



**INVITATION TO BID  
No. DC163615B**

***Yamaha Model V Star 250 Motorcycles for TEAM OREGON***

**BID DUE DATE AND TIME:**  
March 21, 2013 (3:00 PM, PST)

OSU Procurement and Contract Services Offices are open from 8:00 am – 12:00 noon and 1:00 pm – 5:00 pm.  
Offices are closed during the 12:00 noon – 1:00 pm lunch hour.

**SUBMITTAL LOCATION:**

Oregon State University  
Procurement and Contract Services  
644 SW 13<sup>th</sup> Avenue  
Corvallis, Oregon 97333

## 1.0 GENERAL

### 1.01 SCHEDULE OF EVENTS:

- Invitation to Bid Issue Date..... February 28, 2013 (3:00p.m. PST)
- Deadline for Request for Clarification or Change..... March 14, 2013 (3:00 pm, PST)
- Bid Due Date and Time..... March 21, 2013 (3:00 pm, PST)

This Schedule of Events is subject to change. Any changes will be made through the issuance of Written Addenda.

### 1.02 PRE-BID CONFERENCE:

A pre-bid conference will not be held.

### 1.03 ISSUING OFFICE:

The Procurement and Contract Services (PaCS) department of Oregon State University (OSU) is the issuing office and is the sole point of contact for this Invitation to Bid. Address all concerns or questions regarding this Invitation to Bid to the Administrative Contact identified below:

### 1.04 ADMINISTRATIVE CONTACT:

Name: Donna Cain  
Title: Purchasing Analyst  
Telephone: 541-737-3423  
Fax: 541-737-2170  
E-Mail: [donna.cain2@oregonstate.edu](mailto:donna.cain2@oregonstate.edu)

### 1.05 DEFINITIONS:

As used in this Invitation to Bid, the terms set forth below are defined as follows:

- a. "Addenda" means an addition to, deletion from, a material change in, or general interest explanation of the Invitation to Bid.
- b. "Exhibits" means those documents which are attached to and incorporated as part of the Invitation to Bid.
- c. "Bid" means an offer, binding on the Bidder and submitted in response to an Invitation to Bid.
- d. "Bidder" means an entity that submits a Bid in response to an Invitation to Bid.
- e. "Bid Due Date and Time" means the date and time specified in the Invitation to Bid as the deadline for submitting Bids.
- f. "Invitation to Bid" (ITB) means a Solicitation Document for the solicitation of competitive, Written, signed and sealed Bids in which Specifications, price, and delivery (or project completion) are the predominant award criteria.
- g. "Responsible" means an entity that demonstrates their ability to perform satisfactorily under a Contract by meeting the applicable standards of responsibility outlined in OAR 580-061-0130.
- h. "Responsive" means a Bid that has substantially complied in all material respects with the criteria outlined in the Invitation to Bid.
- i. "Written or Writing" means letters, characters, and symbols inscribed on paper by hand, print, type, or other method of impression intended to represent or convey particular ideas or meanings.

## 2.0 INTRODUCTION AND BACKGROUND

### 2.01 INTRODUCTION

Oregon State University (OSU) Procurement and Contract Services (PaCS) is seeking Responsive Responsible Bidders to submit Bids to provide Yamaha V Star 250 Motorcycles to be used for training

purposes by the TEAM OREGON Motorcycle Safety Program. The number of motorcycles to be purchased will be twenty-four (24) units pursuant to this Invitation To Bid ("ITB"), but it may aggregate bids as appropriate to meet the total number of units to be purchased. OSU also reserves the right to prefer bids that offer delivery on or before June 1, 2013.

#### 2.02 BACKGROUND:

TEAM OREGON was developed in 1984 as a cooperative endeavor between the Oregon Department of Transportation and Oregon State University. The mission is to provide rider skills training for motorcyclists of all ability levels and experience and to provide access to that training across the state of Oregon. Each year more than 11,000 new and experienced riders learn valuable lifelong riding skills through TEAM OREGON's courses. The motorcycles that will be purchased as a result of this Invitation to Bid will be used in TEAM OREGON's training.

