

**REQUEST FOR PROPOSALS (RFP)
CUSTODIAL SERVICES
RFP No. 21916**

PROPOSALS REQUESTED FROM QUALIFIED REHABILITATION FACILITIES ONLY

**ATTENTION POTENTIAL
PROPOSERS!**

IMPORTANT NOTICE

Responsibility of Each Proposer Participating in the Bidding Process

Portland State University intends to notify all Oregon Qualified Rehabilitation Facilities (QRF's) via email of this opportunity. All documents pertaining to this RFP will be emailed to you and also posted to the OUS Business Opportunities website for your convenience. It is the responsibility of each participating proposer to refer daily to their email and to the OUS Business Opportunities website to check for any available amendments or addenda, responses to inquiries and/or questions, cancellations, or notices of intent to award, and any and all additional information regarding this opportunity that is posted. It is not Portland State University's responsibility to notify participating proposers by any other means of any of the above. Copies of this document can be obtained on the web site as well. The web link follows.

<http://www.ous.edu/about/bid>

All requests for changes or clarifications regarding technical information, procedural requirements, contractual requirements or other issues must be submitted in accordance with Section 1, Instructions to Proposers and Section 3, Questions or Requests For Clarification/Change.

NO LATE PROPOSALS WILL BE ACCEPTED

Minority, Women, and Emerging Small Businesses

PSU is committed to increasing opportunities for Minority, Women, and Emerging Small Businesses (MWESB). PSU strongly encourages its proposers to use these businesses in providing services and materials for PSU contracts and projects.

PSU promotes equal opportunity for all individuals without regard to age, color, disability, marital status, national origin, race, religion or creed, sex or gender, sexual orientation, or veteran status.

Commodity Title: Custodial Services
Buyer: State Board of Higher Education acting by and through
Portland State University (PSU)
Contracts Officer: Stacey L. Balenger
Phone/Fax: (503) 725-5244
Email: contract@pdx.edu
Date Issued: June 6, 2013

RFP Proposal Deadline for Receipt by PSU Contracting and Procurement Services

Day/Date: June 28, 2013
Time: 3:00 P.M.
Location/Address: Portland State University
Contracting and Procurement Services
(UPS, FED-X, and hand delivery) 1600 SW Fourth Avenue, Suite 260
Portland, OR 97201

Mailing Address (UPSP): Portland State University
Contracting and Procurement Services
PO Box 751 –FAST-CAPS
Portland, OR 97207-0751

Overview

Established in 1946, Portland State University (PSU or University) is part of the public Oregon University System. PSU serves as a center of opportunity for over 25,000 undergraduate and graduate students. Located in Portland, Oregon, one of the nation's most livable cities, the University's innovative approach to education combines academic rigor in the classroom with field-based experiences through internships and classroom projects with community partners. The University's downtown campus exhibits Portland State's commitment to sustainability with green buildings, while many of the 120 bachelor's, master's, and doctoral degrees incorporate sustainability into the curriculum. PSU's motto, "Let Knowledge Serve the City," inspires the teaching and research of an accomplished faculty whose work and students span the globe. The campus contains over two million square feet of office and academic space. A list of buildings and cleanable and gross square footages of proposed locations to be cleaned can be found in the attached **Exhibit A**.

The State Board of Higher Education acting by and through Portland State University (PSU) is seeking Proposals from Qualified Rehabilitation Facilities (QRF) only, to provide custodial services for PSU academic, office, and other non-housing buildings. Only those firms registered with the State of Oregon as a QRF may submit proposals for consideration by PSU, pursuant to ORS 279.835 – 855. Firms must continue to maintain their QRF status under current guidelines for the duration of the Contract term and must provide verification to PSU every six months of continued eligibility as a QRF pursuant to state law. It is PSU's expectation to contract with a QRF Contractor that meets a high-quality cleaning standard as set forth in this RFP.

The resulting Contract will be for a two (2) year period commencing on the date of execution with options to renew for five (5) additional one (1) year periods. Any optional renewals will be subject to approval by PSU in its sole discretion. Total length of Contract with extensions shall not exceed seven (7) years. This solicitation is intended to result in awarding a single contract. However, PSU reserves the right, in its sole discretion, to award multiple contracts if it is determined to be in the best interests of PSU to do so.

Financial Consideration

- a) The total financial consideration PSU will pay contractor(s) for completion of the services identified in the RFP is to be determined and will be included in any contract(s) that is (are) awarded as a result of this RFP.

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SCHEDULE OF EVENTS

These dates are for reference only; PSU may change these dates at its discretion. PSU will post any changes to schedule dates on the OUS website: <http://www.ous.edu/about/bid>.

Issue RFP to potential proposers	June 6, 2013
Mandatory Site Visit Meeting, PSU Campus Walk Through 8:30 a.m.	June 12, 2013
Deadline for proposer inquiries, request for changes or protest of specifications	June 17, 2013
Deadline for PSU to respond to proposer inquiries and/or protest of RFP specifications and/or contract terms and conditions	June 21, 2013
Proposals due*	June 28, 2013
Evaluation period, ending	July 3, 2013
Anticipated notice(s) of intent to award	July 3, 2013
Deadline to protest award(s)	Seven (7) <u>calendar</u> days after date of intent to award
Anticipated date of contract(s) execution (no later than)	July 24, 2013

*** Proposals must be received by the PSU Contracting and Procurement Services office no later than 3:00 p.m. local time on this date.**

SECTION 1: INSTRUCTIONS TO PROPOSERS

All Proposals submitted in response to this RFP are subject to the provisions and requirements of the applicable Oregon Revised Statutes (ORS), the applicable Attorney General's Model Public Contract Rules and the Administrative Rules of the Oregon University System.

1. **Right to Reject:** PSU reserves the right to cancel this procurement or RFP, and reserves the right to reject any or all Proposals received as a result of this RFP, upon finding that it is in the public interest to do so or for any other reason set forth in this RFP.
2. **Preparation Costs:** PSU shall not be liable for any costs incurred by proposers in the preparation of Proposals to this RFP, including any meetings and demonstrations that may be required or requested.
3. **Questions or Requests For Clarification/Change:** All requests for changes or clarifications regarding technical information, procedural requirements, contractual requirements or other issues must be submitted, in writing, and received no later than the date and time listed in the Schedule of Events to the name and address listed on page 2 of this RFP. Any exception or a concern regarding this RFP, must be raised in writing, which must be received by the deadline date for Requests for Changes listed in the Schedule of Events.

PSU reserves the right to reject Proposals from proposer(s) that raise any objections to the terms and conditions of this RFP after the deadline date for requests for changes. Proposers' proposed agreements, including proposed supplemental terms and conditions may be considered by PSU in its sole discretion, pursuant to Sections 16, 17 and 18 below. PSU will consider all protests and requested changes that are timely submitted and, if reasonable and appropriate, amend this RFP.

Envelopes or faxes containing requests for change or protest of RFP requirements or contract provisions shall be marked as follows:

- Attention: **RFP 21916 Custodial Services**;
- RFP Specification (or Contract Provisions) being questioned; or,
- Request for Change (or Protest); and,
- Date Submitted.

Emailed requests for change or protest of RFP requirements or contract provisions shall be marked as follows:

- Email subject line must state: **RFP 21916 Custodial Services**
- The body of the email must state: RFP Specification (or Contract Provisions) being questioned; or, Request for Change (or Protest).

PSU will not consider or respond to requests that are submitted in any manner other than as provided in this Section 3.

4. **Submittal Location:** All Proposals must be submitted to the PSU Contracting and Procurement Services office identified on Page 2 of this RFP.
5. **Change or Modification Addenda(s):** Any change or clarification to the specifications or the procurement process or to PSU's Standard Contract Terms and Conditions will be issued in the form of an Addendum to this RFP and will be made available to all proposers. Only documents issued as addenda by the PSU Contracting and Procurement Services office will serve to change this RFP in any way. No other direction, written or oral, shall serve to change this RFP document.

Proposers are not required to return addenda with their Proposal. However, proposers are responsible for making themselves aware of and obtaining and incorporating any changes made in any addenda issued into their final Proposal. Failure to do so may cause the proposer's Proposal to be rejected.

6. **Proposal Preparation and Submission:** Proposals to the RFP shall be of sufficient length and detail to demonstrate that the proposer has a thorough understanding of the PSU environment and why the proposer best meets PSU's needs. **See Section 2: PROPOSAL REQUIREMENTS for further instructions.**

Proposers shall submit **ONE (1) ORIGINAL** of all Proposal pages and **five (5) photocopies** of the same pages, which shall be submitted to the PSU Contracting and Procurement Services office by the RFP Proposals Due date to the location listed on Page 2 of this RFP. The original Proposal shall be marked "ORIGINAL". The Proposal shall contain no pricing information whatsoever. Pricing shall be submitted in a separate Pricing Proposal as detailed below.

