

**MASTER CONTRACT  
FOR FLOOR COVERINGS  
OREGON STATE UNIVERSITY**

This Master Contract for Construction Related Services (“Contract”), effective upon the last signature of a party to it, is between:

“Contractor”:

and “Owner”:

**The State of Oregon, acting by and through the State Board  
of Higher Education, on behalf of Oregon State University**  
Capital Projects Contract Administration  
3015 SW Western Blvd.  
Corvallis, OR 97333

(each, a “Party” and collectively, the “Parties”).

**RECITALS**

WHEREAS, Owner issued certain Solicitation Documents inviting construction firms to provide construction related services to Owner; and

WHEREAS, Owner having received and evaluated the responses to the Solicitation Documents, now desires to award a Contract to Contractor; and

WHEREAS, Contractor desires to provide construction related services to Owner; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound agree as follows:

**AGREEMENT**

**1. INCORPORATION OF TERMS AND DOCUMENTS**

Contractor agrees to provide floor covering and installation services (“Work”) to Owner in accordance with the Solicitation; and with the General Conditions for Master Contracts for Construction Related Services, Oregon State University (the “General Conditions”), included as Attachment I, all attached hereto and incorporated herein by this reference. Capitalized terms not otherwise defined in this Contract shall have the meanings ascribed to them in the General Conditions.

**2. WORK**

Owner may request Work of Contractor pursuant to Contract Documents for specific projects (each, a “Project”) throughout the Term (as defined below) of the Contract. Upon receipt of such a request (each such request, a “Request”), Contractor may respond to the Request for specific Work, as defined

in the Request. Contractor's response shall state fixed-price or a maximum not-to-exceed price for the Work, in accordance with the Request, this Contract and the conditions of the Project.

Upon Owner's election to award a Project to Contractor, the scope and cost of the Work with regard to each such specific Project will be specified in a written Purchase Order (each, a "Supplement") and a Notice to Proceed may be issued. Each such Supplement shall be incorporated into the Contract Documents upon full execution thereof. From time to time, Owner and Contractor may elect to amend a Supplement by way of an amendment to the Supplement (each such amendment, a "Supplement Amendment"). Each such Supplement Amendment shall be incorporated into the Contract Documents upon full execution thereof.

Contractor's Work shall comply with the Contract Documents and Applicable Laws and shall be performed in accordance with the professional skill, care, and standards of other professionals performing similar work under similar conditions.

### **3. OWNER DOES NOT GUARANTEE THAT WORK WILL BE REQUESTED**

Contractor acknowledges and agrees that Owner does not warrant or guarantee that any Work will be requested or authorized under this Contract. No Work shall be undertaken by Contractor pursuant to this Contract without a fully executed Supplement, detailing the specific Work associated with a Project.

### **4. COMPENSATION**

Owner agrees to compensate Contractor for Work in accordance with the Contract Documents. If Contractor is to be compensated on a time and materials basis, Contractor shall provide Owner with a listing of wage rates, material unit costs, and overhead charges for the Project in Contractor's response to Owner's Request for Work.

Flooring product price structure is indicated in Attachment A and includes any shipping and handling charges to any OSU location. Shipping charges associated with quick ship request shall be paid by Department.

Manufacturer's List Price (MLP) means the current manufacturers' list price published by the manufacturer. Contractor shall provide Owner with an electronic copy (in a software, format and electronic medium approved by Owner) of the current published MLP on which the Contract or Contract amendments are based including the following information:

1. Manufacturer Part Number
2. Contractor Part Number, if applicable
3. Product Description
4. Manufacturers' List Price

Pricing shall be calculated as:  $MLP - (MLP \times \text{Discount } \%) = \text{Owner Price}$

Materials used for flooring preparation (e.g. underlayment requirements, floor leveling compound, sealant...), shall be billed at Contractors' actual cost.

Pursuant to ORS 305.385 and OAR 150-305-100 and as a condition precedent to Owner's obligation to make any payment due Contractor under this Contract, Contractor shall provide Owner with its Social Security or federal employer identification number, as applicable.

## **5. TERM AND TERMINATION**

The term of this Contract (the "Term") commences on the full execution hereof and expires on November 1, 2017. In addition to Owner's rights provided in the General Conditions, Owner may terminate this Contract immediately upon Contractor's default under this Contract or any Supplement or Amendment issued hereunder.