#### 2.03 OREGON STATE UNIVERSITY:

Founded in 1868, Oregon State University is a comprehensive, research-extensive, public university located in Corvallis. OSU is a member of the Oregon University System and one of only two American universities to hold the Land Grant, Sea Grant, Space Grant and Sun Grant designations. OSU is also the only Oregon institution to hold the Carnegie Foundation's top ranking for research universities, a recognition of the depth and quality of OSU's graduate education and research programs.

Through its centers, institutes, Extension offices and Experiment Stations, OSU has a presence in almost every one of Oregon's 36 counties, including its main campus in Corvallis, the Hatfield Marine Sciences Center in Newport and OSU-Cascades Campus in Bend. OSU offers undergraduate, masters and doctoral degrees through 12 academic colleges enrolling more than 25,000 students from every county in Oregon, every state in the country and more than 90 nations.

### **3.0 SPECIFICATIONS / STATEMENT OF WORK**

#### 3.01 REQUIRED SPECIFICATIONS:

In order to qualify as a Responsive Bidder, the Bid needs to meet the required specifications below:

- **NEW UNITS:** All units shall be new, never titled, 2010, 2011, 2012, 2013 models produced from current production components and shall be delivered and ready to be used. No substitutes to the brand and model listed will be accepted. No components may be used that are not offered in the current parts catalog for the unit. Each unit shall be street legal in the State of Oregon.
- **COLOR:** The motorcycle shall be supplied in the manufacturer's standard color or colors. All paint shall be lead free.
- **KEYS:** Three keys will be supplied for each motorcycle.
- **WARRANTY:** A submission of a bid in response to this Invitation to Bid shall constitute the Contractor's warranty on ALL components, parts and accessories, except for tires, lamps, belts, and batteries for a period of not less than one (1) year. ALL warranties start after TEAM OREGON's comprehensive inspection and acceptance of unit(s). Any portions of the standard warranty on any of the components that exceed these requirements shall apply, including manufacturer's standard warranties on items mentioned herein as excluded. Said warranty shall be honored by all franchised dealers of that make in the State of Oregon.

If all or any part of the unit should prove defective in workmanship, design, or materials, the manufacturer or bidder shall replace, revise or repair the part or defect without cost to OSU.

The warranty shall exclude damage to the unit due to accident or misuse.

The Contractor shall not be responsible for damages caused by delay or failure to perform under the terms of the warranty where such delay or failure is due to fire, strikes, acts of God, legal acts of public authority or demands of the Government in time of war or national emergency.

The Contractor shall be responsible for all warranty adjustment expenses.

- **DELIVERY REQUIREMENTS:** Each unit shall be delivered ready to use, along with one copy of the operator's manual and other operator information and instructions per unit. Delivery shall be FOB destination, pre-paid and allowed. Once contract is awarded, delivery instructions may be obtained by calling the TEAM OREGON Motorcycle Safety Program, 3550 SW Deschutes Street, Corvallis, Oregon 97333-9284 at 541-760-5777.

Six (6) copies of current shop repair manuals, including electrical and hydraulic schematic diagrams, covering systems and components and optional equipment shall be delivered with the units. One current parts catalog covering ALL components and optional equipment shall be delivered with the units. If shop repair manuals and parts catalogs are combined, one is required.

Title shall be issued to TEAM OREGON for all cycles purchased and title cost shall be included in the quoted price.

**TEAM Oregon**

**3550 SW Deschutes Street**

**Corvallis, Oregon 97333-9284**

**\*\*\*Call: 541-737-9126 for delivery instructions**

All manuals and catalogs shall be individually assembled and bound.

Before the unit(s) is accepted, a comprehensive inspection will be conducted. Deficiencies found during this inspection must be corrected before the unit can be accepted.

### 3.02 OPTIONAL SPECIFICATIONS:

There are no optional specifications for this Invitation To Bid.

### 3.03 TERMS AND CONDITIONS:

OSU's terms and conditions governing the purchase resulting from this ITB are included at Exhibit A.

## **4.0 BIDDER QUALIFICATIONS**

### 4.01 MINIMUM QUALIFICATIONS:

In order to qualify as a Responsive Bidder, the Bidder needs to meet the minimum qualifications below.

- **DEALER:** The Bidder shall be a Yamaha authorized representative for sales and service.