Proposals shall be prepared in printed form, not handwritten, and shall be signed in ink by an authorized representative of the proposer. The person signing the RFP shall initial alterations or erasures in ink. The original Proposal submitted by a proposer must bear an original signature. Failure to submit a Proposal bearing an original signature will result in rejection of the Proposal. No oral, telegraphic, telephone, e-mail or facsimile Proposals will be accepted. Proposals and Pricing Proposals must not be submitted in three ring binders or with any binding that cannot be easily removed. Comb binding or large clips are acceptable. It is also recommended that Proposals be printed on 100% recycled paper. Proposals must not include any tabbing or glossy paper, must be printed two sided, and graphics only those graphics essential to the Proposal should be included. Proposers must also submit an electronic copy of the complete Proposal on one CD in a PDF format, and the Pricing Proposal on a separate CD in a Microsoft Excel format. Presentations formatted in Microsoft Power Point will also be accepted. Each CD should be clearly marked with the proposer's company name and identified as "Proposal" and "Pricing Proposal". Proposers must include a cover sheet that identifies the company name, the company's primary and secondary contact person's name for the Proposal, primary and secondary person's email, phone and fax number and company's web address. **PSU, in its sole discretion, may determine that a Proposal is non-responsive if the Proposal and pricing are not submitted as required, including separate CD's, in the required identified format.**

Proposals must be submitted in a sealed package(s) or envelope(s). To ensure proper identification and handling, all package(s) or envelope(s) must be clearly marked with the RFP Number and the date and time RFP Proposals are due. Pricing information must be submitted at the same time in a separate sealed package, and must be clearly marked

"Pricing Proposal", with the name of the proposer submitting the Proposal clearly identified on each page of the Pricing Proposal. Pricing information must not be included with the rest of the Proposal in any manner whatsoever. **Failure to completely separate pricing from the rest of the Proposal may result in rejection of the Proposal.**

Section 4: Proposal Certification must bear an original signature and be completed and submitted in its entirety. Failure to comply may result in the rejection of the Proposal.

Proposals and pricing information must be received and time-stamped by the PSU Contracting and Procurement Services office (unless otherwise specified) no later than the scheduled RFP Proposals due date and time listed in the Schedule of Events of this RFP. **Late Proposals or modifications will be rejected.**

Proposers should note that PSU has an internal campus mail system which is used to distribute all U.S. mail sent to PSU. This internal mail system sometimes experiences delays in distributing mail to campus departments and, upon rare occasion, loses mail intended for campus departments. Thus, proposers using the U.S. mail to submit their Proposals do so at their own risk.

Proposers must complete all applicable information and provide all information requested in this RFP. Failure to comply may be grounds for Proposal rejection.

Proposer shall also include in the Proposal the name, title and phone number of the person who is assigned the responsibility of answering questions and resolving problems for the proposer.

7. **Public Records:** This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the Award of a Contract, shall be kept by PSU and shall be open to public inspection. If a Proposal contains any information that is considered a trade secret by the proposer under ORS 192.501(2), each sheet of such information must be clearly marked with the following:

"This data constitutes a trade secret under ORS 192.501(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192."

The Oregon Public Records Law, ORS 192.501(2), exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies "unless the public interest requires disclosure in the particular instance." Therefore, non-disclosure of documents or any portion of a document submitted as part of a Proposal may depend upon official or judicial determinations made pursuant to the Public Records Law.

Proposers are requested to mark only specific pages or text in their Proposal considered a "trade secret" under Public Records Law. Proposals in which the entire document is marked or otherwise identified in its entirety as confidential or a "trade secret" will be rejected.

Pricing information cannot be labeled a trade secret and must be open to public inspection.

8. **Information Submitted:** Proposers are cautioned that it is the proposer's sole responsibility to submit information related to the evaluation categories, and that PSU is under no obligation to solicit such information if it is not included within the Proposal. Failure by the proposer to submit such information may cause an adverse impact on the evaluation of the Proposal, including rejection of the Proposal as non-responsive.
9. **Evaluation Criteria:** Any contract resulting from this RFP will be awarded based upon the evaluation criteria and methodology given in this RFP and in accordance with the Oregon University System, PSU, and State of Oregon administrative purchasing rules and laws.
10. **The Evaluation Process:** All Proposals received by the due date and time will be reviewed by an evaluation committee. The evaluation committee will determine the extent to which the Proposals conform to the specifications set forth herein and will evaluate the Proposals according to criteria identified in this RFP. The following process will be used:
 - a. Proposals will be evaluated for completeness and compliance with the requirements of this RFP. PSU reserves the right to reject those Proposals that are incomplete. PSU also reserves the right to waive what are, in PSU's judgment, minor informalities or discrepancies. Proposals considered complete will be evaluated to determine if they comply with the administrative, contractual and technical requirements of this RFP. If the Proposal is unclear, proposers may be asked to provide written clarification if it is in the best interest of PSU to do so. PSU reserves the right to reject those Proposals that do not meet all requirements.
 - b. The selection of "finalist" proposer(s) will be determined by the evaluation committee independently scoring the Proposals and then combining the scores and pricing information to determine the overall Proposal score.
 - c. The findings of the evaluation team will be summarized and the summary and award recommendation(s) will be forwarded to the PSU Contracting and Procurement Services office.
 - d. The PSU Contracting and Procurement Services office will review the recommendation and approve or reject the evaluation team's selection.
 - e. At PSU's sole discretion, proposers may be invited to make a presentation and/or perform a demonstration to the evaluation committee in support of the Proposal.
11. **Investigation of References:** PSU reserves the right to investigate the references and the past performance of any proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, and its lawful payment of suppliers, sub-contractors, and workers. PSU may postpone the award or execution of the contract before or after Notice of Intent to Award to complete its investigation. PSU reserves the right to reject any Proposal or to reject all Proposals at any time prior to PSU's execution of a contract if proposer's reference checks prove unsatisfactory.
12. **Consideration of Past Performance:** PSU reserves the right to consider past performance, historical information and other facts, whether gained from the proposer's Proposal, question and answer conference, references, demonstrations, or any other

source in the evaluation process.

13. **Reservation of Rights:** PSU has and reserves the right to refuse to enter into a contract if PSU, based upon reasonable grounds, determines that the interests of PSU would not be served. Specifically, this right may be exercised if PSU does not believe that a given proposer can perform a contract, or for any reason set forth in Oregon Administrative Rules. PSU, at its option, may give the proposer notice, specifying the grounds for rejection, and allow the proposer 15 calendar days to respond in writing.

Following such response, PSU, in its sole discretion may reject the Proposal as provided in the referenced administrative rules.

14. **Post-Selection Review & Finalists:** After evaluation is complete, and provided that the RFP is not canceled by PSU, PSU may rank the Proposals to determine the "finalist" proposer(s), based upon the highest-ranked Proposals as determined by the evaluation and selection criteria in this RFP and applicable statutes and administrative rules. In making these determinations, PSU reserves the right to conduct discussions with the finalist proposer(s), to accept best and final offers from those finalist(s), and to negotiate changes to the Proposal(s).

Following such determinations, the PSU Contracting and Procurement Services office will name one or more apparent successful proposer(s) and announce its Intent to Award to one or more of these proposer(s). Identification of the "apparent successful proposer" is procedural only and creates no right in the named proposer to award of the contract. All competing proposers shall be notified in writing of PSU's Intent to Award and the identity of the apparent successful proposer and shall be given seven (7) calendar days to review the RFP file and evaluation report in the PSU Contracting and Procurement Services office. Any questions or concerns about, or protests of, the evaluation process must be in writing and must be delivered to and received by the PSU Contracting and Procurement Services office within seven (7) calendar days after the date of the letter of Intent to Award identifying the apparent successful proposer(s).

Within a reasonable time following the end of this seven (7) day protest period, PSU will consider all protests received, if any, and may:

- a. reject the protest(s) and proceed with final evaluation of the apparent successful proposer(s) and, upon a satisfactory outcome of this final evaluation, enter into a contract with the apparent successful proposer or proposers; or
 - b. sustain a meritorious protest(s) and reject the apparent successful proposer(s) as non-responsive, if such proposer(s) is unable to demonstrate that its Proposal(s) complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, PSU may name a new apparent successful proposer or proposers; or
 - c. reject all Proposals and cancel the procurement.
15. **Best and Final Offer:** Pursuant to OAR 580-061-0155, PSU reserves the right to select the proposer that, in the collective opinion of the evaluation committee, offers the best overall benefit, convenience, functionality and service at the best-value cost to PSU. PSU

reserves the right to conduct discussions with the finalist proposers, to accept best and final offers from those finalists, and to negotiate changes, if it's in PSU's best interest to do so.

16. **Negotiation of Final Contract:** A limited negotiation of the proposed contract may be required to effect include certain supplemental terms and conditions from the proposers' software license agreements, maintenance contracts, technical support agreements and other similar documents in the final contract. Such negotiation shall be at PSU's discretion.
17. **Negotiable Terms and Conditions:** At such time as the disposition of any protests has been completed, PSU reserves the right to negotiate specific terms of the contract including, but not limited to: indemnification, confidentiality, intellectual property ownership and license provisions, and limitation of liability provisions, with the successful proposer(s) prior to contract execution. Proposers should note that any such negotiation shall be minimal, and should be expedited and completed by the anticipated Contract Execution Date listed in the Schedule of Events. Failure of the selected proposer(s) to execute a contract by the Contract Execution Date may result in cancellation of the award. This time period may be extended at the sole discretion of PSU.
18. **Proposer Agreements and Supplemental Terms and Conditions:** Proposers may include in proposal(s) supplemental agreement terms and conditions of any form (contracts or documents) that the proposer desires to be incorporated in contract. PSU is not bound to accept them or incorporate such supplemental terms and conditions in any contract. While PSU will not consider supplemental terms and conditions that materially conflict with the provisions of this RFP, PSU may consider and negotiate the inclusion of such terms and conditions which are reasonably related to this RFP as supplemental to PSU's Standard Terms and Conditions contained in this RFP. If the parties do not agree on the inclusion of the supplemental terms and conditions, PSU may: 1) enter into a contract with the apparent successful proposer without incorporating the terms and conditions submitted by the proposer; or (2) consider the proposal(s) non-responsive and enter into a contract with another responsive proposer. Any proposal that desires to have terms and conditions negotiated must submit the terms and conditions at the time of submission of the Proposal. PSU will not consider any terms and conditions that are not submitted with the Proposal.

