for approval by the City.

The City shall pay all amounts to which no dispute exists within 30 days of receipt of the invoice. Payment of any bill, however, does not preclude the City from later determining that an error in payment was made and from withholding the disputed sum from the next progress payment until the dispute is resolved.

The Consultant shall make full payment to its subconsultants within 10 business days following receipt of any payment made by the City to Consultant.

ACH Payments

It is the City's policy to pay its Consultant invoices via electronic funds transfers through the automated clearing house (ACH) network. To initiate payment of invoices, Consultants shall execute the City's standard ACH Vendor Payment Authorization Agreement which is available on the City's website at <http://www.portlandoregon.gov/bfs/article/409834?>

Upon verification of the data provided, the Payment Authorization Agreement will authorize the City to deposit payment for services rendered directly into Consultant accounts with financial institutions. All payments shall be in United States currency.

WORKERS' COMPENSATION INSURANCE STATEMENT

IF YOUR FIRM HAS CURRENT WORKERS' COMPENSATION INSURANCE, CONTRACTOR MUST SIGN HERE:

I, undersigned, am authorized to act on behalf of entity designated below, and I hereby certify that this entity has current Workers' Compensation Insurance.

Contractor Signature: [Signature] Date: 8/30/13 Entity: Arbitrage Compliance Specialists, Inc.

IF YOUR FIRM DOES NOT HAVE CURRENT WORKERS' COMPENSATION INSURANCE, CONTRACTOR MUST COMPLETE THE FOLLOWING INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT:

As an independent contractor, I certify that I meet the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist.

Contractor: check four or more of the following:

- ☐ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
- ☐ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- ☐ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- ☐ D. Labor or services are performed only pursuant to written contracts;
- ☐ E. Labor or services are performed for two or more different persons within a period of one year; or
- ☐ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature _____

Date _____

FOR CITY USE ONLY

PROJECT MANAGER-COMplete ONLY IF CONTRACTOR DOES NOT HAVE WORKER'S COMPENSATION INSURANCE
 ORS 670.600 Independent contractor standards. As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

City Project Manager Signature _____

Date _____

CONSULTANT SIGNATURE:

This contract may be signed in two (2) or more counterparts, each of which shall be deemed an original, and which, when taken together, shall constitute one and the same Agreement.

The parties agree the City and Consultant may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

I, the undersigned, agree to perform work outlined in this contract in accordance to the STANDARD CONTRACT PROVISIONS, the terms and conditions, made part of this contract by reference, and the STATEMENT OF THE WORK made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer and is in compliance with the Equal Benefits Program as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

Arbitrage Compliance Services, Inc.

BY: _____



Date: 8/30/13

Name: Doug Pahnke

Title: Director, Vice President

CONTRACT NUMBER: 30003398

CONTRACT TITLE: Arbitrage Compliance Services

CITY OF PORTLAND SIGNATURES:

By: _____ Date: _____
Bureau Director

By: _____ Date: _____
Chief Procurement Officer

By: _____ Date: _____
Elected Official

Approved:

By: _____ Date: _____
Office of City Auditor

Approved as to Form: **APPROVED AS TO FORM**
By: James H. Van Dyke
Office of City Attorney
CITY ATTORNEY

Date: 9/9/13

186256



CERTIFICATE OF LIABILITY INSURANCE

ARBIT-1

OP ID: AP

DATE (MM/DD/YYYY)

07/19/13

PRODUCER Western Group Inc - Montrose 540 East Main PO Box 788 Montrose, CO 81402 Alex Perez		970-249-6661		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Arbitrage Compliance Specialist, Inc. 5975 S Quebec St // Suite 205 Greenwood Village, CO 80111		INSURERS AFFORDING COVERAGE		NAIC #	
		INSURER A: State Auto Insurance		25135	
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	BOP261747000	07/18/13	07/18/14	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/OP AGG \$ 4,000,000	
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BOP261747000	07/18/13	07/18/14	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$	
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$	
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	
		OTHER					