## **5.0 REQUIRED SUBMITTALS**

### 5.01 QUANTITY OF BID:

Submit one (1) original Bid and one (1) duplicate copy. Mark original Bid as "ORIGINAL". Original should contain original signatures on any pages where a signature is required. Bids should contain the submittals listed in this section below:

### 5.02 REQUIRED SUBMITTALS:

It is the Bidder's sole responsibility to submit information in fulfillment of the requirements of this Invitation to Bid. If pertinent information or required submittals are not included within the Bid, it may cause the Bid to be rejected.

#### ***Bidders should submit the following information:***

- Description of how the goods or services offered specifically meet the required and optional specifications described in section 3.
- Detailed information about how the Bidder meets the minimum qualifications detailed in section 4.
- Complete and itemized pricing of the goods or services requested.
- Exhibit B, Certifications, fully completed.
- Exhibit C, References, fully completed.
- Exhibit D, Bid Price Form, fully completed.

## **6.0 EVALUATION AND AWARD**

### 6.01 EVALUATION:

Bids will be evaluated to determine the lowest Responsive Responsible Bidder based upon the Invitation to Bid, Exhibits and Addenda. OSU may engage in any of the processes identified in the applicable Oregon Administrative Rules to determine Contract award.

### 6.02 INVESTIGATION OF REFERENCES:

OSU reserves the right to investigate and to consider the references and the past performance of any Bidder with respect to such things as its performance or provision of similar goods or services, compliance with specifications and contractual obligations, and its lawful payment of suppliers, subcontractors, and workers. OSU further reserves the right to consider past performance, historical information and facts, whether gained from the Bid, interviews, references, OSU or any other source. OSU may postpone the award or execution of the Contract after the announcement of the notice of intent to award in order to complete its investigation.

## **7.0 INSTRUCTIONS TO BIDDERS**

### 7.01 APPLICABLE STATUTES AND RULES:

This ITB is subject to the applicable provisions and requirements of the Oregon Revised Statutes, Oregon Administrative Rules, and OSU Policies and Procedures.

### 7.02 MANUFACTURER'S NAMES AND APPROVED EQUIVALENTS:

Unless qualified by the provision "NO SUBSTITUTE" any manufacturers' names, trade name, brand names, information and/or catalogue numbers listed in a specification are for information and not intended to limit competition. Bidders may offer any brand for which they are an authorized representative, which meets or exceeds the specification for any item(s). If Bids are based on equivalent products, indicate in the Bid form the manufacturers' name and number. Bidders shall submit with their Bid, sketches, and descriptive literature,

and/or complete specifications. Reference to literature submitted with a previous Bid will not satisfy this provision. Bidders shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids, which do not comply with these requirements, are subject to rejection. Bids lacking any written indication of intent to provide an alternate brand will be received and considered in complete compliance with the specification as listed in the ITB.

#### 7.03 REQUEST FOR CLARIFICATION OR CHANGE:

Requests for clarification or change of the Invitation to Bid must be in Writing and received by the Administrative Contact no later than the Deadline for Request for Clarification or Change as specified in the Schedule of Events. Such requests for clarification or change must include the reason for the Bidder's request. OSU will consider all timely requests and, if acceptable to OSU, amend the Invitation to Bid by issuing an Addendum. Envelopes, e-mails or faxes containing requests should be clearly marked as a Request for Clarification or Change and include the ITB Number and Title.

#### 7.04 ADDENDA:

Only documents issued as Written Addenda by PaCS serve to change the Invitation to Bid in any way. No other direction received by the Bidder, written or verbal, serves to change the Invitation to Bid. PaCS will notify potential Bidders through publication of the Addenda on the OUS procurement website. If you have received an Invitation to Bid you should consult the OUS procurement website, prior to Bid submittal, to assure that you have not missed any Addenda. Bidders are not required to return Addenda with their Bid. However, Bidders are responsible for obtaining and incorporating any changes made by the Addendum into their Bid. Failure to do so may, in effect, make the Bid non-Responsive, which may cause the Bid to be rejected.

