



## Attention Firms

**If you are downloading the RFP from the website,  
it is your responsibility to check the OSU  
Business & Bid Opportunity website periodically  
for possible addenda.**

**Failure to check the OSU Business & Bid  
Opportunity website may cause your submittal to  
be considered non-responsive.**

**Thank you.**

# OREGON STATE UNIVERSITY

## REQUEST FOR PROPOSALS

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### **Graphic Design Services – Athletics Facilities**

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**CONTRACT ADMINISTRATOR**

Brooke Davison  
Capital Projects Contract Administration  
Procurement, Contracts & Materials Management  
Oregon State University  
3015 SW Western Blvd  
Corvallis, OR 97333  
**Phone: (541) 737-7342**  
**FAX: (541) 737-4810**  
Email: [brooke.davison@oregonstate.edu](mailto:brooke.davison@oregonstate.edu)

**OSU BUSINESS & BID OPPORTUNITIES WEB SITE:**

**<http://bid.oregonstate.edu/>**

ISSUE DATE: July 24, 2015  
RFP CLOSING (DUE) DATE: August 7, 2015 at 4:00 PM, Local Time

NO LATE RESPONSES WILL BE ACCEPTED

### **SUBMITTAL LOCATION**

Attention: Brooke Davison  
Capital Projects Contract Administration  
Procurement, Contracts & Materials Management  
Oregon State University  
3015 SW Western Blvd  
Corvallis, OR 97333  
**Phone: (541) 737-7342**  
**FAX: (541) 737-4810**  
Email: [brooke.davison@oregonstate.edu](mailto:brooke.davison@oregonstate.edu)

1.0 Introduction:

Oregon State University (OSU) is seeking proposals from qualified graphic design firms for work in support of its intercollegiate athletics programs. Work will be displayed in or on three buildings –Gill Coliseum, Merritt-Truax (“Truax”) Indoor Practice Facility and the Sports Performance Center (SPC).

Scope of services shall include the design, fabrication and installation of graphic exhibits for select locations in the buildings within a predetermined budget.

2.0 Project Description:

Oregon State University is interested in updating and adding to graphic images that tell the stories of OSU athletes and teams, describes its history, and showcases its achievements and passion for excellence. Graphic exhibits may be static and/or interactive. Specific locations for installations include the main east lobby and first floor corridor walls in Gill Coliseum, overhead hanging banners in Truax and wall displays in Sports Performance Center.

OSU is an NCAA FBS institution and member of the PAC 12 Conference. Gill Coliseum opened in 1949 and has a seating capacity of approximately 9,600. The venue is host to men’s and women’s basketball, women’s volleyball, wrestling and gymnastics. It also contains offices for Athletics’ administration and holds the main ticketing office. Truax Indoor Practice facility opened in 2001. The 85,000 square foot facility includes a regulation size synthetic turf football field. It was designed primarily to serve the football program but is used by almost all other intercollegiate athletics teams throughout the year. It also serves as a pre-game event site during the football season. The Sports Performance Center serves all OSU student athletes as the location for their strength training programs. SPC opened in 2008. All identified facilities are located on campus and are within close walking distance to each other.

Key components of the Project include the following:

1. Working with OSU Athletics’ staff, identify story lines and design concepts that support the OSU Athletics’ desired images and messages.
2. Confirm specific locations and identify graphic formats for each location in each building.
3. Provide a timeline for production/fabrication and installation.
4. Confirm work can be accomplished within the designated budget.
5. Produce/fabricate and install the work.

Key project goals include the following:

1. Recruiting – Create showcase facilities that result in a top notch recruiting tool for all student athletes.
2. Fan Experience – Enhance the fan experience by incorporating modern graphic

storytelling elements into the facilities.

3. Competitiveness – Enhance the student athlete experience by providing graphic messages, images and examples of excellence throughout the Athletics' facilities.

### 3.0 Design and Installation Timeline

Work shall commence upon execution of a contract immediately following selection of a firm. Installation in all three facilities shall be complete by November 2015.

### 4.0 Selection Process:

This Request for Proposals (RFP) selection process shall be conducted pursuant to the terms of this RFP and the Oregon State University Standard 580-063-0020, relating to the selection and retention of professional consultants.

### 5.0 Compensation:

Compensation shall be based on a total “not-to-exceed” amount for services and reimbursable expenses, with “not-to-exceed” maximums for the design and installation. The amount of compensation shall be negotiated with the proposer who has submitted the proposal that the selection committee feels best meets the University's needs (the Apparent Successful Proposer). No cost proposal or price information is to be submitted with proposals.

### 6.0 Evaluation Criteria:

Please indicate in writing the following information about your firm's ability and desire to perform this work. Proposals shall be rated based upon the weight assigned to each item as noted in the parenthesis at the end of each statement below.

- 6.1 Provide a brief description of your firm and the focus of the practice. List the projects your firm is currently contracted for and at what stage the projects are in terms of completion. Also include your firm's total dollar volume for each of the last five years. (5)
- 6.2 Describe your firm's recent (past 5 years) experience with similar NCAA projects using specific examples. Include information about the process used to identify the storyline and graphic theme, type of graphics installed (static, interactive, etc.), and project timeline/completion dates. (20)
- 6.3 Identify project experience of key personnel, including project designer and project manager along with those of sub-consultants and sub-contractors intended for installation proposed, to be assigned to this project. Use specific examples and identify their roles in the projects. Indicate current availability, proposed percentage of project involvement per project phase and indicate whether the proposed team has worked together on previous projects. Highlight the individuals who participated in the project examples. Describe whether your firm provides in-house production and installation services. (An Oregon CCB license shall be required for some types of installation.) (25)
- 6.4 Describe your firm's experience working with higher education institutions and, particularly, intercollegiate athletics departments. (5)

6.5 Describe your firm’s experience understanding, accommodating and prioritizing needs and requirements of students, staff and visitors with disabilities. (10)

6.6 Identify MWESB firms participating as part of the team (10)

7.0 References:

In addition to responding to the evaluation criteria above, please provide the names, addresses and phone numbers of three owners, three sub-consultants, and three contractors to be used as references for this project. Please verify that the individuals identified have had direct contact with the referenced project, and the phone number is current. Please do not include references from any firms/individuals included in your design team for this Project. OSU will check with these references and/or may check with other references associated with past work of your firm. OSU will evaluate this information and any other independently obtained references that can provide background on your firm. This information will not be separately scored, but results obtained from these and any other reference checks will be assessed in determining the final ranking of proposals.