## **6. MINIMUM WAGE RATES.**

Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates and the required public works bond, as outlined in Sections C.1, C.2 and G.2.3 of the General Conditions. The Bureau of Labor and Industries (BOLI) wage rates and requirements set forth in the following BOLI booklet (and any listed amendments to that booklet), which are incorporated herein by reference, apply to the Work authorized under this Supplement:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, January 1, 2014, as amended April 1, 2014, which can be downloaded at the following web address:

[[http://www.boli.state.or.us/BOLI/WHD/PWR/pwr\\_book.shtml](http://www.boli.state.or.us/BOLI/WHD/PWR/pwr_book.shtml)]

The Work will take place in Benton County, Oregon.

## **7. PERFORMANCE AND PAYMENT BONDS**

Contractor shall provide to Owner a performance bond and a separate payment bond in accordance with the General Conditions for each separate scope of Work, pursuant to a Supplement in the amount of the Contract Price. Receipt of such bonds by Owner shall be a condition precedent to the effectiveness of any Supplement and to any payment due Contractor under such Supplement.

## **8. PAYMENTS**

Contractor shall submit applications for payment and Owner shall make payments for Work completed by Contractor in accordance with the General Conditions.

## **9. INSURANCE**

Contractor shall maintain in full force, at its own expense, and for the Term, any and all insurance required by the Contract Documents.

## **10. OWNERSHIP OF WORK PRODUCT**

Any Plans, Specifications, reports, or other materials required to be delivered by Contractor pursuant to a Supplement, whether completed, partially completed or in draft form (the "Work Product") shall

be the exclusive property of Owner. Owner and Contractor intend that such Work Product be deemed "work made for hire" under 17 U.S.C. §101, as amended, of which Owner will be deemed the author. If, for any reason, the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to Owner all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as Owner may reasonably request or require in order to fully vest such rights in Owner. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC Sec. 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

If applicable, Contractor will comply with Applicable Laws governing patents, copyrights, licenses and trademarks and will pay all required fees to the holders thereof. Contractor shall indemnify, defend (with counsel acceptable to Owner) and hold harmless the State of Oregon, Owner, Oregon State University, and their respective members, agents and employees of and from any and all claims, demands, losses, causes of action, damages, lawsuits, judgments, including attorneys' fees and costs, arising out of or relating to patent, license, copyright, and trademark infringements arising out of the actions of Contractor, its subcontractors, agents, and employees.

## **11. AMENDMENTS**

Any change to the terms and conditions of this Contract shall be made only upon a fully executed written Supplement or Amendment.

## **12. NOTICES**

Except as otherwise expressly provided in this Contract, any notice required or permitted to be given under this Contract shall be given in writing and shall be delivered (a) by personal delivery, (b) by email, or (c) by mail (postage paid) to Contractor or Owner at the address or number set forth on the first page of this Contract or to such other address as either Party may from time to time specify in writing to the other Party. To be effective against Owner, such email transmission must be confirmed by telephone at the number set forth in the first page of this Contract. Any communication or notice so addressed and mailed will be deemed to be given five (5) days after mailing. Any communication or notice by personal delivery will be deemed to be given when actually delivered.

## **13. LICENSING; LEGAL CAPACITY TO CONDUCT BUSINESS**

Contractor shall be licensed to do business in the State of Oregon and shall continuously maintain all licenses required by Applicable Laws for the operation of its business or performance of the Work under this Contract throughout the Term. Contractor shall demonstrate its legal capacity to do business and perform the Work in the State of Oregon before entering into any Supplement.

## **14. APPLICABLE LAW; JURISDICTION AND VENUE**

This Contract, as it may from time to time be amended, shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between Owner and Contractor that arises out of or relates to performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Benton

County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought only 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 way shall this Section 14 be construed as a waiver by Owner of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

## **15. TAX LAW COMPLIANCE**

Contractor hereby certifies and affirms, under penalty of perjury as provided in ORS 305.385(6), that, to the best of Contractor's knowledge, Contractor is not in violation of any of the tax laws described in ORS 305.380(4). For purposes of this certification, "tax laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321 and 323; the elderly rental assistance program under ORS 310.630 to 310.706; and local taxes administered by the Oregon Department of Revenue under ORS 305.620.

## **16. EXECUTION AND COUNTERPARTS**

This Contract and any Supplement or Amendment hereto may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

## **17. SEVERABILITY**

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

## **18. MERGER CLAUSE**

THIS CONTRACT, TOGETHER WITH THE OTHER CONTRACT DOCUMENTS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT WILL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY THE PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER WILL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS HEREOF, the Parties have duly executed this Contract as of the dates indicated below.

\_\_\_\_\_, Contractor

State of Oregon, acting by and through the State Board of Higher Education, on behalf of the Oregon State University, Owner

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
W. Glenn Ford,

\_\_\_\_\_  
Date

Vice President for Finance and Administration/CFO

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title