#### 7.05 PREPARATION AND SIGNATURE:

All Required Submittals must be Written or prepared in ink and signed in ink by an authorized representative with authority to bind the Bidder. Signature certifies that the Bidder has read, fully understands, and agrees to be bound by the Invitation to Bid and all Exhibits and Addenda to the Invitation to Bid.

#### 7.06 PUBLIC RECORD:

Upon completion of the Invitation to Bid process, information in your Bid will become subject records under the Oregon Public Records Law. Only those items considered a "trade secret" under ORS 192.501(2), may be exempt from disclosure. If a Bid contains what the Bidder considers a "trade secret" the Bidder must mark each sheet of information as such. Only bona fide trade secrets may be exempt and only if public interest does not require disclosure.

#### 7.07 SUBMISSION:

Bids must be submitted in a sealed envelope and be delivered to the submittal location listed on the Invitation to Bid cover sheet no later than the Bid Due Date and Time. Bidder must specify on the outside of the envelope the Invitation to Bid number, the Invitation to Bid title and the Bid Due Date and Time. **E-MAIL OR FACSIMILE BIDS WILL NOT BE ACCEPTED.**

#### 7.08 MODIFICATION:

Prior to submittal, Bidders should initial modifications or erasures in ink by the person signing the Bid. After submittal but prior to the Bid Due Date and Time, Bids may be modified by submitting a Written notice indicating the modifications and a statement that the modification amends and supersedes the prior Bid. After the Bid Due Date and Time, Bidders may not modify their Bid.

#### 7.09 WITHDRAWALS:

A Bidder may withdraw their Bid by submitting a Written notice to the Administrative Contact identified in this Invitation to Bid prior to the Bid Due Date and Time. The Written notice must be on the Bidder's letterhead and signed by an authorized representative of the Bidder. The Bidder, or authorized representative of the Bidder,

may also withdraw their Bid in person prior to the Bid Due Date and Time, upon presentation of appropriate identification and evidence of authority to withdraw the Bid satisfactory to OSU.

7.10 LATE SUBMITTALS:

Bids and Written notices of modification or withdrawal must be received no later than the Bid Due Date and Time. OSU may not accept or consider late Bids, modifications, or withdrawals except as permitted in OAR 580-061-0120.

7.11 BID OPENING:

Bids will be opened immediately following the Bid Due Date and Time at the Submittal Location. Bidder may attend the Bid opening. Only the names of the Bidders submitting Bids will be announced. No other information regarding the content of the Bids will be available.

7.12 BIDS ARE OFFERS:

The Bid is the Bidder's offer to enter into a Contract pursuant to the terms and conditions specified in the Invitation to Bid, its Exhibits, and Addenda. The offer is binding on the Bidder for one hundred twenty (120) days. OSU's award of the Contract constitutes acceptance of the offer and binds the Bidder. The Bid must be a complete offer and fully Responsive to the Invitation to Bid.

7.13 CONTINGENT BIDS:

Bidder shall not make its Bid contingent upon OSU's acceptance of specifications or contract terms that conflict with or are in addition to those in the Invitation to Bid, its Exhibits, or Addenda.

7.14 RIGHT TO REJECT:

OSU may reject, in whole or in part, any Bid not in compliance with the Invitation to Bid, Exhibits, or Addenda, if upon OSU's Written finding that it is in the public interest to do so. OSU may reject all Bids for good cause, if upon OSU's Written finding that it is in the public interest to do so. Notification of rejection of all Bids, along with the good cause justification and finding of public interest, will be sent to all who submitted a Bid.

7.15 AWARDS:

OSU reserves the right to make award(s) by individual item, group of items, all or none, or any combination thereof. OSU reserves the right to delete any item from the award when deemed to be in the best interest of OSU.

7.16 LEGAL SUFFICIENCY REVIEW:

Prior to execution of any Contract resulting from this Invitation to Bid, the Contract may be reviewed for legal sufficiency by a qualified attorney for OSU pursuant to the applicable Oregon Revised Statutes and Oregon Administrative Rules. Legal sufficiency review may result in changes to the terms and conditions specified in the Invitation to Bid, Exhibits, and Addenda.

7.17 BID RESULTS:

A notice of intent to award containing the Bid results will be issued to all Bidders. The Bid file will be available for Bidder's review during the protest period at the PaCS Department. Bidders must make an appointment with the Administrative Contact to view the Bid file. After the protest period, the file will be available by making a Public Records Request to OSU.