8.0 Selection Procedure and Timetable:

The selection procedure described below shall be used to evaluate the capabilities of interested firms to provide the professional services to OSU for this project.

July 24, 2015	Issue RFP
August 7, 2015	RFP response due 4:00 PM
August 14, 2015	Notification of finalists
August 25, 2015	Interviews with Selection Committee
August 27, 2015	Tentative Selection/Notification

Site Visit: No mandatory site visits are required as part of the proposal process.

9.0 Evaluation Process:

This RFP process shall take place in two-steps. The first step includes evaluation of written qualifications submitted in response to this RFP and then short-listing of three to five firms, who will be invited to participate in the second step, an RFP response/interview that is anticipated to be scheduled on **August 25 2015**. Please hold this date for tentative interview.

Each of the RFP evaluation criteria has been assigned a weight between 5 and 25. Each member of the evaluation committee shall separately rank each proposal in each of the evaluation criteria between 0 and 5, and multiply that number by the weight assigned to the evaluation criteria. The individual evaluation committee members will then total the weighted score from all of the criteria to obtain a total score for each proposal.

The evaluation committee will meet and compare the individual evaluation committee member rankings. The committee will discuss firm strengths and weaknesses and the

individual evaluation committee member scorings. The evaluation committee discussion will result in the consolidated ranking from which the finalists for interviews will be selected for step two of the process.

Interviews shall include a 30-minute presentation period, and then a separate 30-minute Q&A session. Finalists should be prepared to address the following:

- Your firm’s philosophy and practiced approach to graphic design that is reflective of the unique aspects of creative and unique storytelling in support of NCAA intercollegiate athletics programs. Provide two-three examples of installations you feel resulted in successful integration into existing facilities.
- Specific project challenges you anticipate for this project based on past experiences, and “lessons learned” from those past project experiences.
- Your firm’s demonstrated experience with project and budget management and how you would apply that experience in the context of a university and its stakeholders.

OSU will use the information presented during the interview to further evaluate the proposer’s qualifications and abilities and develop the final ranking of the short-listed firms, in order of preference.

After all of the interviews and committee discussions are completed, the evaluation committee shall select the Apparent Successful Proposer by ranking the proposals based on all information received, presented, found and heard. OSU will then negotiate with the Apparent Successful Proposer the price and specific statement of work of a contract, consistent with OSU’s Standard Consultant’s Agreement attached to this RFP. If OSU and the Apparent Successful Proposer are unable to reach agreement, OSU will negotiate with the second-ranked proposer, etc.

#### 10.0 Responsibility Evaluation:

OSU will investigate each proposer’s responsibility in accordance with the requirements of Division 61 of Oregon State University Standard Chapter 580, and will consider information obtained from any source as part of its evaluation, at any time prior to execution of a contract. Submission of a signed proposal constitutes the proposer’s approval for OSU to obtain any information OSU deems necessary to conduct the evaluation including, but not limited to, credit reports and information discovered during reference checks.

**Financial Information:** OSU shall notify proposers, in writing, of any financial documentation required, which may include 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.

OSU may postpone the award or execution of a contract in order to complete its investigation and evaluation. Failure to promptly provide complete information

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requested will render the proposal nonresponsive. Failure of a proposer to demonstrate responsibility will render it non-responsible and constitute grounds for proposal rejection.

11.0 Submission:

Submit **One (1)** electronic version of your proposal to be received by the closing date and time listed in this document to:

Attention: Brooke Davison  
Capital Projects Contract Administration, Procurement, Contracts & Materials Management  
Oregon State University  
3015 SW Western Blvd  
Corvallis, OR 97333

Your proposal must be contained in a document **not to exceed twenty-five (25) single sided pages**, including pictures, charts, graphs, tables and text the proposer deems appropriate to be part of the review of the proposer's response. Resumes of key individuals proposed to be involved in this project are exempted from the 25-page limit and should be **appended to the end of your response**. No supplemental information to the 25 page proposal will be allowed. Appended resumes of the proposed key individuals, along with a transmittal letter, table of contents, front and back covers, and blank section/numerical dividers, etc., will not be counted in the 25 page limit.

Information should **be presented in the same order as the above evaluation criteria**. **The electronic proposal should be sized appropriately for transfer (under 8 mb)**.

**Your proposal must be signed by an officer of your firm with the authority to commit the firm and contain appropriate contact information including email address(s) for communication purposes.**

OSU may reject any proposal not in compliance with all prescribed public bidding procedures and requirements, and may cancel this solicitation or reject for good cause all proposals upon a finding by OSU that it is in the public interest to do so.

Please note that OSU will not accept proposals or queries that require OSU to pay the cost of production or delivery.

OSU is an AA/EEO employer.