SECTION 2: PROPOSAL REQUIREMENTS

The proposal requirements set forth below and the proposal preparation and submission requirements set forth above in Section 1 paragraph 6 are the **Minimum Mandatory Requirements** of this RFP. PSU reserves the right to reject any Proposals that do not meet the Minimum Mandatory Requirements.

2.1 Mandatory Site Visit: A **mandatory** site visit and meeting will be held on **Wednesday June 12, 2013 at 8:30 a.m.**, on the PSU campus at 617 SW Montgomery St., 2nd Floor, Facilities and Planning office, Portland, OR 97201. The site visit will be led by Karl Johnson, Customer Service Manager and Joseph Dahmen, Custodial Coordinator from the Facilities and Property Management department. Immediately following will be a **mandatory** pre-bid conference at **1:30 p.m.** to ask questions and clarify elements of this RFP document. Attendees are asked to bring a copy of this RFP to the meeting.

2.2 Experience:

- a. Describe the experience of your QRF (a minimum of five (5) years of successful professional experience is desirable) functioning as a custodial service contractor with experience involving multi-building facilities comparable in size and cleaning requirements to Portland State University's facilities. This experience should include the following six (6) facility types: food service, health care, research/laboratories, administrative, recreation, and teaching. This must include experience involving diverse scheduling, equipment operation, and personnel supervision, as well as other functions outlined in this RFP. It is desirable if this experience is in a multi-building account of at least 1,000,000 square feet, or multiple complexes and/or accounts with a combined total of 1,000,000 square feet.
- b. A greater number of points will be awarded to Proposers having experience with facilities most closely matching those of the University.

2.3 References:

- a. Provide current contact information for a total minimum of four (4) professional references (current or past) who are supportive of your firm's professional qualifications. It is desirable to provide at least one reference who can attest to your company's experience and performance servicing a multi-building account of at least 1,000,000 square feet, or multiple complexes and/or accounts with a combined total of 1,000,000 square feet. References should attest to your company's performance in the majority of the six (6) types of facilities: food service, health care, research/laboratories, administrative, recreation, and teaching. Include with these references the following information:
 - company name
 - phone number
 - mailing address
 - contact person who had the direct responsibility to administer the contract
- b. The University reserves the right to check references other than those supplied by the Proposer. References will be checked.

2.4 Operations

2.4.1 Employee Hiring, Training, Development and Existing Staff Retention:

- a. Provide documentation describing your employee hiring criteria, training and development program, which shall, at the minimum, include screening of applications, interviews, calls to all references, and additional background investigation to include drug screening, injury history, convictions (more on drug screening, injury history and convictions is addressed below), etc.
- b. Describe your company's program for continuing education and training, including job training and certification of supervisors, lead workers and workers.

Proposers will be awarded points based on documentation that indicates that their company provides a thorough hiring, training and development program. A greater number of points will be awarded to those Proposers who show evidence of having a more thorough and above-standard hiring, training and development program.

2.4.2 Employee Drug Testing:

At Proposer's expense, Proposer shall require all employees, including Management Employees, who shall be working at Portland State University in any capacity, to pass a drug screening test. Proposer shall not permit an employee who fails any drug screening to be placed on University premises for purposes of employment pursuant to this Agreement.

Proposers shall submit as part of their response to this RFP an employee drug testing program for employees that will be working on University premises in any capacity. The program shall include, at a minimum, the following, which shall be maintained during any contract with the University to provide custodial services to PSU facilities:

- a. A written employee drug-testing policy;
- b. Required drug testing for all new Subject Employees;
- c. Annual drug testing of all on-going employees;
- d. Required random testing.
- e. Required testing of a Subject Employee when the Proposer has reasonable cause to believe the subject employee is under the influence of drugs or upon the reasonable request of the University.
- f. Required testing of a Subject Employee when the Subject Employee is involved in: (1) an incident causing an injury requiring treatment by a physician, or (2) an incident resulting in damage to property or equipment.
- g. A drug-testing program that meets the above requirements will be deemed a "Qualifying Employee Drug-testing Program." For the purpose of this section an employee is a "Subject Employee" only if that employee will be working at University facilities.

Proposer shall be required to provide results of all drug testing to the University within fifteen (15) days of completion of the drug testing, or receipt of the drug test by the proposer from the source providing the drug testing, for all Subject Employees.

2.4.3 Background Checks and Finger Printing:

Proposers shall also submit as part of their response to this RFP their representation and warranty that if they enter into a contract to provide custodial services to the University, prior to commencement of custodial services, they will:

- a. Provide at no cost to the University, nationwide criminal background checks of all employees and nationwide criminal and background checks of all Management employees assigned to work at the University in any capacity. All background checks shall include fingerprinting.
- b. Proposer shall maintain verification that all Proposer employees, including management staff, have passed fingerprinting and background checks, and shall make the information available to University upon request.
- c. Provide at no cost to the University, regional background checks and fingerprinting for on-going employees working at University facilities every six (6) months for the duration of the contract;
- d. Proposer shall not employ on the Premises employees who have been convicted of a crime(s) involving moral turpitude, whether classified as a felony or misdemeanor, and of any of the crime(s) listed in **Exhibit C**, incorporated by reference herein, or has been convicted in another jurisdiction of a crime that is substantially equivalent, as defined by rule, of any of the specific crimes listed herein within ten (10) years prior to employment on the Premises. This prohibition shall apply with equal force to said statutes, as they may be amended from time to time, or to successor statutes which are substantially equivalent. This prohibition shall also include any employee currently under a term of judicial oversight, parole or probation for any offense. This list also includes Discretionary Disqualifications as defined in **Exhibit C** that may disqualify a candidate.
- e. Ensure that no employee shall carry a weapon, firearm, nonprescription drug, or alcohol on PSU's campus.

2.4.4 Equipment: Submit a list of Contractor-owned or leased equipment to be used to perform all specified services. Proposer shall also include an example of equipment maintenance records for a period of not less than two (2) months; documentation of age of all equipment; description of care; maintenance program showing amount of breakdowns and how down time will be avoided. A greater number of points will be awarded to Proposers submitting documentation of the best combination of least amount of breakdowns, best maintenance plan, etc.

2.4.5 Quality Assurance (QA):

- a. Describe your company's self-inspection program. How often do owners/company managers visit a facility to ensure compliance with the contract specifications?
- b. Describe your company's problem resolution process. How do you deal with customer complaints? How quickly do you respond to correct issues of non-performance or unsatisfactory performance?

A greater number of points will be awarded to Proposers submitting QA program information and problem resolution deemed best suited to the University.

2.4.6 Stable Work Force:

- a. What is the configuration of the staff you would use to perform the services for this contract? (i.e. How many supervisors, lead workers, and workers would be assigned.)
- b. Describe the qualifications, training, and experience you require of the workers who will service this contract.
- c. What qualifications, training, experience or certification do you require of the supervisors or lead workers and workers who will service this contract?
- d. What percentage of the time will a supervisor or lead worker be present while your workers are in the facility?
- e. How is absenteeism handled? Do you have back-up workers, supervisors and lead workers available?

Provide documentation that supports evidence of a stable workforce, low employee turnover rate, employee incentives offered, etc.

2.5 Environmental Preferability:

Proposer shall submit as part of its response the documentation specifically requested below and other information documenting its ability to comply with the standards and specifications set forth in this Section 2.5.

2.5.1 Mandatory and Desirable Characteristics--Chemical Cleaning Products

Portland State University has established both *Mandatory* characteristics and *Desirable* characteristics for evaluation of six (6) representative categories of *chemical cleaning products*.

Proposers shall provide a *Material Safety Data Sheet* (MSDS), equivalent information, and/or any additional information specifically requested for each product offered in the product categories set forth above to enable PSU to evaluate both Mandatory and Desirable characteristics with respect to that product. Failure to submit an MSDS, equivalent data, or any other information required to substantiate claims made about one or more offered products will be deemed the same as failing to meet the criteria for that product category and may result in PSU excluding a Proposer's Proposal from further consideration.

2.5.2 Chemical Cleaning Product Categories

PSU will evaluate the characteristics of products in six (6) designated Chemical Cleaning Product Categories listed below. Proposers may propose more than one product within a product category (example only--brand "X" and brand "Y" for all-purpose cleaner) and/or propose a single product that addresses more than one product category or cleaning task

(example only—brand “X” as all-purpose cleaner and general disinfectant). However, minimizing the number of different chemicals to be used is desirable.

Chemical Cleaning Product Categories

1. All-Purpose Cleaner
2. General Degreaser
3. General Disinfectant
4. Floor Stripper
5. Bathroom Cleaner
6. Glass Cleaner

Proposers shall provide a cut sheet, specification sheet, equivalent information, and/or any additional information specifically requested for each type of equipment proposed for use to enable PSU to evaluate characteristics with respect to that product.

2.5.3 Chemical Requirements

- a. Contractor must purchase at least 30% of cleaning products by cost that meet 1 or more of the following standards for the appropriate category:

Cleaning products meet 1 or more of the following standards for the appropriate category:

- Green Seal GS-37, for general-purpose, bathroom, glass and carpet cleaners used for industrial and institutional purposes.
- Environmental Choice CCD-110, for cleaning and degreasing compounds.
- Environmental Choice CCD-146, for hard surface cleaners.
- Environmental Choice CCD-148, for carpet and upholstery care.