7.18 BID PREPARATION COST:

OSU is not liable for costs incurred by the Bidder during the Invitation to Bid process.

7.19 BID CANCELLATION:

If an Invitation to Bid is cancelled prior to the Bid Due Date and Time, all Bids that may have already been received will be returned to the Bidders. If an Invitation to Bid is cancelled after the Bid Due Date and Time or all Bids are rejected, the Bids received will be retained and become part of OSU's permanent Bid file.

7.20 PROTEST OF CONTRACTOR SELECTION, CONTRACT AWARD:

Any Bidder who feels adversely affected or aggrieved may submit a protest within seven (7) calendar days after OSU issues a notice of intent to award a Contract. The protest must be clearly identified as a protest, identify the type and nature of the protest, and include the Invitation to Bid number and title. The rules governing protests are at OAR 580-061-0145.



# EXHIBIT A

## OREGON STATE UNIVERSITY TERMS AND CONDITIONS

These Standard Terms and Conditions for Goods shall govern the purchase by OSU from the Contractor and shall replace and supersede any terms and conditions presented by Contractor or any sales quotations, order acknowledgements, or similar forms unless otherwise specified in the Solicitation Documents or on the face of the Purchase Order issued by OSU.

### 1. DEFINITIONS:

As used in this Contract, the terms set forth below are defined as follows:

- a. "Contract" means only the documents listed below, which, in the event of any conflicts among them, must be interpreted in the following order of precedence:
  - i. The Solicitation Document and its Attachments and Addenda, if any; and
  - ii. The Purchase Order Issued by OSU
- b. "Contractor" means a person or organization with whom OSU has contracted for the provision of goods pursuant to this Contract;
- c. "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from Contractor's performance of this Contract;
- d. "OAR" means the Oregon Administrative Rules;
- e. "ORS" means the Oregon Revised Statutes;
- f. "OSU" means the State of Oregon, acting by and through the State Board of Higher Education, on behalf of Oregon State University.
- g. "Solicitation Document" means the Request for Quotes, Invitation to Bid, Request for Proposals, or any other written document issued by OSU that outlines the required specifications necessary to submit a responsive quote, bid, proposal, or any other response;

### 2. ACCESS TO RECORDS:

Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. OSU, the Oregon State Board of Higher Education, Oregon Secretary of State, federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for OSU's review for at least six years beyond the Term of the Contract unless OSU authorizes a shorter period in writing. Contractor shall promptly remedy any discrepancies involving deviation from the terms of this Contract and shall promptly reimburse OSU for any commitments or expenditures found by OSU to have been in excess of amounts authorized by OSU.

### 3. AFFIRMATIVE ACTION:

Pursuant to OAR 580-061-0030, Contractor certifies that Contractor has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

### 4. APPLICABLE LAW; JURISDICTION AND VENUE.

- a. This Contract is governed and shall be construed in accordance with the laws of the State of Oregon, without resort to any other jurisdiction's conflict of law rules or doctrines. Any claim, action, or suit between OSU and Contractor that arises out of or relates to performance of this Contract must be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon.
- b. Notwithstanding the foregoing paragraph, if a claim must be brought in federal forum, it must be brought and adjudicated solely and exclusively in the United States District Court for the District of Oregon. This paragraph applies to a claim brought against OSU only to the extent Congress has validly abrogated OSU's sovereign immunity and is not consent by OSU to be sued in federal court. This paragraph is also not a waiver by OSU of any form of immunity, including without limitation sovereign immunity and immunity based on the Eleventh Amendment to the United States Constitution.
- c. Except as set forth in the paragraph above, the parties consent to in personam jurisdiction in the above courts and waive any objection to venue and any objection that the forum is inconvenient.