**Telephone, facsimile, or electronically transmitted submittals will not be accepted.**

**Proposals received after the closing date and time will not be considered.**

12.0 Questions:

All questions and contacts with OSU regarding any information in this RFP must be

addressed either in writing to the address listed in “Submission” section above, fax to 541-737-4810, or email to Brooke Davison at [brooke.davison@oregonstate.edu](mailto:brooke.davison@oregonstate.edu). If you are unclear about any information contained in this document (project, scope, response format, etc.), you are urged to submit those questions for formal clarification. Questions must be received before July 30, 2015 5:00 PM Pacific Time to be given full consideration.

13.0 Solicitation Protests:

Respondents may submit a written request for change or protest of particular solicitation provisions and specifications and contract terms and conditions (including comments on any specifications that a firm believes limits competition) to Debera Massahos at the address or fax listed in this document, or via email at [Debera.massahos@oregonstate.edu](mailto:Debera.massahos@oregonstate.edu). Such requests for change and protests shall be received no later than 5:00 PM Pacific Time, July 27, 2015. Such requests for change and protests shall include the reasons for the request and any proposed changes to the solicitation provisions and specifications and contract terms and conditions.

14.0 Change or Modification:

Any change or modification to the specifications or the procurement process shall be in the form of an addendum to the RFP and shall be made available to all firms on the OSU Business & Bid Opportunities website listed on the first page of this RFP. It is the responsibility of each firm to ensure information provided in any addendum is incorporated into your RFP response, as applicable. Failure to do so may render the firm’s submission non-responsive. No information received in any manner different than as described herein shall serve to change the RFP in any way, regardless of the source of the information.

15.0 Selection Protests:

Any respondent to this RFP who claims to have been adversely affected or aggrieved by the selection of a competing respondent may submit a written protest of the selection to Debera Massahos at the address given in the RFP within five days after notification of that selection. Any such protests must be received by Ms. Massahos no later than five days after the notification of selection has been made in order to be considered. The selection decision notification shall be made by Ms. Massahos via email.

16.0 Proprietary Information:

OSU will retain this RFP and one copy of each electronic proposal received, together with copies of all documents pertaining to the award of a contract. These documents will be made a part of a file or record, which will be open to public inspection after OSU has announced an Apparent Successful Proposer or all proposals have been rejected. If a proposal contains any information that you consider to be a trade secret under ORS 192.501(2), you must mark each sheet containing such information with the following legend: **"This data constitutes a trade secret under ORS 192.501(2), and must not be disclosed except in accordance with the Oregon Public Records Law, ORS**



## Chapter 192."

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only "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 determination made pursuant to the Public Records Law.

In order to facilitate public inspection of the non-confidential portion of the proposal, material designated as confidential must accompany the proposal, but must be readily separable from it. Prices, makes, model or catalog numbers of items offered, scheduled delivery dates, and terms of payment will be publicly available regardless of any designation to the contrary. Any proposal marked as a trade secret in its entirety will be considered non-responsive and will be rejected.

### 17.0 Project Termination:

OSU is seeking to award a consultant's agreement to a graphic design firm for design, fabrication and installation of graphic exhibits; however, OSU reserves the right to terminate the project and the agreement, after completion of any phase in the project.

### 18.0 Insurance Provisions:

During the term of the resulting contract, the successful proposer shall be required to maintain in full force, at its own expense, from insurance companies authorized to transact the business of insurance in the state of Oregon, each insurance coverage/policy as set forth in the Agreement.

### 19.0 Prevailing Wage Requirements:

Installation of graphics will be subject to Prevailing Wage Rate Law ("PWR Law"). In compliance with the Oregon Prevailing Wage Law, the following is incorporated into this Solicitation:

All subcontractors performing on-site installation activities shall be licensed with the Oregon Construction Contractors Board prior to the Proposer submitting a proposal. All subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates. This RFP and the resulting Contract are subject to the following BOLI wage rate requirements, which are incorporated herein by reference:

- July 1, 2015 PWR Apprenticeship Rates
- July 1, 2015 Prevailing Wage Rates for Public Works Contracts in Oregon
- July 1, 2014 Definitions of Covered Occupations for Public Works Contracts in Oregon

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These BOLI wage rates are available on line at:

**[http://www.boli.state.or.us/BOLI/WHDPWR/pwr\\_state.shtml](http://www.boli.state.or.us/BOLI/WHDPWR/pwr_state.shtml)**

The work will take place in Benton County, Oregon.

**20.0 Additional Requirements:**

Pursuant to OSU Standard 580-061-0030, by submitting a proposal, the proposer certifies that the proposer has not discriminated against Minority, Women or Emerging Small Business Enterprises in obtaining any required subcontracts.

Pursuant to OSU Standard 580-061-0040, proposers are hereby notified that policies applicable to consultants and contractors have been adopted by OUS that prohibit sexual harassment and that proposers and their employees are required to adhere to OSU's policy prohibiting sexual harassment in their interactions with members of OSU's community.

**Enclosures:**

OSU Standard Consultant's Agreement

End of RFP

CONSULTANT'S AGREEMENT  
PROJECT NAME  
OREGON STATE UNIVERSITY

This CONSULTANT'S AGREEMENT (the Agreement) is made between:

the Consultant:

and the Owner: Oregon State University  
Capital Planning & Development  
3015 SW Western Blvd.  
Corvallis OR 97333

Phone: (541) 737-7342  
FAX: (541) 737-4810

(The Consultant and the Owner are referred to collectively as the "Parties" and individually as a "Party")

WHEREAS THE OWNER DESIRES to have the assistance of the Consultant to provide \_\_\_\_\_ Services for the Project identified as \_\_\_\_\_ for Oregon State University at Corvallis, Oregon (the "Project"); and

WHEREAS, the Consultant, with the aid of certain consultants (the "Consultants"), is willing and able to perform such professional services in connection with the Project;

NOW, THEREFORE, the Owner and the Consultant, for the considerations hereinafter named, agree as follows:

**I. RELATIONSHIP BETWEEN THE PARTIES**

A. **Effective Date.** This Agreement is effective on the date it has been signed by every party hereto and all necessary State approvals have been obtained. This is known as the Agreement effective date. No services shall be performed or payment made prior to the Agreement effective date.