Disinfectants, metal polish, floor finishes, strippers or other products not addressed by the above standards meet 1 or more of the following standards for the appropriate category:

- Green Seal GS-40, for industrial and institutional floor care products.
- Environmental Choice CCD-112, for digestion additives for cleaning and odor control.
- Environmental Choice CCD-113, for drain or grease traps additives.
- Environmental Choice CCD-115, for odor control additives.
- Environmental Choice CCD-147, for hard floor care.
- California Code of Regulations maximum allowable VOC levels for the specific product category.

Hand soaps meet 1 or more of the following standards:

- No antimicrobial agents (other than as a preservative) except where required by health codes and other regulations (e.g., food service and health care requirements).
- Green Seal GS-41, for industrial and institutional hand cleaners.
- Environmental Choice CCD-104, for hand cleaners and hand soaps.

Contractor must provide quarterly reports to PSU documenting the types and cost of chemicals purchased to demonstrate compliance with the 30% by cost requirement. Reports shall be delivered to PSU’s Custodial Coordinator with a copy to PSU’s Sustainability Coordinator.

- b. Chemicals may not contain any ingredients that are known carcinogens, mutagens, or that are known to cause reproductive toxicity, as defined by the following agencies: International Agency for Research on Cancer (IARC), National Toxicology Program (NTP), US Environmental Protection Agency, or the Occupational Health and Safety Administration (OSHA)
- c. Chemicals should not contain substances that contribute significantly to the production of photochemical smog, tropospheric ozone and poor indoor air quality.
- d. Chemicals may not be toxic to aquatic life. A compound is considered not toxic to aquatic life if it meets one or more of the following criteria: Acute LC50 for algae, daphnia, or fish > 100 mg/L
- e. Chemicals or chemical mixtures, as packaged from the supplier, may not be classified as flammable.
- f. Contractor may use chlorine bleach in childcare areas only when and where required by state or federal rules. When required, Contractor may use it only very sparingly in childcare areas.
- g. Preference will be given to chemicals which exhibit partial or complete biodegradability. With respect to cleaners, solvents or any other non-paper product, "biodegradability" shall mean the definition set forth at subparagraph 3.6 of *Green Seal Standard GS-8 for General Purpose Household Cleaners* (www.greenseal.org). Sufficient proof of biodegradability may also be verified, either in peer-reviewed literature or databases proving that the *ingredient* was tested in accordance with standard test procedures.
- h. Chemicals which do not contain strong irritants to the skin, eye and respiratory system are preferred. See "The Cleaning Products Pilot Project," at <http://www.epa.gov/oppt/epp/pubs/cleaner.pdf>, where the user may review products for "Environmental Attributes" that EPA has considered including: Skin Irritation, Air Pollution Potential, Fragrances, Dyes, and Minimization of Exposure to Concentrates. Furthermore, it is desirable for certain chemical cleaning products to be used in liquid form rather than through a delivery system that "atomizes" or delivers the product as a fine mist. Eliminating such delivery minimizes the likelihood of inhalation by the user.
- i. Preference may be given to chemicals which are natural or organic, depending on the other environmental and health characteristics of the chemical.
- j. No products shall be used on-site that are contained in pressurized, sealed aerosol spray cans. PSU chooses to eliminate on-site use of products so delivered because these containers require additional handling to fully discharge product and propellant and are not reusable or recyclable. All chemical cleaning products must be available in a liquid form or manual pump action sprays and/or concentrates that can be dispensed into pump bottles for use. Acceptable supporting data here may include a picture of the commercially available product delivery system (as in commercial literature) and/or description of the Proposer's intended delivery system.
- k. The Contractor shall submit with the Bid a Material Safety Data Sheet (MSDS) for all products when new products are proposed. The MSDS Sheets must also accompany the toxic product(s) to the specified delivery sites with each order. If the product is actually used diluted, the dilution rate must also be stated in the MSDS.

- l. Products whose Material Safety Data Sheet (MSDS) requires the use of respiratory protective equipment for use by personnel will not be acceptable
- m. The Contractor shall be held responsible for any damage to personnel or equipment directly traceable to these cleaners, cleansers and polishes.
- n. The number and type of chemicals used should be kept at a minimum to reduce regulatory management and potential environmental and health impacts.
- o. Frequently used chemicals must be supplied in bulk containers to reduce the impact on the environment by significantly reducing the need for petroleum, plastic, cardboard, transportation room, storage space, and the amount of produce orders to process. Dilution control dispensers must be supplied to automatically mix the correct amount of bulk chemical with water to produce ready-to-use-product on site. The dispensers must be suitable to mix the chemicals used in the proper ratios – different dispensers for different chemicals may be required. Dispensers should be resistant to tampering or inadvertent changes to mixing ratios. Contractor must supply documentation of all dispensing systems used.
- p. The contractor shall establish standard operating procedures addressing how an effective cleaning and hard floor and carpet maintenance system will be consistently utilized, managed and audited. Specifically address cleaning to protect vulnerable building occupants. Contractor must have a written floor maintenance plan and keep a log that details the date, location, number of coats of floor finish applied as a base and top coats, and any other maintenance/restoration practices. The duration between stripping and re-coat cycles must be trended to optimize efficiency and reduce chemical use.

2.5.4 Proposer Company Environmental Policies

- a. Proposers shall provide evidence of a corporate environmental policy. Preference will be given to proposers who have instituted a publicly available corporate environmental policy that can be measured by established goals, and have implemented an environmental management system.
- b. Additional preference will be given to proposers whose environmental management system has been independently certified by a recognized, third-party evaluator.

2.5.5 Equipment Requirements

- a. Contractor must maintain entryway systems (grilles, grates, mats) at least 10 feet long in the primary direction of travel to capture dirt and particulates entering the building at all public entry points, and develop the associated cleaning strategies to maintain those entryway systems as well as exterior walkways. Public entryways that are not in use or serve only as emergency exits are excluded from the requirements, as are private offices. Provide containment drains plumbed for appropriate disposal of hazardous liquid wastes in places where water and chemical concentrate mixing occurs for laboratory purposes. Contractor must have written procedures for cleaning and maintaining the mats and must provide quarterly reports to PSU on cleaning (including dates) and other maintenance (including dates) of all entry mats, and identify any dates during which the mats were not in place or otherwise used.
- b. Contractors floor care equipment must meet the following requirements:
 - Vacuum cleaners are certified by the Carpet and Rug Institute “Green Label” Testing Program for vacuum cleaners and operate with a sound level of less than 70dBA.

- Carpet extraction equipment used for restorative deep cleaning is certified by the Carpet and Rug Institute's "Seal of Approval" Testing Program for deep-cleaning extractors.
- Powered floor maintenance equipment, including electric and battery-powered floor buffers and burnishers, is equipped with vacuums, guards and/or other devices for capturing fine particulates and operates with a sound level of less than 70dBA.
- Propane-powered floor equipment has high-efficiency, low-emissions engines with catalytic converters and mufflers that meet the California Air Resources Board (CARB) or Environmental Protection Agency (EPA) standards for the specific engine size and operate with a sound level of less than 90dBA.
- Automated scrubbing machines are equipped with variable-speed feed pumps and on-board chemical metering to optimize the use of cleaning fluids. Alternatively, the scrubbing machines use only tap water with no added cleaning products.
- Battery-powered equipment is equipped with environmentally preferable gel batteries.
- Powered equipment is ergonomically designed to minimize vibration, noise and user fatigue.
- Equipment is designed with safeguards, such as rollers or rubber bumpers, to reduce potential damage to building surfaces.

Keep a log for all powered cleaning equipment to document the date of equipment purchase and all repair and maintenance activities and include vendor specification sheets for each type of equipment in use.

2.5.6 Employee Training

- a. Contractor must provide and document safety and chemical use minimization training to all employees who will operate any powered housekeeping equipment.
- b. To meet legal requirements, the Contractor must provide and document training to personnel on the hazards, use, maintenance, and disposal of chemicals, chemical dispensing equipment, and all packaging waste. A schedule for providing this documentation, and for training frequency requirements, shall be determined solely by the University and provided to the successful proposer in writing.
- c. The Contractor must train personnel on proper recycling procedures for the campus, and must ensure that all recyclable materials are properly recycled.
- d. The Contractor must provide and document training to personnel on strategies for promoting and improving hand hygiene, including both hand washing and the use of alcohol-based waterless hand sanitizers.
- e. The Contractor must provide and document training to personnel on the safe handling and storage of cleaning chemicals used in the building, including a plan for managing hazardous spills or mishandling incidents.

2.5.7 Recycling, Disposal, and Spill Cleanup

- a. Empty, non-solvent chemical containers must be rinsed three times and drip-dry before being recycled. Solvent containers must not be rinsed; instead they must be closed securely before recycling.
- b. Non-recyclable, empty chemical containers must be closed securely and disposed of as trash.
- c. Any chemical containers which are not empty but are intended for disposal must be submitted to PSU Environmental, Health & Safety group for proper disposal.

- d. Contractor is responsible for cleaning floors in all recycling rooms regularly and when work orders are issued for specific areas.
- e. Contractor is responsible for cleaning up the outdoor recycling area “corrals” on a regular schedule and as needed. This excludes the recycling containers themselves, which will be maintained by the waste hauler or PSU recycling personnel.
- f. Contractor is solely responsible for any and all spills or leaks during unloading or transporting of their product. Spills which occur after receipt of the products will be handled by the university. The Contractor agrees to reasonably evacuate and warn those persons that may be affected by the spill and Contractor shall clean up such spills or leaks to the satisfaction of the university and in a manner that complies with applicable federal, state, and local laws and regulations. The cleanup shall be at no cost to the university.