### 5. ASSIGNMENT/SUBCONTRACT/SUCCESSORS:

Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the OSU Procurement and Contract Services Department, and any attempt by Contractor to assign, sell, transfer, or subcontract rights or delegate responsibilities under this Contract, without first acquiring written approval of the OSU Procurement and Contract Services Department, is void. No such written approval from OSU relieves Contractor of any obligations of this Contract, however, and any assignee, new owner, transferee or subcontractor will be considered an agent of Contractor. Contractor shall remain liable to OSU under the Contract as if no such assignment, sale, transfer, or subcontract had occurred. The provisions of this Contract are binding upon and will inure to the benefit of the parties to the Contract and their respective permitted successors and assigns.

### 6. COMPLIANCE WITH APPLICABLE LAW:

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

### 7. CONFIDENTIALITY:

This Contract is subject to the limitations and conditions of the Oregon Public Records Law, ORS 192.410-192.505.

### 8. DELIVERY:

All deliveries are F.O.B. destination with all transportation and handling charges paid by the Contractor, unless specified otherwise in the Solicitation Documents or on the face of the Purchase Order issued by OSU. Responsibility and liability for loss or damage remain with the Contractor until final inspection and acceptance, when responsibility passes to OSU except as to latent defects, fraud and Contractor's warranty obligations.

**9. EXPORT CONTROL:**

Contractor acknowledges that OSU has students and faculty who are foreign nationals who may work with the services, product or technology received from Contractor pursuant to this Contract. Contractor represents that it has informed OSU in writing, prior to executing this Contract if it is providing OSU any product or technology subject to the U.S. Export Administration Act of 1979, the Export Administration Regulations and the International Traffic in Arms Regulations, and if so, under what Commerce Control List number(s) or U.S. Munitions List number(s) it is controlled.

**10. FORCE MAJEURE:**

Neither OSU nor Contractor shall be held responsible for delay or default caused by fire, riot, act of nature, terrorist acts, or other acts of political sabotage, or war where such cause was beyond, respectively, OSU's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Contract. However, if a default or delay due to a force majeure event continues for an unreasonable time, as determined by OSU, then OSU is entitled to terminate the Contract.

**11. GOVERNMENT EMPLOYMENT STATUS:**

Contractor certifies that it is not currently employed by the federal government and not an employee of OSU.

**12. INDEMNITY, RESPONSIBILITY FOR DAMAGES:**

- a. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, any willful or negligent act or omission of Contractor, its subcontractors, or employees under this Contract. Contractor shall save, defend, indemnify, and hold harmless OSU, the Oregon State Board of Higher Education, the State of Oregon and their agencies, subdivisions, officers, directors, agents, members, and employees from all claims, suits, and actions resulting from or arising out of the willful or negligent acts or omissions of Contractor or its subcontractors, officers, agents, or employees acting under this Contract.
- b. Without limiting the generality of this section a., Contractor expressly agrees to defend, indemnify, and hold OSU, the Oregon State Board of Higher Education, the State of Oregon and their agencies, subdivisions, officers, directors, agents, members, and employees harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses and damages arising out of or related to any claims that the services or any other tangible or intangible goods delivered to OSU by Contractor that may be the subject of protection under any state or federal intellectual property law or doctrine, or OSU's use thereof infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that OSU shall provide Contractor with prompt written notice of any infringement claim.
- c. Contractor shall have control of the defense and settlement of any claim that is subject to a. or b.; however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

**13. INSPECTIONS:**

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

**14. INSURANCE:**

Contractor shall secure at its own expense and keep in effect during the term of this Contract general liability or professional liability insurance as deemed applicable by OSU with limits of not less than four million dollars (\$4,000,000) aggregate, unless otherwise specified in writing by OSU. Insurance policies are to be issued by an insurance company authorized to do business in the State of Oregon with a rating of A or better, or as deemed acceptable by OSU. If requested, Contractor shall provide proof of insurance of said insurance policy. If any of the liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration commiserate with the statute of limitations for tort claims in Oregon.

**15. INVOICES:**

Contractor shall send invoices to OSU for goods and services accepted by OSU to OSU's Department at the address specified in the Purchase Order. Contractor shall include in each invoice:

- a. The Purchase Order number;
- b. The quantity of goods ordered, the quantity of goods delivered, the date goods were delivered, the price per unit;
- c. A detailed description of any services performed, the dates services were performed, the rate or rates for services performed, and the total cost of services; and
- d. The total amount due and the payment address.