B. **Defined Terms.** In addition to any terms defined elsewhere in the body of this Agreement, certain terms that are capitalized and/or set forth in bold letters throughout the Agreement are defined as follows:

"Basic Services" are those Services generally described in sub-section C. of Section I of this Agreement, as well as such additional Basic Services as may be established by amendment.

"Construction Documents" include Owner-approved plans, drawings, specifications and all other documents necessary to allow complete and accurate construction of the Project.

“Contract Documents” include the Construction Contract, any general conditions and supplemental general conditions to the Construction Contract, any amendments to the Construction Contract, the Contractor’s performance and payment bonds, the plans, specifications, approved shop drawings, all approved change orders, any solicitation documents, and any response by a successful bidder to any such solicitation documents.

“Design Criteria” means the current version (as of the “Effective Date” of this Agreement) of the University’s “Design Criteria for OSU Projects” provided to Consultant by the Owner and incorporated herein by reference.

“Direct Construction Costs” are the costs to the Owner of all divisions of construction, including portable equipment designed or specified by the Consultant in the construction specifications.

“Extra Services and Special Cases” are those Services described in Section III.C of this Agreement.

“Project Completion” means the final completion of all Services described in Section V of this Agreement.

“Reimbursable Expenses” are those expenses described in Section III.B of this Agreement.

“Services” are all those services to be performed by the Consultant under the terms of this Agreement.

“Work” is defined as the furnishing of all materials, labor, equipment, transportation, services, and incidentals for the construction of the Project by the contractor (the “Contractor”) that is eventually awarded the contract to construct the Project (the “Construction Contract”).

- C. **Services To Be Performed.** The Consultant agrees to provide, with the assistance of the Consultants, the professional services outlined below for this Project.

Such Services include

The Consultant shall provide a schedule for the performance of the Services upon execution of this Agreement. The Consultant agrees that time is of the essence in the performance of this Agreement.

- D. **Directives for Performance of the Services.**

1. The Consultant shall provide all Services for the Project in accordance with the terms and conditions of this Agreement. The Consultant's performance of Services shall be as a professional Consultant to the Owner to carry out the activities of Project and to provide the technical documents and supervision to achieve the Owner's Project objectives.
2. In administering this Agreement, the Owner may employ the services of an independent project manager, and potentially, other consultants as needed to fulfill the Owner’s objectives.

3. The Consultant shall provide a list of all Consultants which the Consultant intends to utilize on the Project. The list shall include such information on the qualifications of the Consultants as may be requested by the Owner. The Owner reserves the right to review the Consultants proposed, and the Consultant shall not retain a Consultant to which the Owner has a reasonable objection.
4. The Consultant shall provide to the Owner a list of the proposed key Project personnel of the Consultant and its Consultants to be assigned to the Project. This list shall include such information on the professional background of each of the assigned personnel as may be requested by the Owner. In the event that key personnel or Consultants become unavailable to Consultant at anytime, Consultant shall replace the key personnel and Consultants with personnel or Consultants having substantially equivalent or better qualifications than the key personnel or Consultant being replaced, as approved by Owner. Likewise, the Consultant shall remove any individual or Consultant from the Project if so directed by Owner in writing following discussion with the Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.
5. Consultant shall make no news release, press release or statement to a member of the news media regarding this Project without prior written authorization from Owner.

## **II. CONSULTANT'S STANDARD OF CARE**

- A. By execution of this Agreement, the Consultant agrees that:
  1. The Consultant is an experienced Professional firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Agreement to design or administer a project having this scope and complexity; and will perform such Services pursuant to the standard of care set forth in subsections B. through G. of this Section II.
  2. The Consultant has the capabilities and resources necessary to perform the obligations of this Agreement.
  3. The Consultant either is, or will in a manner consistent with the standard of care set forth in this Agreement, become familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project, and that all drawings, specifications, and other documents prepared by the Consultant shall be prepared in accordance with its standard of care in an effort to accurately reflect and incorporate all such laws, rules, and regulations. All drawings, specifications, and other documents prepared by Consultant pursuant to this Agreement shall accurately reflect, incorporate and comply with all current laws, rules, regulations and ordinances which are applicable to the design and construction of the Project, and shall be complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of Consultant;
- B. Consultant represents and warrants to Owner that (1) Consultant has the power and authority to enter into and perform this Agreement, (2) when executed and delivered, this Agreement shall be a valid and binding obligation of the Consultant enforceable in accordance with its terms, (3) Consultant shall, at all times during the term of this Agreement be duly licensed to perform the Services, and if there is no licensing requirement for the profession or services, be duly qualified and competent, (4) the Services under this Agreement shall be performed in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions;

- C. All drawings, specifications, and other documents prepared by Consultant pursuant to this Agreement shall accurately reflect, incorporate and comply with current laws, rules, regulations and ordinances which are applicable to the design and construction of the Project, and shall be complete and functional for the purposes intended (except as to any deficiencies which are due to causes beyond the control of Consultant;
- D. All drawings, specifications, and other documents prepared by the Consultant pursuant to this Agreement shall accurately reflect existing conditions for the scope of the services to be performed;
- E. The Consultant shall be responsible for any negligent inconsistencies or omissions in the drawings, specifications, and other documents. While Consultant cannot guarantee that the various documents required under this Agreement are completely free of all minor human errors and omissions, it shall be the responsibility of Consultant throughout the period of performance under this Agreement to use due care and perform with professional competence. Consultant will, at no additional cost to Owner, correct any and all errors and omissions in the drawings, specifications, and other documents prepared by Consultant;
- F. The Owner's acceptance of documents or authorization to continue to the next phase of design shall not be deemed as approval of the adequacy of the drawings, documents, plans or specifications. Any review or acceptance by the Owner will not relieve the Consultant of any responsibility for complying with the standard of care set forth herein. The Consultant is responsible for all design Services under this Agreement, and agrees that it will be liable for all its negligent acts, errors, or omissions, if any, relative to the Services;
- G. The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations and/or warranties provided.