2.5.8 Recycling and Compost Services

- a. Recycling and composting services must be provided to all buildings for which the Contractor handles custodial services. A separate team should be assigned specifically to recycling.
- b. Recycling and food waste (where applicable) must be collected from all public areas and communal office areas and deposited in the appropriate outdoor recycling containers weekly or as needed.
- c. Recycling must be collected from non-public and private office areas and deposited in the appropriate outdoor recycling containers weekly or as needed.
- d. Recycling work orders, as recorded by work order, Event Management request, phone, e-mail, or word-of-mouth, must be responded to within one week of receipt by the Contractor. Any non-written requests must be entered in PSU Facilities Work Order System by the Contractor within 48 hours of notification.
- e. All recycling containers must be exteriorly cleaned, and re-labeled if necessary, every quarter or as needed.
- f. Clean interiors of recycling containers as needed.
- g. Deliver special recyclables (Styrofoam, electronics, toners, etc.) from central collection areas to recycling subcontractors as needed.
- h. Assist PSU with special recycling events by providing special recycling collection, labor, etc., as requested by PSU.
- i. Contractor will participate in and support all PSU waste reduction and recycling efforts. Contractor will attend regularly scheduled meetings with PSU’s Resource Management Coordinator and waste hauler to continually assess and improve waste reduction efforts on campus.

2.6 Pricing Proposal:

Complete **Exhibit E** with proposed price per building, price for miscellaneous mandatory services and an hourly rate by labor category for additional services to be provided as requested at PSU’s sole discretion and direction. **PRICING PROPOSAL MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE.**

In the pricing proposal include the total Full Time Equivalent (FTE) of staffing to be provided to PSU.

SECTION 3: SCOPE OF SERVICES

Contractor shall provide a high-efficiency limited frequency Custodial Services program designed and developed to improve on current cleaning levels on PSU's campus, as specifically described in the requirements set forth above in Section 2, and in Rider A (PSU's Custodial Services Frequency grid), Rider B (PSU's General Requirements) and the following **Exhibits and Attachments:**

The following identified exhibits and attachments are incorporated by reference herein:

<u>Attachment A:</u>	<u>Proposal Response Required Format</u>
<u>Exhibit A:</u>	<u>List of Buildings and Cleanable Square Feet</u>
<u>Exhibit B:</u>	<u>Campus Exterior Garbage and Recycling Collection</u>
<u>Exhibit C:</u>	<u>List of Offenses</u>
<u>Exhibit D:</u>	<u>Building Access Schedule</u>
<u>Exhibit E:</u>	<u>FTE Cost Per Building</u>

SECTION 4: EVALUATION CRITERIA

Proposals submitted in response to this RFP will be evaluated in accordance with the following criteria:

MINIMUM MANDATORY REQUIREMENTS

Only those Proposals meeting the Minimum Mandatory Requirements of this RFP will be deemed responsive to this RFP. Those Proposals which have been deemed responsive shall be evaluated based on the following evaluation criteria:

- | | |
|--|-----------|
| 1. Proposal Summary | 0 points |
| 2. Operations. Proposer's qualifications and capability to provide services as outlined in the Requirements set forth in the RFP and the Specifications as set out in Rider A and Rider B, that best suit the needs of the University. | 30 points |
| 3. Environmental Preferability | 15 points |
| 4. Relevant experience with organizations of similar or larger size and complexity and success in providing custodial services. | 30 points |
| 5. References | 25 points |
| 6. Pricing Proposal | 50 points |

Summary of Evaluation Criteria

Proposal Summary	0 points
Operations including Qualifications	30 points
Environmental Preferability	15 points
Relevant Experience	30 points
References	25 points
Pricing Proposal	50 points

TOTAL POSSIBLE POINTS = 150Points

SECTION 5: PROPOSER CERTIFICATION

EACH PROPOSER MUST READ AND COMPLY WITH THE FOLLOWING SECTIONS. FAILURE TO DO SO MAY RESULT IN PROPOSAL REJECTION.

SUBSECTION I: CERTIFICATION OF COMPLIANCE WITH TAX LAWS

As required by ORS 305.385(6), I, the undersigned duly authorized representative of the proposer, hereby certify under penalty of perjury that the proposer is not, to the best of my knowledge, in violation of any of the tax laws described in ORS 305.380(4).

SUBSECTION II: FINANCIAL RESPONSIBILITY

PSU reserves the right to investigate and evaluate, at any time prior to award and execution of the contract, the apparent successful proposer's financial responsibility to perform the contract. Submission of a signed Proposal shall constitute approval for PSU to obtain any credit report information PSU deems necessary to conduct the evaluation. PSU shall notify the apparent successful proposer(s), in writing, of any other documentation required, which may include, but need not be limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity and credit information, etc. Failure to promptly provide this information may result in Proposal rejection.

PSU may postpone the award or execution of the contract after announcement of the apparent successful proposer(s) in order to complete its investigation and evaluation. Failure of an apparent successful proposer to demonstrate financial responsibility, as required under OAR 580-040-0275 shall render the proposer non-responsible and shall constitute grounds for Proposal rejection, as required under OAR 580-040-0275.

The undersigned agrees and certifies that he/she:

1. Has read and understands all bid instructions, specifications, and terms and conditions contained herein (including any attachments listed in this document);
2. Is an authorized representative of the proposer, that the information provided in this Proposal is true and accurate, and that providing incorrect or incomplete information may be cause for Proposal rejection or contract termination;
3. Is bound by and will comply with all requirements, specifications, and terms and conditions contained herein;
4. Will furnish the designated item (s) and/or service(s) in accordance with the RFP, Proposal and the agreement; and
5. Proposer will provide/furnish federal tax ID, federal employee identification number or social security number with Proposal submission.

SUBSECTION III: SIGNATURE BLOCK

Signature of Proposer's duly authorized representative for (Contractor)

Printed Name and Title: _____

Date: _____

Tax ID / Federal Employer Identification Number (FEIN): _____

An authorized representative of the proposer must sign this Proposal as well as initial any alterations or erasures in ink.

SECTION 6: PSU STANDARD CONTRACT FOR CUSTODIAL SERVICES

CUSTODIAL SERVICES AGREEMENT

Between

"Contractor"

And

The State Board of Higher Education acting by and through Portland State University

THIS AGREEMENT is made and entered into as of the **Xst** day of **XXXX**, 2013, in Portland, Oregon, by and between the **State Board of Higher Education acting by and through Portland State University**, hereinafter called "University" or "PSU", and **"Contractor"**, hereinafter called "Contractor" or "**XXXXXXXXXXXX**", each individually, a "Party" and together and collectively, the "Parties".

WHEREAS, University requires custodial services; and

WHEREAS, Contractor is a Qualified Rehabilitation Facility providing custodial services to the State of Oregon; and;

WHEREAS, University and Contractor desire to enter into an agreement for the provision of Custodial Services on University's campus;

NOW THEREFORE, the Parties hereto agree to enter into this Agreement under the terms and conditions specified herein.

1. Agreement and Agreement Riders:

The term "Agreement" as used herein means this Agreement, any Schedules, Exhibits, Riders, and Attachments thereto. University and Contractor agree to be bound by this Agreement, which in the case of conflicting terms shall be interpreted in the following order of precedence:

- (a) The terms and conditions herein; then
- (b) Rider A: Contractors Pricing Proposal, incorporated herein by reference; then
- (c) Rider B: University's RFP, including all amendments and addendums to the RFP issued XXXXX, XX, 2013, incorporated herein by reference; then
- (d) Rider C: Contractor's Proposal dated XXXXX XX, 2013, incorporated herein by reference.

2. Term:

The Agreement shall commence on the date of execution and continue for a two (2) year period with the option to renew for five (5) additional one (1) year periods. Total length of Contract with extensions shall not exceed seven (7) years. In order to renew the Agreement, either Party shall provide sixty (60) days notice prior to the end of the initial two (2) year term or any renewal terms, where applicable, of its desire to extend the Agreement; however, neither Party is obligated to renew the Agreement after the initial two (2) year term. The Parties hereto agree that this Agreement may be amended to add provisions of custodial goods and services by Contractor to additional buildings at the sole discretion of PSU.

3. Compensation and Payment Terms:

University agrees to pay Contractor for the satisfactory performance of regularly scheduled Custodial Services (defined below) under this Agreement in a monthly amount not to exceed the amount contained in Rider A; the Contractor's Pricing Proposal to the RFP. Additional services, including, without limitation, special projects, shall not exceed **the maximum amount of XXXXXXXX (\$00,000)**.

4. Default:

4.1. If either Party believes that the other Party is in default in the performance or non-performance of its obligations set forth herein (a "Default"), that Party may pursue any available remedies provided by this Agreement or applicable law, including Termination as provided in Paragraph 6 of this Agreement.