APPROVED AS TO FORM

James J. Van Dyke
 CITY ATTORNEY 9/9/10

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Those usual to the Insured's Operations.
 The City of Portland is Additional Insured

CERTIFICATE HOLDER

CANCELLATION

PORTLA2 City of Portland Office of Management & Finance 1221 S.W. 4th Avenue Room 140 Portland, OR 97204	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Alex Perez
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BOP 2617470 02

FORMS AND ENDORSEMENTS

APPLICABLE TO THE COMMERCIAL GENERAL LIABILITY COVERAGE PART

NEW	FORM OR ENDORSEMENT AND EDITION DATE	ENDORSEMENT TITLE (Only the endorsement titles are shown below, please review the form for a complete description of coverage.)
	SL 00 62 01 08	Broad Form Notice of Occurrence
	SL 00 63 01 08	Liability Extension Endorsement
	SL 00 64 01 08	Incidental Medical Services Liability
	SL 20 02 01 06	Asbestos Exclusion
	SL 20 04 01 06	Exclusion - Lead Liability
	SL 21 16 01 08	Professional Liability Exclusion
	CG 00 01 12 04	Commercial General Liability Coverage Form
	CG 21 47 07 98	Employment Related Practices Exclusion
	CG 21 70 01 08	Cap on Losses From Certified Acts of Terrorism
	CG 21 76 01 08	Exclusion of Punitive Damages Related to a Certified Act of Terrorism
	CG 04 37 12 04	Electronic Data Liability
	CG 04 24 10 93	Coverage For Injury to Leased Workers
	SL 20 38 01 08	Additional Insured - Automatic Status When Required In An Agreement With You
	SL 10 16 01 08	Medical Expenses-Food Operations
	SL 10 18 01 08	Broadened Non-Owned Watercraft
	BP 04 04C 01 08	Hired Auto and Non-Owned Liability
	CG 24 04 10 93	Waiver of Transfer of Rights or Recovery Against Others
*	IL 00 21 09 08	Nuclear Energy Exclusion
*	CG 00 67 05 09	Recording and Distribution of Material or Information in Violation of Law
*	CG 32 24 06 10	Colorado Changes - Amendment of Insured Contract Definition
*	SL 20 51 12 11	Amendment of Contractual Liability Exclusion

*Indicates a new form has been added or a replacement form has been substituted for one of an earlier edition. Please retain all forms.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**ADDITIONAL INSURED - OWNERS, LESSEES OR LESSOR OF
LEASED EQUIPMENT-AUTOMATIC**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

- A. The words "you" and "your" as used in this endorsement refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under the policy to which this endorsement is attached. "You" and "your" do not refer to an additional insured.
- B. **Section II - Who Is An Insured** is amended to include any person(s) or organization(s) for whom you are performing operations when you and such person or organization have agreed in a written contract or written agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to:
1. Liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf:
in the performance of your ongoing operations for the additional insured; or
 - c. Your maintenance, operation or use of equipment leased to you by such person(s) or organization(s):
However, the insurance afforded to such additional insured:
 - a. Only applies to the extent permitted by law; and
 - b. Will not be broader than that which you are required by the contract or agreement for such additional insured.
 - A person's or organization's status as an additional insured under this endorsement ends when the first of the following occurs:
 - 1) Your ongoing operations for that additional insured are completed or
 - 2) The contract or agreement is terminated.
- C. With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
1. "Bodily injury", "property damage" or "personal and advertising injury" which takes place after the equipment lease expires;
 2. "Bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.
 3. "Bodily injury" or "property damage" occurring after:
 - a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
 4. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of, or defects in design provided by, the additional insured or its "employees".
 5. "Bodily injury", "property damage" or "personal and advertising injury" caused by "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor, project manager or owner of a construction project in which you are invited.