### III. COMPENSATION

**[DRAFTER'S NOTE: This template uses a standardized compensation method that will be appropriate for many transactions. The compensation method should be revised as needed to meet the unique requirements of the particular transaction.]**

The maximum, not-to-exceed, total amount payable under this Agreement is \$\_\_\_\_\_ (the "Maximum Compensation"), for the combination of Basic Services and Reimbursable Expenses. The Maximum Compensation cannot be increased without a fully executed and approved amendment or supplement to this Agreement. Consultant progress payments shall be made according to the provisions and schedule set forth in **Section IV** of this Agreement. The Maximum Compensation is more particularly described as follows:

- A. **Basic Services:** The Consultant shall perform the Basic Services, directly or through the Consultants, on a time and materials basis for a Maximum Not-to-Exceed fee of \$\_\_\_\_\_.
- B. **Reimbursable Expenses:** The Owner shall reimburse the Consultant for any allowable Reimbursable Expenses, up to a maximum amount of \$\_\_\_\_\_.

Reimbursable expenses for the Project mean actual direct expenditures (without overhead, fee, markup or profit) made by the Consultant and the Consultants in the interest of the Project for the following items: long-distance communications; reproductions, postage and handling of plans, drawings, specifications and other documents (excluding reproductions for the office use of the Consultant and the Consultants); mileage and travel expenses more particularly described below; data processing and photographic production techniques; and renderings, models and mock-ups requested by the Owner. The Reimbursable Expenses will be reimbursed at cost, except travel expenses. Charges for travel expenses will be reimbursed at cost, but not in excess of the rate allowed State of Oregon employees. Travel expenses are only reimbursable when Services are rendered in excess of 25 miles from Consultant's or Consultant's office. As of the date of this Agreement, these rates are as follows. Charges for travel expenses will be reimbursed at the lowest of the following:

- (i) cost;
- (ii) the rate allowed Oregon State University employees; or
- (iii) the following rates:

Air fare (coach class only) and car rental	At cost
Personal car mileage	\$ 0.575 per mile
Lodging	\$118.00 per night plus tax

Meals: (documentation not required) (reimbursable only when associated with overnight travel)

Breakfast	\$13.00
Lunch	\$13.00
Dinner	\$26.00
Printing, photography, long distance telephone charges and other direct expenses	At cost

Requests for reimbursement of allowable expenses, except meals, must include documentation of actual expenditures.

**[DRAFTER'S NOTE: Check current permissible rates for Reimbursable Expenses listed above, and complete blanks above.]**

**C. Additional Services:** The Owner will compensate the Consultant for Additional Services performed by the Consultant, whether directly or through its Consultants, beyond the scope of the Basic Services described in **Section I.C**, based on hourly rates for Consultant personnel or Consultants, plus Reimbursable Expenses, in accordance with the following schedule of charges for the duration of this Agreement, but only when the Owner has given prior written authorization and the Parties have executed an amendment or supplement to this Agreement.

**CONSULTANT:**

Principals.....	\$	___/hr
Senior Designer.....	\$	___/hr
Designer .....	\$	__ - __/hr

Urban Designer .....\$ \_ - \_/hr  
Sr. Project Manager .....\$ \_ - \_/hr  
Project Manager .....\$ \_ - \_/hr  
  
Production Personnel/Project Consultant .....\$ \_ - \_/hr  
Senior Interior Designer.....\$ \_/hr  
Interior Designer .....\$ \_ - \_/hr  
Clerical .....\$ \_/hr

**CONSULTANTS:**

\_\_\_\_\_ **[DRAFTER'S NOTE: CONSULTANT #1]**

\_\_\_\_\_ .....\$ \_/hr

\_\_\_\_\_ .....\$ \_/hr

\_\_\_\_\_ **[DRAFTER'S NOTE: CONSULTANT #2, #3, ETC.]**

\_\_\_\_\_ .....\$ \_/hr

\_\_\_\_\_ .....\$ \_/hr

These charges shall also be used to determine amounts owed the Consultant in the event this Agreement is terminated as provided in **Section XVI, D.1**. Any amounts so derived may not exceed the limitations as specified by **Section III** hereof.

**IV. TIME OF PERFORMANCE**

This Agreement shall take effect on the Effective Date and Consultant shall perform its obligations according to this Agreement, unless terminated or suspended, through final completion of the Project.

**V. FEE PAYMENTS**

Monthly progress payments shall be made upon presentation to the institution at the following address of one copy of the Consultant's invoice, with required documentation, for professional services rendered and/or direct expenses incurred during the preceding month:

Administrative Services Accounting  
Oregon State University  
3015 SW Western Blvd.  
Corvallis, OR 97333

Payment requests shall be submitted in the form and format stipulated by the Owner.

**VI. CONSULTANT'S RESPONSIBILITIES IN REGARD TO HAZARDOUS MATERIALS**



It is envisioned that this project will not involve the removal of and destruction of asbestos, asbestos--related or other hazardous materials. It is understood and agreed that the Owner will contract separately for the identification and removal of hazardous materials, either prior to the commencement of this project or at such time as such hazardous substances are detected. It is understood and agreed that the Consultant shall not and does not prescribe any safety measure or abatement procedure and is not responsible for any act or omission relating to the acts of the Owner and/or professional consultant and/or the contractor and/or subcontractor which the Owner selects relating to the abatement of asbestos, asbestos-related or other hazardous materials.