4.2. Defaults Constituting a Health or Safety Danger.

University shall immediately notify Contractor in writing of any Contractor Default under this Agreement that University believes constitutes a danger to the health or safety of any of the Parties or their employees, customers or invitees, including but not limited to, a failure to comply with the provisions of Paragraph 18.3 of this Agreement. Upon receipt of such notice, if such danger to health or safety results from any negligent act or failure to act, or willful misconduct of the Contractor, Contractor shall immediately commence and complete remediation of the conditions constituting such danger to health or safety, at its own expense. Failure to remedy such Default if applicable, as set forth in the preceding sentence, shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

4.3. Defaults Arising from Employee Criminal Offenses or Other Misconduct.

4.3.1. Any Contractor violation of Paragraph 11.4.2 of this Agreement shall be considered a Default. Failure to remedy such Default shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

4.3.2. Any offenses committed by Contractor's employees, officers, or agents against University property, employees, officers and agents, or students as identified in **Exhibit A (List of Offenses That Will Require Mandatory or Discretionary Disqualification)** shall be considered a Default. Failure to remedy such Default shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

4.3.3. During the term of the Agreement, Contractor shall notify University in writing within a reasonable time of, and consult with University regarding, Contractor's knowledge of any Contractor employee, officer or agent of Contractor that is assigned to provide services to University who has been criminally charged with any of the offenses identified in **Exhibit A**. Failure to provide such written notification and failure to remove subject employee, officer or agent within a reasonable time, if at Contractor's discretion such removal is reasonably warranted in order to comply with the objectives of Paragraph 11.4.2 of this Agreement, or failure to do both shall be considered a Default. Failure to remedy such Default shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

4.3.4. Three violations of Paragraph 4.3.1, three violations of Paragraph 4.3.2 or three violations of Paragraph 4.3.3 within a twenty-four (24) month period shall be considered a Default. In such an event, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate, without needing to provide Contractor any opportunity to cure.

5. Scope of Work, Quality Assurance and Performance Measurement:

5.1. CONTRACTOR shall provide a high-efficiency limited frequency Custodial Services and garbage collection and recycling/composting services program (collectively, the "Custodial Services") which is designed and developed to improve on current cleaning levels on PSU's campus, and in accordance with the following: **Attachment A (PSU's**

Custodial Services Frequency grid), Attachment B (CONTRACTOR's Costing Workbooks), and Attachment C (PSU's General Requirements) all of which are attached and incorporated by reference herein.

5.2 CONTRACTOR shall provide additional work as requested by PSU Facilities and Property Management department. All additional work shall be provided at a rate agreed upon, in writing, by the parties.

5.3. CONTRACTOR shall provide the Custodial Services under this Agreement at the equipment, pricing and staffing levels provided in **Attachment B** to this Agreement, subject to amendment by mutual agreement of the Parties. Failure to provide staffing at the agreed upon level shall be considered a Default. Custodial Services shall include Campus Garbage and Compost Collection and Recycling Services at the price and staffing levels provided in **Attachment B**, subject to amendment by mutual agreement of the Parties.

5.4. If, after commencement of work under this Agreement, University desires to change the agreed upon scope of work, University and Contractor shall mutually agree to an updated **Attachment A and/or Attachment B**.

5.5. Within sixty (60) days of the execution of the Agreement, PSU and CONTRACTOR shall mutually agree on Performance Outcomes, developed by the University, to measure CONTRACTOR's performance under this Agreement.

5.6 DIVERSIFIED ABILITES will work toward achieving the Performance Outcomes agreed upon by the parties. Upon the completion of baseline inspections of each campus building, (to be completed by CONTRACTOR and University), a timeline will be mutually agreed upon to achieve compliance with the Performance Outcomes. Determination of compliance with the Performance Outcomes shall be determined through the evaluation of documented inspections completed by the PSU Custodial Coordinator or designee and the CONTRACTOR Building Supervisor.

5.7. Prior to commencement of work, Contractor and University shall mutually agree upon a service schedule containing specific dates and times for cleaning (**Attachment A**), subject to pricing and staffing levels indicated in **Attachments B and C**. CONTRACTOR acknowledges that there are high profile areas of the campus that may require an overall higher level outcome. As CONTRACTOR develops schedules that include tasks and frequency of service for the campus, CONTRACTOR and PSU will discuss and reach agreement regarding such schedules and personnel necessary to provide such outcomes.

5.8. Based on available funding in future years, CONTRACTOR and PSU agree to assess opportunities to modify the Custodial Services program.

5.9 **Environmental Preferability:** CONTRACTOR has supplied University with MSDS information regarding its cleaning solutions and CONTRACTOR agrees to comply with University's commitment to sustainability and University environmental safety standards as described in the RFP.

6. Termination:

6.1. Termination for Default.

Except as provided in Paragraphs 6.2, 6.3, 6.4, 6.5, 6.6 and 6.7 below, if at any time during the term of this Agreement, either Party considers terminating the Agreement because of a Default by the other Party, such Party shall give the other Party written notice that it is considering such action, which notice shall set forth with reasonable specificity such Party's reasons for contemplating termination. During the following twenty (20) day period the Parties shall discuss, in good faith, the Party's reasons for considering termination in an effort to avoid the need for such action. Following the twenty (20) day discussion period, the Party considering termination, if not fully satisfied in its sole discretion, may elect to terminate the Agreement by giving the other party sixty (60) days' written notice of its intent to terminate; provided, however, neither Party may give notice of its intent to terminate this Agreement pursuant to this Paragraph 6.1 during the first ninety (90) days of operation under this Agreement.

6.2. Termination for Non-Payment.

If any amount due to CONTRACTOR under this Agreement is not paid in full within sixty (60) days after University's receipt of the invoice and University has not notified CONTRACTOR in writing of its objection to such amount, University shall be in breach of the Agreement. CONTRACTOR shall give University written notice specifying the amount of such breach, and University shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, CONTRACTOR shall have the right to then terminate this Agreement by giving University twenty (20) days' written notice of its intention to terminate.

6.3. Termination Arising from Default Constituting a Health or Safety Danger.

Pursuant to Paragraph 4.2 of this Agreement, failure by Contractor to commence and complete remediation of conditions constituting a danger to health or safety resulting from any negligent act or failure to act, or willful misconduct of the Contractor is considered a Default. Failure to remedy such Default shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

6.4. Termination for Employee Criminal Offenses or Other Misconduct.

6.4.1. Pursuant to Paragraph 4.3.1 of this Agreement, a violation of Paragraph 11.4.2 of the Agreement is considered a Default. Failure to remedy such Default shall be considered breach. Contractor shall have seven (7) days within which to cure such breach. If the breach is not cured within that time, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

6.4.2. Pursuant to Paragraph 4.3.2 of this Agreement, any offenses against University property, employees, officers and agents, or students as identified in **Exhibit A** is considered a Default. Failure to remedy such Default to University's satisfaction shall be considered breach. Contractor shall have seven (7) days within which to cure such breach to University's satisfaction. If the breach is not cured within that time, University shall have

the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate.

6.5. Termination for a Pattern of Non-Compliance.

Pursuant to Paragraph 4.3.4, three violations of Paragraph 4.3.1, three violations of Paragraph 4.3.2 or three violations of Paragraph 4.3.3 within a twenty-four (24) month period shall be considered a Default. In such an event, University shall have the right to then terminate this Agreement by giving Contractor twenty (20) days' written notice of its intention to terminate, without needing to provide any opportunity to cure.

6.6. Termination for Convenience.

Either Party may terminate this Agreement for convenience by notifying the other Party in writing at least one hundred eighty (180) days prior to the intended termination date.

6.7. Termination for Non-Appropriation.

If sufficient funds are not provided in future legislatively approved budgets of University (or from applicable federal, state or other sources) to permit University in the exercise of its reasonable administrative discretion to continue this Agreement, or if the University or the program for which this Agreement was executed is abolished, University may terminate this Agreement without further liability by giving Contractor not less than thirty (30) days advance written notice. In determining the availability of funds, University may use the budget adopted for it by the Joint Ways and Means Committee of the Oregon Legislative Assembly, or its equivalent.

7. Compensation and Payment Terms:

7.1. As consideration for the satisfactory performance of CONTRACTOR' obligations under this Agreement, University will compensate CONTRACTOR for the Custodial Services as provided in **Attachment A, Attachment B and Rider C.**

7.2. Contractor will submit invoices, including any required reports and documentation, to University within fifteen (15) days after the end of the month for which services were rendered. Payment will be made by University within thirty (30) days following receipt and acceptance by University of the invoice. If any amount due to CONTRACTOR under this Agreement is not paid in full within forty-five (45) days after its invoice date, then the unpaid portion will bear interest, from the invoice due date until the date paid, at a rate of two-thirds of one percent (2/3%) per month (or eight percent (8%) per annum). The right of CONTRACTOR to charge interest for late payments shall not be construed as a waiver of CONTRACTOR's right to receive payment promptly, in accordance with the terms of this Agreement.

8. Additional Payment Terms and Conditions:

On a monthly basis Contractor shall provide complete staff time reporting that shall also include documentation of Supervisor/Staff ratio identified per building by the hour. Contractor will submit daily inspection reports to the University on a daily basis. Failure to provide such documentation may be considered a Default. University shall not make monthly payments on invoices received from Contractor until required reports have been received and accepted as accurate by University.

Contractor and the University are contracting for the agreed upon scope of work and the agreed upon staffing levels as per **Attachment B**. Staffing levels must be maintained on a monthly basis. The University expects CONTRACTOR to plan accordingly to maintain staffing levels at the agreed upon levels regardless of sick time or vacation. CONTRACTOR shall have back up staff to cover these shifts. Any shortages of hours per the agreed upon staff plan will result in a reduction of the payment based on the hourly rate for additional services.

9. Equipment Costs/Maintenance Logs:

Contractor shall maintain all equipment, (as listed in **Attachment B** and any other equipment provided by PSU), necessary to perform its obligations under this Agreement. CONTRACTOR shall assume sole responsibility for all costs for repair and maintenance. CONTRACTOR shall provide University with quarterly maintenance logs of all equipment and shall notify University when equipment is replaced. University, at its sole discretion, may choose to purchase any or all equipment required for the provision of services under the terms of this Agreement.