OSU shall pay Contractor for services performed at the prices and rates specified herein. Contractor shall look solely to OSU for payment of all amounts OSU owes to Contractor. Payment of OSU contracts is normally made within 30-45 days following the date the invoice is received. After 45 days, Contractor may assess overdue account charges up to a maximum of two-thirds of one percent (2/3 of 1%) per month or eight percent (8%) per annum on the outstanding balance (ORS 293.462).

**16. NECESSARY COMPONENTS:**

Unless specified otherwise, Contractor shall include all components, hardware and parts necessary for complete and proper assembly, installation and operation of goods.

**17. NON-COMPLIANCE:**

If any goods or component parts are recalled by a regulatory body or the manufacturer, or discovered by Contractor not to comply with applicable regulatory standards or the Specifications, Contractor shall immediately notify OSU of the recall or non-compliance, and shall provide copies of the recall notice or notice of non-compliance, as applicable, and all other supporting documentation for the recall or non-compliance determination. OSU may elect to (a) reject goods in whole or in part, or (b) revoke its acceptance of goods in whole or in part. If OSU rejects goods or revokes its acceptance of goods, Contractor shall remove the particular goods from OSU's possession at no cost to OSU and shall reimburse OSU for all payments made for those goods.

**18. NOTICE:**

Unless otherwise specified, any notice pursuant to this Contract shall be validly given if in writing and delivered to the other party via e-mail, fax, or by registered or certified mail, postage prepaid, to the respective addressees of Contractor and OSU.

**19. OSU NAME AND TRADEMARK:**

Contractor's shall not use names, marks or trademarks identifying OSU, or any department or office of OSU, or in any other way identify OSU without prior written approval from OSU's Office of University Advancement.

**20. PARKING:**

Contractors doing business on the OSU campus may be required to have a permit to park, if utilizing restricted street parking or parking lots. Contractor parking permits may be picked up from OSU's Office of Transit & Parking Services.

**21. RECYCLABLE PRODUCTS:**

Contractors will use recyclable products to the maximum extent economically feasible in the performance of the Contract.

**22. RETIREMENT SYSTEM STATUS:**

Contractor is not a contributing member of the Public Employees' Retirement System and will be responsible for any federal or state taxes applicable to payment under this Contract. Contractor will not, by virtue of this Contract, be eligible for federal Social Security, employment insurance, workers' compensation or the Public Employees' Retirement System, except as a self-employed individual.

**23. SAFETY AND HEALTH REQUIREMENTS/HAZARD COMMUNICATION:**

goods supplied under this Contract shall comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State of Oregon Workers' Compensation Division. Contractor shall notify OSU prior to using products containing hazardous chemicals to which OSU employees may be exposed. Products containing hazardous chemicals are those products defined by Oregon Administrative Rules, Chapter 437. Upon OSU's request, Contractor shall immediately provide Material Safety Data Sheets, as required by OAR 437-155-025, for the products subject to this provision.

**24. SEVERABILITY:**

The invalidity, illegality or enforceability of any provision of this Contract shall not affect the validity, legality or enforceability of any other provision of this Contract, which shall remain in full force and effect and shall be liberally construed in order to effectuate the purpose and intent of this Contract.

**25. SEXUAL HARASSMENT:**

The State Board of Higher Education has adopted polices applicable to Contractors that prohibit sexual harassment, and Contractor's company and employees are required to adhere to OSU's policy prohibiting sexual harassment in their interactions with members of the OSU community.

**26. STANDARD COMPONENTS:**

Unless specified, Contractor shall provide goods with all components and accessories that the manufacturer lists as "standard" for goods.

**27. SURVIVAL:**

The terms and conditions of this Contract that by their sense and context are intended to survive termination or expiration hereof shall so survive.