## **VII. ACCESSIBILITY REQUIREMENTS**

The Consultant shall ensure that the project complies with the American with Disabilities Act Accessibility Guidelines (ADAAG), latest version, and allows for access to programs, activities, and services in the most integrated setting possible. The Owner will be responsible for review of accessibility and interpretation of ADAAG for compliance with Federal requirements.

## **VIII. INSURANCE PROVISIONS**

During the term of this Agreement, Consultant shall maintain in full force and at its own expense each insurance coverage or policy noted below, from insurance companies or entities with an A.M. Best rating of A- or better that are authorized to transact the business of insurance and issue coverage in the State of Oregon,:

- A. Workers' Compensation** - All employers, including Consultant, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Oregon workers' compensation coverage, unless such employers are exempt under ORS 656.126. Consultant shall ensure that each of its Consultants and subcontractors complies with these requirements.
- B. Commercial General Liability** - Consultant shall secure Commercial General Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence/\$1,000,000 annual aggregate for bodily injury and property damage. It shall include personal injury coverage and contractual liability coverage for the indemnity provided under this Agreement.
- C. Automobile Liability** - Consultant shall secure Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence, for bodily injury and property damage, including coverage for all owned, hired, or non-owned vehicles, as applicable. This coverage may be written in combination with the Commercial General Liability Insurance.
- D. Professional Liability/Errors & Omissions** - Consultant shall provide the Owner with proof of coverage for Professional Liability/Errors & Omissions insurance covering any damages caused by any negligent error, omission, or any act for the Project, its plans, drawings, specifications and/or project manual, and all related work product of the Consultant. The policy may be either a practice based policy or a policy pertaining to the specific Project. Professional Liability insurance to be provided shall have a combined single limit of not less than \$1,000,000 per claim, incident or occurrence \$1,000,000 annual aggregate.
- E. "Tail" Coverage.** If any of the required liability insurance is arranged on a "claims made" basis,

"tail" coverage will be required at the completion of the Agreement for a duration of 24 months or the maximum time period available in the marketplace if less than 24 months. Consultant will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Owner's acceptance of and final payment for the Consultant's Services. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this agreement. This will be a condition of the final acceptance of Work or Services and related warranty, if any.

**F. Certificate of Insurance.** Prior to the signature by the Owner to this Agreement, Consultant shall furnish to the appropriate university official Certificates of Insurance as evidence of the insurance coverages required under this Agreement. The certificate(s) shall provide that the insurance policies have been endorsed/amended so that the insurance company or companies shall give a 30 calendar day notice (without reservation) to the Owner's representative set forth in **Section XXVII** below if the applicable policy is canceled or materially changed, or if the aggregate limits have been reduced. The certificate(s) should state specifically that the insurance is provided for this Agreement. Insuring companies are subject to acceptance by the Owner.

**G. Additional Insureds.** The Certificates of Insurance, except for Workers' Compensation and Professional Liability/Errors & Omissions, shall provide that the policies have been endorsed/amended so that Oregon State University, and its institutions, officers, and employees are Additional Insureds with respect to the Consultant's Services to be provided under this Agreement.

## **IX. INDEMNITY**

- A. Claims for Other Than Professional Liability.** Consultant shall indemnify, hold harmless and defend the Owner and its colleges and universities and any public agencies for which Services are performed under this Agreement as supplemented or amended, and their officers, agents, employees and members from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of, or relating to the activities of the Consultant or the Consultant's Consultants, partners, joint venturers, subcontractors, officers, agents or employees acting under or pursuant to this Agreement or any supplement or amendment hereto.
- B. Claims for Professional Liability.** Consultant shall save, defend, indemnify and hold harmless the Owner and its colleges and universities and any public agencies for which Services are to be performed under this Agreement as supplemented or amended, and their officers, agents, employees and members from and against all claims, suits or actions, losses, damages, liabilities, costs and expenses of whatsoever nature resulting from, arising out of or relating to the professional negligent acts, errors or omissions of Consultant or its Consultants, partners, joint venturers, subcontractors, officers, agents or employees acting under or pursuant to this Agreement or any supplement or amendment hereto.
- C. Owner Defense Requirements.** Notwithstanding the foregoing defense obligations of the Consultant, neither the Consultant nor any attorney engaged by the Consultant shall defend any claim in the name of the Owner, nor purport to act as legal representative of the Owner, without the prior written consent of the Oregon Attorney General. The Owner may, at anytime at its election assume its own defense and settlement in the event that it determines that the Consultant is prohibited from defending the Owner, that Consultant is not adequately defending the Owner's interests, or that an

important governmental principle is at issue or that it is in the best interests of the Owner to do so. The Owner reserves all rights to pursue any claims it may have against the Consultant if the Owner elects to assume its own defense.

**D. Agency's Actions. Sub-sections A. and B.** above do not include indemnification by the Consultant of the Owner for the Owner's activities, whether related to this Agreement or otherwise.

## **X. LIMITATION OF LIABILITIES**

Except for any liability of the Consultant arising under or related to the Consultant's failure to perform according to the standard of care or any other liability arising under or related to the Consultant's representations and warranties under **Section II** of this Agreement, neither Party shall be liable for any indirect, incidental, consequential or special damages under this Agreement or any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.