10. Purchasing:

10.1. University will provide certain supplies, (excluding all paper products), as agreed by the parties and set out in **Attachment B** for use by CONTRACTOR. All paper products shall be supplied by University through its Facilities Stores. CONTRACTOR shall manage all other purchases of products, supplies, equipment and services utilized in the Custodial Services, which purchases shall be made through University's group purchasing agreements or through CONTRACTOR's purchasing program. University is entitled to receive all local trade discounts, as well as all purchasing discounts and rebates provided by University's group purchasing program based upon such program's arrangements with distributors and suppliers. CONTRACTOR shall be entitled to receive and retain all cash discounts and all other discounts, rebates and allowances otherwise available to CONTRACTOR under its arrangements with distributors and suppliers. CONTRACTOR will pay vendors directly for such products, supplies, equipment and services purchased by CONTRACTOR and submit such invoices to University for reimbursement included in CONTRACTOR's next invoice to University. In the event CONTRACTOR pays for products, supplies, equipment and services in order to expedite the purchase of such items, all such purchases shall be accounted for as a direct cost of operations. All such purchases shall be titled in the name of the University (using University's tax identification information) and used solely in the Custodial Services under the terms of this Agreement.

10.2. In the event an affiliated company or division of CONTRACTOR furnishes products, supplies, equipment or services necessary to the efficient operation of the Custodial Services, charges to University for such products, supplies, equipment or services shall be competitive with the cost of obtaining such products, supplies, equipment or services from an independent source in the open market. University, at its sole discretion, may choose to purchase any or all products, supplies and equipment required for the provision of services under the terms of this Agreement.

10.3. CONTRACTOR shall obtain University's written approval before making purchases outside the scope of the services provided pursuant to this Agreement.

11. Personnel:

11.1. CONTRACTOR Operations Team.

CONTRACTOR will provide and pay supervisors and service personnel for the efficient management of the Custodial Services (the "CONTRACTOR Services Team"), which pay CONTRACTOR may adjust from time to time, as appropriate for cost of living and other increases. Any pay adjustments that affect the cost of services under this Agreement are subject to University's review and approval. CONTRACTOR shall submit any such proposed adjustment, including a justification and supporting documentation, to University in writing thirty (30) days prior to the proposed effective date of such adjustment. If the proposed adjustment is approved by University, then the Parties will prepare and execute an amendment to incorporate the adjustment into this Agreement. The Parties agree that pay adjustments will not exceed 3% annually. The CONTRACTOR Services Team will be led by at least one (1) manager (the "CONTRACTOR Building Supervisor"), who will coordinate training and management of the service employees. The CONTRACTOR Building Supervisor will act as CONTRACTOR' chief representative for CONTRACTOR' day-to-day performance of the Custodial Services, and will interact directly with University. If a CONTRACTOR Building Supervisor should become unacceptable to University, then University may request in his or her removal and CONTRACTOR will provide a mutually acceptable replacement within a reasonable time thereafter. While on the University's campus, the CONTRACTOR Services Team will be subject to the rules and regulations of University, copies of which will be provided by University to CONTRACTOR reasonably in advance. CONTRACTOR will be responsible for all salaries, payroll and other taxes, benefits, fees, and other charges or insurance required by any federal, state and local law, statute or regulation (including, but not limited to, unemployment taxes, Social Security contributions, worker's compensation premiums and all similar taxes and payments), attributable to each CONTRACTOR employee.

11.2. Service Employees.

CONTRACTOR will provide and pay all Service Employees CONTRACTOR deems necessary for the efficient provision of the Custodial Services. The Service Employees will be subject to the rules and regulations of University while on the University's campus. CONTRACTOR will be responsible for all salaries, payroll and other taxes, benefits, fees, and other charges or insurance required by any federal, state and local law, statute or regulation (including, but not limited to, unemployment taxes, Social Security contributions, worker's compensation premiums and all similar taxes and payments), attributable to each Service Employee.

11.3. Personnel Actions.

Each Party hereto shall be responsible for all personnel actions regarding employees on its respective payroll. Each Party shall withhold all applicable federal, state and local employment taxes and other appropriate payroll deductions and file all required documents and forms.

11.4. Employment Issues.

11.4.1. Equal Opportunity Employer.

Neither Party shall discriminate because of race, color, religion, sex, age, national origin, sexual orientation, disability, or status as a veteran, or any other reason as defined and prohibited by applicable federal, state, and local laws, in the recruitment, selection, training, utilization, promotion, termination, or other employment related activities. In addition, each

Party affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations. Although Contractor is an independent contractor, it covenants that its employees will comply with University's workplace policies, including, without limitation, University's policy with regards to sexual and other forms of harassment.

11.4.2. Background Checks and Drug Testing.

11.4.2.1. The Parties acknowledge that it is critically important to University that the CONTRACTOR employees providing services on campus pursuant to this Agreement do not have criminal backgrounds that make them ineligible and pass a drug screening test. The Parties agree to work together cooperatively and to communicate freely to assure that CONTRACTOR's system satisfies the objectives established by this Agreement.

11.4.2.2. Employee Drug Testing:

At Contractors expense, Contractor shall require all employees, including Management Employees, who shall be working at Portland State University in any capacity, to pass a drug screening test. Contractor shall not permit an employee who fails any drug screening to be placed on PSU premises for purposes of employment pursuant to this Agreement.

Contractor shall submit to PSU an employee drug testing program for employees that will be working on PSU premises in any capacity. The program shall include, at a minimum, the following, which shall be maintained for the duration of this Agreement:

- a. A written employee drug-testing policy;
- b. Required drug testing for all new Subject Employees;
- c. Annual drug testing of all on-going employees;
- d. Required random testing.
- e. Required testing of a subject employee when the Contractor has reasonable cause to believe the subject employee is under the influence of drugs or upon the reasonable request of PSU.
- f. Required testing of a subject employee when the subject employee is involved in: (1) an incident causing an injury requiring treatment by a physician, or (2) an incident resulting in damage to property or equipment.
- g. A drug-testing program that meets the above requirements will be deemed a "Qualifying Employee Drug-testing Program." For the purpose of this section an employee is a "Subject Employee" only if that employee will be working at PSU premises.

Contractor shall be required to provide results of all drug testing to PSU within fifteen (15) days of completion of the drug testing, or receipt of the drug test by the proposer from the source providing the drug testing, for all subject employees.

11.4.2.3 Background Checks and Finger Printing:

Prior to commencement of custodial services at PSU, Contractor shall:

- a. Provide at no cost to PSU, nationwide criminal background checks of all employees and nationwide criminal and background checks of all Management employees assigned to work at PSU in any capacity. All background checks shall include fingerprinting.
- b. Contractor shall maintain verification that all Contractor employees, including management staff, have passed fingerprinting and background checks, and shall make the information available to PSU upon request.
- c. Provide at no cost to PSU, regional background checks and fingerprinting for on-going employees working at PSU premises every six (6) months for the duration of the contract;
- d. Contractor shall not employ on the premises employees who have been convicted of a crime(s) involving moral turpitude, whether classified as a felony or misdemeanor, and of any of the crime(s) listed in **Exhibit A**, incorporated by reference herein, or has been convicted in another jurisdiction of a crime that is substantially equivalent, as defined by rule, of any of the specific crimes listed herein within ten (10) years prior to employment on the Premises. This prohibition shall apply with equal force to said statutes, as they may be amended from time to time, or to successor statutes which are substantially equivalent. This prohibition shall also include any employee currently under a term of judicial oversight, parole or probation for any offense. This list also includes Discretionary Disqualifications as defined in **Exhibit A** that may disqualify a candidate.
- e. Ensure that no employee shall carry a weapon, firearm, nonprescription drug, or alcohol on PSU's premises.

11.5. Agreement Not to Hire Management Personnel.

11.5.1. CONTRACTOR agrees that no supervisory employees of University shall be hired by CONTRACTOR to perform, or be permitted by CONTRACTOR to perform, custodial supervisory work for the term of this Agreement and six (6) months thereafter. CONTRACTOR agrees that if it violates the conditions set forth in the immediately preceding sentence, then CONTRACTOR shall pay to University and University shall accept as liquidated damages and not as a penalty for such breach, an amount equal to the annual salary of the University supervisory employee hired by CONTRACTOR or allowed to work for CONTRACTOR in violation of the terms of this Agreement.

11.5.2. University acknowledges that CONTRACTOR has invested considerable amounts of time and money in training its supervisory employees in the systems, procedures, methods, forms, reports, formulas, computer programs, plans, techniques and other valuable information which is proprietary and unique to CONTRACTOR' manner of conducting its business and that such information is available, on a confidential basis, to CONTRACTOR' supervisory employees. Therefore, University agrees that supervisory employees of CONTRACTOR will neither be hired by University to perform custodial supervisory work for the term of this Agreement and six (6) months thereafter, nor will University permit supervisory employees of CONTRACTOR to be employed on University's campus to perform custodial supervisory work for a period of six (6) months subsequent to the termination of this Agreement (unless such employees were formerly employees of University).

11.5.3. Subject to the conditions and limitations of the Oregon Tort Claims Act (ORS 30.260 through 30.300) and the Oregon Constitution, Article XI, Section 7, University agrees that if it violates the conditions set forth in the immediately preceding paragraph, then University shall pay to CONTRACTOR and CONTRACTOR shall accept as liquidated damages and not as a penalty for such breach, an amount equal to the annual salary of the CONTRACTOR supervisory employee hired by University or allowed to work on University's campus in violation of the terms of this Agreement.

11.5.4. For the purpose of Paragraph 10.5, "supervisory employees" shall be defined as those persons who have directly or indirectly performed custodial management or professional services on University's campus at any time during the preceding twelve (12) month period immediately preceding employee termination or termination of this Agreement, whichever comes first.