**28. TAX COMPLIANCE CERTIFICATION:**

Contractor certifies under penalty of perjury that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

**29. TERMINATION:**

This Contract may be terminated at any time by mutual consent of both parties or by OSU upon thirty (30) days' notice in writing and delivered by certified mail or in person to the other party. In addition, OSU may terminate this Contract at any time by written notice to Contractor if (a) Federal or state statutes, regulations or guidelines are modified or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract; (b) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; or (c) OSU fails to receive sufficient legislative appropriations (or from applicable federal, state, or other sources) to permit OSU, in the exercise of its reasonable administrative discretion, to fulfill its obligations under this Contract, or if the OSU program for which this Contract was executed is abolished. This Contract may also be terminated by OSU for default (including breach of contract) if (a) Contractor fails to timely provide services or materials called for by this Contract; or (b) Contractor fails to perform any of the other provisions of this Contract, or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms and conditions, and after receipt of written notice from OSU, fails to correct such failures within ten (10) days. The rights and remedies of OSU provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**30. THIRD PARTY BENEFICIARY:**

OSU 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 parties.

**31. WAIVER:**

Failure of OSU to enforce any provision of this Contract will not constitute a waiver or relinquishment by OSU of the right to such performance in the future nor of the right to enforce any other provision of this Contract.

**32. WARRANTIES:**

Unless specified, Contractor shall deliver goods that are new, unused and produced from current production inventory. Contractor shall provide goods manufactured from only those components that the manufacturer offers in the manufacturer's current parts catalogue for goods and carry full manufacturer warranties. Contractor warrants all goods delivered to be free from defects in labor, material, and manufacture and to be in compliance with specifications in the Solicitation Document. All implied or expressed warranty provisions of the Uniform Commercial Code, at ORS Chapter 72, are incorporated into this Contract. All warranties run to OSU.

**33. WORKERS' COMPENSATION:**

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers, unless such employees are exempt under ORS 656.126.

**34. MERGER:**

THIS CONTRACT CONSTITUTES THE ENTIRE CONTRACT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER IS EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN.

**EXHIBIT B  
CERTIFICATIONS**

By signature on this certification the undersigned certifies that they are authorized to act on behalf of the Bidder and that under penalty of perjury the undersigned will comply with the following:

**SECTION I. OREGON TAX LAWS**

The undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Bidder and that Bidder is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

**SECTION II. AFFIRMATIVE ACTION**

The undersigned hereby certifies that they have not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts, pursuant to OAR 580-061-0030 (3).

**SECTION III. COMPLIANCE WITH SOLICITATION**

The undersigned agrees and certifies that they:

1. Have read, fully understands and agrees to be bound by the Invitation to Bid and all Exhibits and Addenda to the Invitation to Bid; and
2. Are an authorized representative of the Bidder, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Bid or Contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the Invitation to Bid and the Contract; and
4. Has provided a correct Federal Employer Identification Number or Social Security Number with the Bid.

**SECTION IV. PERMISSIVE COOPERATIVE PROCUREMENTS**

If Bidder is awarded a contract from this Invitation to Bid, Bidder hereby (check one)

- agrees
- disagrees

to offer the resulting contractual terms and prices to other public institutions.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

Title: \_\_\_\_\_ Fax:(\_\_\_\_\_)\_\_\_\_\_

FEIN ID# or SSN# (required): \_\_\_\_\_ Email: \_\_\_\_\_

Company: \_\_\_\_\_

Address, City, State, Zip: \_\_\_\_\_

Construction Contractors Board (CCB) License Number (if applicable): \_\_\_\_\_

Business Designation (check one):

- Corporation
- Partnership
- LLC
- Sole Proprietorship
- Non-Profit

Minority, Women & Emerging Small Business (MWESB) Certified Firm: Yes No

If yes, Minority, Women & Emerging Small Business (MWESB) Certification Number: \_\_\_\_\_

**EXHIBIT C  
REFERENCES**

**REFERENCE 1**

COMPANY: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_  
CITY, STATE ZIP: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_  
WEBSITE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
GOODS OR SERVICES PROVIDED: \_\_\_\_\_

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**REFERENCE 2**

COMPANY: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_  
CITY, STATE ZIP: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_  
WEBSITE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
GOODS OR SERVICES PROVIDED: \_\_\_\_\_

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**REFERENCE 3**

COMPANY: \_\_\_\_\_ CONTACT NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ PHONE NUMBER: \_\_\_\_\_  
CITY, STATE ZIP: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_  
WEBSITE: \_\_\_\_\_ E-MAIL: \_\_\_\_\_  
GOODS OR SERVICES PROVIDED: \_\_\_\_\_

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