## **XI. [RESERVED]**

## **XII. OWNERSHIP AND USE OF WORK PRODUCT OF CONSULTANT**

**A. Work Product.** Copies of plans, specifications, reports, or other materials required to be delivered under this Agreement ("Work Product") shall be the exclusive property of Owner. The Owner and the Consultant intend that such Work Product be deemed "Work made for Hire", of which the Owner shall be deemed the author. If for any reason such Work Products are not deemed "Work made for Hire", the Consultant hereby irrevocably assigns to the Owner all of its right, title and interest in and to any and all of such Work Products, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. The Consultant shall execute such further documents and instruments as the Owner may reasonably request in order to fully vest such rights in the Owner. The Consultant forever waives any and all rights relating to such Work Product, including without limitation, any and all rights arising under 17 USC 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use of subsequent modifications.

**B. Consultant's Use of Work Product.** The Consultant, despite other conditions of this Section, shall have the right to utilize such Work Product on its brochures or other literature that it may utilize for its sales and in addition, unless specifically otherwise exempted, the Consultant may use standard line drawings, specifications and calculations on other unrelated projects.

**C. Owner Reuse or Modification of Work Product.** If the Owner reuses or modifies the Work Product without the Consultant's involvement or prior written consent, to the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, the Owner shall indemnify, within the limits of the Tort Claims Act, the Consultant against liability for damage to life or property arising from the State's reuse or modification of the Work Product, provided the Owner shall not be required to indemnify the Consultant for any such liability arising out of the wrongful acts of the Consultant or the Consultant's officers, employees, Consultants, subcontractors, or agents.

### **XIII. SUCCESSORS AND ASSIGNS**

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. After the original Agreement is executed, Consultant shall not enter into any new Consultant agreements for any of the Services scheduled under this Agreement or assign or transfer any of its interest in or rights or obligations under this Agreement, without Owner's prior written consent. In addition to any provisions Owner may require, Consultant shall include in any permitted Consultant agreement under this Agreement a requirement that the Consultant be bound by **Sections VIII-INSURANCE, IX-INDEMNITY, X -LIMITATION OF LIABILITIES, XII- OWNERSHIP AND USE OF WORK PRODUCT OF CONSULTANT, XV-MEDIATION, XVI- TERMINATION OF AGREEMENT; NON-AVAILABILITY OF FUNDS, XVII-TAX COMPLIANCE, XIX-FOREIGN CONTRACTOR, XX-COMPLIANCE WITH APPLICABLE LAWS, XXI- GOVERNING LAW; VENUE; CONSENT TO JURISDICTION, XXII-INDEPENDENT CONTRACTOR STATUS OF CONSULTANT, XXIII-ACCESS TO RECORDS and XXVI-NO WAIVER** of this Agreement.

### **XIV. NO THIRD PARTY BENEFICIARIES**

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

### **XV. MEDIATION**

Consultant and Owner, in an effort to resolve any conflicts that may arise during the design or construction of the Project or following the completion of the Project, agree that all disputes between them arising out of or relating to this Agreement or any supplements hereto, shall be submitted to non-binding mediation unless the parties mutually agree otherwise. Consultant further agrees to include a similar provision in all agreements with Consultants retained for the Project, thereby providing for mediation as the primary method for dispute resolution between the Parties to those agreements. All Parties agree to exercise their best effort in good faith to resolve all disputes in mediation.

Each Party will pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be shared equally by all Parties to the dispute.

### **XVI. TERMINATION OF AGREEMENT; NON-AVAILABILITY OF FUNDS**

- A. Mutual Agreement.** The Owner and the Consultant, by mutual written agreement, may terminate this Agreement at any time. The Owner, on 30 days written notice to the Consultant, may terminate this Agreement for any reason deemed appropriate in its sole discretion.
- B. Termination by Owner.** Owner may terminate this Agreement, in whole or in part, immediately upon notice to Consultant, or at such later date as Owner may establish in such notice, upon the occurrence of any of the following events:

1. Owner fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Consultant's Services;
2. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the Services performed under this Agreement are prohibited or Owner is prohibited from paying for such Services from the planned funding source;
3. Consultant no longer holds any license or certificate that is required to perform the Services;
4. Consultant commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Services under this Agreement within the time specified herein or any extension thereof, or so fails to perform the Services as to endanger Consultant's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of Owner's notice, or such longer period of cure as Owner may specify in such notice.

**C. Owner Funding.** Owner reasonably believes that sufficient funds are anticipated to pay all amounts due hereunder and hereby covenants and agrees that it will use its best efforts to obtain and properly request and pursue funds from which payments hereunder may be made, including making provisions for such payments to the extent necessary in the budget submitted for the purpose of obtaining funds and using its best efforts to have such budget approved. It is Owner's intention to make all payments due hereunder if funds are legally available therefor and in that regard Owner represents and warrants to Consultant that this agreement is important to Owner's efficient and economic operation. If, despite the above, Owner is not allotted sufficient funds for the next succeeding fiscal period by appropriation, appropriation limitation, grant, or other funds source lawfully available to it for such purposes to continue the Project and make payments hereunder, Owner may terminate this Agreement, by notice to Consultant, without penalty, effective at the end of the current fiscal period for which funds have been allocated and if not so terminated Owner will remain fully obligated for all amounts owing hereunder. Such termination shall not constitute an event of default under any other provision of the Agreement, but Owner shall be obligated to pay all charges incurred through the end of such fiscal period. Owner shall give Consultant notice of such non-availability of funds within thirty (30) days after it received notice of such non-availability.