12. Confidentiality:

12.1. Contractor agrees to keep confidential any University proprietary or confidential information that PSU designates as such and supplies or is made available to Contractor during the course of this Agreement. Such information will not be included in any published material without the prior written approval of University.

12.2. During the course of the Agreement, CONTRACTOR may provide University with confidential information pertaining to CONTRACTOR's business (such as financial, statistical, operating and personnel materials and information, including, but not limited to, technical manuals, plans, policy and procedure manuals and computer programs relative to or utilized in CONTRACTOR's business or the business of any subsidiary or affiliate of CONTRACTOR. Such material must be labeled by CONTRACTOR as Confidential. University shall not disclose confidential information provided by CONTRACTOR unless required to do so by the Oregon Public Records Law (ORS 192.410 *et seq.*) or other applicable law. Prior to any such disclosure, University shall provide CONTRACTOR with notice of its intent to disclose confidential information so that CONTRACTOR can seek protective action.

12.3. University agrees that all proprietary computer software, signage, and marketing and promotional literature and material used by CONTRACTOR in providing services pursuant to this Agreement (the "Proprietary Material") shall remain the property of CONTRACTOR, notwithstanding the fact that the University may have been charged for the use of such materials. CONTRACTOR grants University a non-exclusive right to use the Proprietary Material for the Term of this Agreement. All patents, copyrights, trade secrets and other proprietary rights in or related to the Proprietary Material are and will remain the exclusive property of CONTRACTOR, whether or not specifically recognized or perfected. University will not take any action that jeopardizes CONTRACTOR's proprietary rights or acquire any rights in the Proprietary Material. Unless otherwise agreed, CONTRACTOR will own all rights in any copy, modification, adaptation, or derivation of the Proprietary Material, including any improvement or development thereof. University will obtain, at CONTRACTOR's request, the execution of any instrument that may be appropriate to assign these rights to CONTRACTOR or to perfect these rights in CONTRACTOR's name. Upon the conclusion or other termination of this Agreement, all use of trademarks, service marks, and logos owned by CONTRACTOR or licensed to it by third parties shall be discontinued by University and University shall immediately return any Proprietary Material to CONTRACTOR.

13. Representatives of Parties/Notice:

The following are the representatives of the Parties and any notice provided under this Agreement shall be sufficient if in writing and delivered to the following addressee:

For Contractor:

CONTRACTOR
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

With a copy to:

CONTRACTOR
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

For the University:

Portland State University
Attn: Karl Johnson, Customer Service Manager
PO Box 751-FAP
Portland, OR 97207-0751

With a copy to:

Portland State University
Attn: Stacey L. Balenger
PO Box 751 – FAST/CAPS
Portland, OR 97207-0751

14. Invoicing:

Contractor will send electronic invoices with backup documentation to:

Joseph “Joe” Dahmen, Custodial Coordinator
Facilities & Property Management
jpd@pdx.edu

15. Tax Compliance Certification:

By signature on this Agreement, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned’s knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, “Oregon Tax Laws” means a state tax imposed by ORS 401.792 to 401.816 and ORS chapters 118, 314, 316, 317, 318, 320, 321 and 323; 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.

16. Indemnity; Insurance:

16.1. Indemnity.

16.1.1. 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, the conduct of work under this Agreement, or from any act, omission, or neglect of Contractor, its subcontractors, or employees. Contractor shall save, defend, indemnify, and hold harmless the Oregon University System, the State Board of Higher Education, PSU, and their agencies, subdivisions, officers, employees and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities or omissions of Contractor or its officers, employees, subcontractors, or agents acting under this Agreement. Subject to the conditions and limitations of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7, University shall save, defend, indemnify, and hold harmless Contractor, its subsidiaries and affiliated companies, and their agencies, subdivisions, officers, employees and agents from all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of, or relating to the activities or omissions of University or its officers, employees, subcontractors, or agents acting under this Agreement.

16.1.2. Either party may, at its election and expense, assume its own defense or settlement or both.

16.1.3. Each Party agrees to provide the other Party with prompt written notice of all losses or claims for which it intends to seek indemnity under this Agreement. Each Party agrees not to incur any cost or expense with respect to any loss or claim for which it seeks indemnity under this Section without providing reasonable advance notice to the other Party; provided, however, that the foregoing shall not apply in the event that the other Party has in writing rejected, denied or otherwise declined the indemnification request with respect to such loss or claim. Each Party agrees to reasonably cooperate in good faith with the other Party in the investigation, defense and settlement of all such losses and claims.

16.2. Insurance.

CONTRACTOR will provide, or cause to be provided, workers' compensation insurance as required by law. Additionally, CONTRACTOR will carry comprehensive general liability insurance (including coverage for products liability, negligent acts, and broad form vendors' coverage), with limits of no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence. "The Oregon State Board of Higher Education, the Oregon University System and Portland State University" shall be included as additional insured parties in said insurance policies. CONTRACTOR will furnish to University, upon request, a certificate of insurance which states that such coverage is in effect and copies of policy endorsements or addenda that evidence the additional insured coverage required under this Agreement. If any liability insurance is arranged on a "claims made" basis, tail coverage will be required at the completion of this Agreement for a period of twenty-four (24) months.

17. Independent Contractor:

CONTRACTOR shall render the Custodial Services with the same degree of care normally exercised by other professional service providers under similar circumstances. CONTRACTOR will perform its services hereunder as an independent contractor, and nothing in this Agreement shall

be deemed to make CONTRACTOR, or its employees, a common law employee, agent, partner or fiduciary of, or joint venturer with, University. CONTRACTOR shall at no time be acting as an architect, engineer, indoor air quality expert or advisor or other design professional, and shall not be required to carry out duties requiring the services of a design professional.

18. Hazardous Substances; Pre-Existing Conditions:

18.1. CONTRACTOR has no duty to investigate, detect, prevent, handle, encapsulate, remove, or dispose of, and will have no responsibility to University or others for any exposure of persons or property to the following hazardous substances: asbestos, lead, fuel storage tanks or contents, indoor air pollutants or contaminants, poor air quality, or hazardous, toxic, or regulated waste substances, mold, pollutants, or contaminants (collectively, the "Hazardous Substances") at University's campus or the surrounding premises; and such duties have not been included in this Agreement.

18.2. University will comply with all applicable federal, state, and local laws and regulations, which have been or will be enacted during the term of this Agreement, regarding such Hazardous Substances on the University's campus. University will inform CONTRACTOR of the presence of such Hazardous Substances.

18.3. CONTRACTOR acknowledges that there are areas on the University campus that may contain Hazardous Substances, such as certain laboratories, and that performance of Custodial Services in such areas is within the scope of CONTRACTOR' duties. University will provide CONTRACTOR with necessary training, protocols and/or procedures regarding working in such areas before CONTRACTOR employees will be expected to do so. CONTRACTOR employees shall report to the University any spills or other concerns regarding Hazardous Substances that are encountered on campus in accordance with such training, protocols and/or procedures.

18.4. CONTRACTOR is not responsible for monitoring or remediating mold, indoor air quality or any similar conditions. All determinations and corrective actions regarding mold, fungi, mildew, indoor air quality and any similar conditions shall be made by University or a third party retained by University. In no case will any CONTRACTOR employee act in the capacity of a "Designated Person" (within the meaning of the Asbestos Hazard Emergency Response Act, "AHERA").

18.5. CONTRACTOR will not be responsible for any conditions that existed in, on, or upon the University's campus before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, environmental impairments, and other conditions. The Parties acknowledge and agree that CONTRACTOR' responsibilities hereunder are limited to the scope and substance of CONTRACTOR' Custodial Services, as defined in this Agreement.

19. Assignment:

Neither University nor CONTRACTOR shall assign this Agreement without the prior written consent of the other; provided, however, that either Party may assign the Agreement to an Affiliate without the consent of the other Party. For purposes of this Agreement, "Affiliate" shall mean a company which controls, is controlled by or is under common control with the assigning Party or its ultimate parent company.

20. Client’s Operational and Financial Information:

The Custodial Services that CONTRACTOR has agreed to provide under this Agreement and **Riders A, B, and D** were developed based on operational and financial information provided by University (such as square footage of University buildings). University represents that such information is current, complete, and accurate, and acknowledges that CONTRACTOR has reasonably relied on it. The Parties anticipate that University will continue to provide similar information to CONTRACTOR from time to time, which will also be current, complete, and accurate, so that CONTRACTOR may reasonably rely on it in providing Custodial Services. If such information materially and substantially changes or is determined to be materially and substantially inaccurate, then the financial terms and other obligations assumed by CONTRACTOR will be renegotiated and restated to correct such change or inaccuracy on mutually agreeable terms.

21. Counterparts and Facsimile Transmission:

This Agreement may be executed in counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original. A signature provided by facsimile transmission shall be binding and deemed an original signature if the original signature is provided via U.S. Mail or other delivery service, return receipt required, to the other Party within a reasonable time.

22. Merger Clause:

THIS AGREEMENT TOGETHER WITH ALL ATTACHMENTS, RIDERS, SCHEDULES AND EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THE PARTIES, BY THEIR SIGNATURES BELOW, ACKNOWLEDGE HAVING READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

This Agreement has been executed in duplicate by and on behalf of the Parties hereto.

CONTRACTOR

XXXXXXXXXXXXXXXXXXXXXXX

Date

Oregon State Board of Higher Education acting by and through Portland State University

Sandra Burris,
Executive Director of Financial Services & Controller

Date

END OF REQUEST FOR PROPOSALS