- D. With respect to any person or organization added as an additional insured by this endorsement, the definition of "insured contract" under **Section V - Definitions** is amended as follows:
1. Paragraph 9.f. does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard" unless such contractual assumption of liability is specifically required by a written contract or written agreement.
 2. Under paragraph 9.f. any such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law.
- E. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance**:
- The most we will pay on behalf of the additional insured is the amount of insurance:
1. Required by the contract or agreement you have entered into with the additional insured; or
 2. Available under the applicable Limit of Insurance shown in the Declarations, whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

SL 20 38 01 13 Page 2 of 2

*/SL2038-201301

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186256

ACORD™**CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YYYY)
07/30/2013PRODUCER
Pinnacol Assurance
7501 E Lowry Blvd
Denver, CO 80230-7006THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY
AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS
CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE
COVERAGE AFFORDED BY THE POLICIES BELOW.INSURED
Arbitrage Compliance Specialists Inc
5975 S. Quebec St. #205
Greenwood Village, CO 80111**INSURERS AFFORDING COVERAGE****NAIC#**

INSURER A: Pinnacol Assurance

41190

INSURER B:

INSURER C:

INSURER D:

INSURER E:

COVERAGESTHE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING
ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR
MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH
POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADDL INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE(MM/DD/YYYY)	POLICY EXPIRATION DATE(MM/DD/YYYY)	LIMITS
		GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIERS PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE DAMAGE TO RENTED PREMISES MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS _____				COMBINED SINGLE LIMIT (Ea Accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				EACH OCCURRENCE AGGREGATE
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ DEDUCTIBLE RETENTION \$				WC STATU- <input checked="" type="checkbox"/> OTHER TORY LIMITS E.L EACH ACCIDENT \$1,000,000 E.L DISEASE - EA EMPLOYEE \$1,000,000 E.L DISEASE - POLICY LIMIT \$1,000,000
A		WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, please describe under SPECIAL PROVISIONS below	3358559	08/01/2013	08/01/2014	
		OTHER				

APPROVED AS TO FORM

James H. Van Dyke
CITY ATTORNEY 9/9/13

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

CERTIFICATE HOLDER1471533
City of Portland
Office of Management & Finance
1221 S.W. Fourth Avenue
Room 140
Portland, OR 97204**CANCELLATION**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE
THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO
MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE
LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR
LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR
REPRESENTATIVES.**AUTHORIZED REPRESENTATIVE**Timothy Hurd
Underwriter

ACORD CORPORATION 1988

ACORD 25(2001/08)



186256

CERTIFICATE OF INSURANCE

TO: City of Portland
Office of Management & Finance
1221 S.W. 4th Avenue Room 140
Portland, OR 97204

This is to certify that the described insurance is in force at this date with:
Colony Specialty Insurance Company

NAMED AND ADDRESS OF INSURED:

Arbitrage Compliance Specialists, Inc.
5975 S. Quebec Street, #205
Centennial CO 80111

TYPE OF INSURANCE: Accountants Professional Liability

AMOUNT OF COVERAGE

\$2,000,000 Limit of Liability, Each Claim
\$2,000,000 Limit of Liability, Aggregate
\$5,000 Deductible, Each Claim
\$5,000 Deductible, Annual Aggregate

POLICY PERIOD

Effective Date 01/06/2013
Expiration Date 01/06/2014

POLICY NUMBER IAC10887 - 03

This certificate is furnished to you as a matter of information only and confers no rights upon the Certificate holder. The issuance of the Certificate does not make the person or organization to whom it is issued an additional Insured, nor does it modify in any manner the Policy between the Insured and the Insurers. Any amendment, change or extension of such Policy can only be effected by special endorsement attached thereto.

In the event of cancellation of the aforementioned Policy by the undersigned, the undersigned will endeavor to give 30 days written notice to the party to whom this Certificate is issued, but failure to give such notice shall impose no obligation upon the undersigned.

DATE: December 12, 2012

A handwritten signature in cursive script, appearing to read 'Michael J. Charnick', is written over a horizontal line.

Authorized Representative