**D. Effect of Termination.** In the event of termination of this Agreement:

1. Pursuant to **Sub-sections A, B.1 or B.2** above, the Owner, using the Schedule of hourly rates set forth in **Section III** if applicable, and within the limitations specified in **Section V** shall compensate the Consultant for all Services performed prior to the termination date, together with reimbursable expenses then due, and such amounts shall immediately become due and payable.
2. Pursuant to **Sub-sections B.3 or B.4** above, the Owner shall have any remedy available to it under this Agreement or at law or in equity. Such remedies are cumulative and may be pursued separately, collectively and in any order.
3. For any reason, the Consultant shall immediately cease performance of Services under this Agreement, unless Owner expressly directs otherwise in the notice of termination, and shall provide to the Owner all plans, specifications, CAD drawings on compact discs, drawings, and all documents, information, works-in-progress or other property that are or would be deliverables had this Agreement been completed.

4. For any reason, the Consultant shall be responsible to the Owner for the quality of its Services and work product through the date of termination.

#### **XVII. [RESERVED]**

#### **XVIII. DISCLOSURE OF SOCIAL SECURITY NUMBER**

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

#### **XIX. FOREIGN CONTRACTOR**

If Consultant is not domiciled in or registered to do business in the State of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement. Consultant shall demonstrate its legal capacity to perform the Services under this Agreement in the State of Oregon prior to entering into this Agreement.

#### **XX. COMPLIANCE WITH APPLICABLE LAW**

Consultant agrees to comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Services to be provided under this Agreement. Consultant specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws. Failure or neglect on the part of Consultant to comply with any or all such laws, ordinances, rules, and regulations shall not relieve Consultant of these obligations nor of the requirements of this Agreement. Consultant further agrees to make payments promptly when due, to all persons supplying to such Consultant labor or materials for the performance of the Services to be provided under this Agreement; pay all contributions or amounts due the Industrial Accident Fund from such contractor incurred in the performance of this Agreement; not permit any lien or claim to be filed or prosecuted against the State on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Consultant fails or refuses to make any such payments required herein, the appropriate Institution official may pay such claim. Any payment of a claim in the manner authorized in this Section shall not relieve the Consultant or Consultant's surety from obligation with respect to any unpaid claims. Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Oregon Building Codes require all new construction to be totally accessible to people with physical limitations. Owner expects that all spaces in designs for new facilities and in remodel projects will be accessible to people with physical limitations.

#### **XXI. GOVERNING LAW; VENUE; CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively

“Claim”) between Owner and Consultant that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Benton County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. **CONSULTANT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

## **XXII. INDEPENDENT CONTRACTOR STATUS OF CONSULTANT**

- A. Consultant as Independent Contractor.** Consultant shall perform all required Services as an independent contractor. Although Owner reserves the right (i) to determine (and modify) the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Owner cannot and will not control the means or manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services.
- B. Agency Status.** Consultant is not an officer, employee, or agent of the State or Owner as those terms are used in ORS 30.265.
- C. Benefits; Payment of Taxes.** Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal or state taxes applicable to any compensation or payments paid to Consultant under this Agreement. Consultant will not be eligible for any benefits from these Agreement payments of federal Social Security, unemployment insurance or worker's compensation, except as a self-employed individual. If this payment is to be charged against federal funds, the Consultant certifies that it is not currently employed by the federal government.

## **XXIII. ACCESS TO RECORDS**

For not less than three (3) years after the termination or full performance of this Agreement, the Owner, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Consultant and the Consultants which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts. If for any reason, any part of this Agreement, or any resulting construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. The Consultant will provide full access to such documents in preparation for and during any such litigation.

## **XXIV. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

**XXV. FORCE MAJEURE**

Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

**XXVI. NO WAIVER**

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

**XXVII. NOTICE; PARTIES' REPRESENTATIVES**

Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery or mailing the same, postage prepaid, to Consultant or Owner at the address set forth below, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section. Any notice so addressed and mailed shall be deemed to be given five (5) calendar days after the date of mailing. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

Representatives for the Consultant and the Owner for purposes of notice and for other specific purposes provided for under this Agreement are:

**Consultant:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**OWNER:**

**Kirk Pawlowski, Executive Director Capital Planning & Development**

**Address: Oregon State University, 3015 SW Western Blvd., Corvallis, OR 97333**

**With a CC to:**

**PM Name**

**Address: Oregon State University, 015 SW Western Blvd., Corvallis, OR 97333**

**XXVIII. CONFIDENTIALITY.**

Consultant shall maintain the confidentiality of information of Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent Consultant from establishing a claim or defense in an adjudicatory proceeding. Consultant shall require the Consultants to execute similar agreements to maintain the confidentiality of information of Owner.



**XXIX. CONFLICT OF INTEREST.**

Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would or would reasonably appear to compromise Consultant's professional judgment with respect to this Project, including without limitation, concurrent employment on any project in direct competition with the Project, and will provide copies of any such agreements within ten (10) days of the full execution of such agreements.

**XXX. SURVIVAL**

All rights and obligations shall cease upon termination or full performance of this Agreement, except for the rights and obligations set forth in **Sections II** Consultant's Standard of Care; Representations and Warranties, **IX** Indemnity, **X** Limitation of Liabilities, **XII** Ownership and Use of Work Product of Consultant, **XVI** Termination of Agreement; Non-Availability of Funds, **XXI** Governing Law; Venue; Consent to Jurisdiction, **XXIII** Access to Records, **XXVIII** Confidentiality, and **XXX** Survival.

**XXXI. COUNTERPARTS**

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

**XXXII. MERGER CLAUSE**

THIS AGREEMENT AND ANY ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTER HEREOF. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS 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 SPECIFIED INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS AGREEMENT AND THE CONSULTANT AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS HEREOF, the parties have duly executed this Agreement as of the day and year first above written.

Oregon State University, Owner

Consultant

By \_\_\_\_\_

Date \_\_\_\_\_

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

Development

By \_\_\_\_\_  
Kirk Pawlowski  
Executive Director, Capital Planning &

Date \_\_\_\_\_

Federal Tax ID # \_\_\_\_\_

SAMPLE