

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

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

“Contractor”:

and “Owner”:

**Oregon State University**  
Construction Contract Administration  
644 SW 13th Ave.  
Corvallis, OR 97333

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

**RECITALS**

WHEREAS, Owner issued certain Solicitation Documents inviting construction firms to provide floor covering 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 floor covering 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, dated November 1, 2018 (the “General Conditions”), included as Exhibit 1, 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 flooring activity (each, a "Work Unit") 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 Work Unit.

Upon Owner's election to award a Work Unit to Contractor, the scope and cost of the Work with regard to each such specific Work Unit will be specified in an Owner issues purchase order substantially similar to the purchase order attached as Exhibit 2, the printed terms of which are hereby incorporated by reference. Each purchase order when signed by the Owner, creates a binding obligation between the Parties (a "Purchase Order") and a Notice to Proceed may be issued. From time to time, Owner and Contractor may elect to modify the scope of work of a Purchase Order by way of a change order to the Purchase Order. Each such modification to a Purchase Order is a "Change Order" when signed by the Owner.

The type of work anticipated under this Contract may include, but are not limited to, the following: installation of various types of floor coverings, removal of existing floor coverings, rubber toe base installation, skim coating, sub-floor installation, epoxy flooring installation and vinyl flooring installation for various projects on the campus of the Owner.

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, until the execution of a Purchase Order requiring flooring or related activities, Owner does not represent or warrant 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 Purchase Order, detailing the specific Work associated with a Project. Owner is not obligated to make payments to Contractor for any Work performed without a fully executed Purchase Order.

## **4. COMPENSATION**

Owner agrees to compensate Contractor for Work performed in accordance with the Purchase Order and Contract Documents.

Flooring product price structure shall be based on the Manufacturer's List Price (MLP) and shall be inclusive of any shipping and handling charges to any OSU location and overhead charges. Shipping charges associated with quick ship request shall be paid by OSU Department.

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

Current published MLP shall be provided by the Contractor upon execution of this Contract or as requested by Owner.

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

Installation services shall be billed at the hourly rate indicated in Exhibit 3. If a Work Unit requires overtime, weekend or holiday work to complete, the Contractor may negotiate with the Owner prior to Purchase Order execution.

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

Work performed by sub-contractors shall be reimbursed by the Owner at the Contractor's cost, without mark up.

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 30, 2023. Owner has the option, but not the obligation to extend the Term of this Contract for two (2) additional twelve month terms based on the current terms and conditions. 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 Purchase Order or Change Order issued hereunder.

Each Purchase Order may be terminated in accordance with its terms.

## **6. PREVAILING 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 Contract:

PREVAILING WAGE RATES for Public Works Contracts in Oregon, July 1, 2018, as amended October 1, 2018, as well as the July 1, 2018 Definitions of Covered Occupations for Public Works Contracts in Oregon, 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 Work Unit, pursuant to a Purchase Order in the amount of the Contract Price for that Work Unit. Receipt of such bonds by Owner shall be a condition precedent to the Purchase Order begin binding on the Owner and to any payments due Contractor under such Purchase Order or Change Order.

## **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. Contractor shall provide Owner proof of such insurance prior or before the Effective Date of this Contract.

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

Any Plans, Specifications, reports, or other materials required to be delivered by Contractor pursuant to a Purchase Order, 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 Oregon State University, its officers, trustees, 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. CHANGE ORDERS**

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

#### **12. NOTICES**

Except as otherwise expressly provided for in the Contract Documents, any notices to be given to OSU shall be given in writing by personal delivery or mailing the same, postage prepaid to Oregon State University at the address listed below. 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.

Brooke Davison, Construction Contract Officer  
Construction Contracts Administration  
Oregon State University  
644 SW 13<sup>th</sup> Ave.  
Corvallis, OR 97331

#### **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 Master 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 MASTER CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

#### **15. SUCCESSORS IN INTEREST**

The provisions of this Contract, including all Purchase Orders and Change Orders, shall be binding upon and inure to the benefit of the Parties hereto, and their respective authorized successors and assigns.

#### **16. EXECUTION AND COUNTERPARTS**

This Contract and any Purchase Order or Change Order 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, THE GENERAL CONDITIONS, AND APPLICABLE PURCHASE ORDERS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES AS TO THE APPLICABLE WORK UNIT. THIS CONTRACT AND THE APPLICABLE PURCHASE ORDER SUPERSEDES ALL AGREEMENTS, PROPOSALS, INQUIRIES, COMMITMENTS, DISCUSSIONS AND CORRESPONDENCE, WHETHER WRITTEN OR ORAL, PRIOR TO OR CONTEMPORANEOUS WITH THE EFFECTIVE DATE RELATING TO WORK UNIT FOR THE APPLICABLE PURCHASE ORDER. THE PROVISIONS OF EITHER PARTY'S FORM OF PURCHASE ORDER, ACKNOWLEDGMENT OR OTHER BUSINESS FORMS OTHER THAN AS SPECIFIED IN THIS CONTRACT WILL NOT APPLY NOTWITHSTANDING THE OTHER PARTY'S ACKNOWLEDGEMENT, ACCEPTANCE OF, OR RELIANCE ON SUCH FORM.

THIS CONTRACT MAY NOT BE AMENDED OR MODIFIED EXCEPT IN WRITING SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF EACH PARTY. ANY PURCHASE ORDER MAY NOT BE AMENDED OR MODIFIED EXCEPT IN WRITING SIGNED BY THE OWNER. IF THERE IS A CONFLICT OR AN INCONSISTENCY BETWEEN THE TERMS OF THIS CONTRACT AND THE TERMS OF ANY PURCHASE ORDER, THE TERMS OF THIS CONTRACT CONTROL.

*[Remainder of page left blank intentionally]*

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

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

Oregon State University, Owner

\_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Michael J. Green, \_\_\_\_\_ Date \_\_\_\_\_  
Vice President for Finance and Administration

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

\_\_\_\_\_  
Title \_\_\_\_\_

**Exhibit 1**  
**General Conditions for Master Contracts for Construction Related Services, Oregon State University, dated November 1, 2018**



**Exhibit 2**  
**Sample Purchase Order**

**EXHIBIT 3  
PRICING**

Floor Product Price Structure:

Manufacturer	Pricing Discount

Hourly Labor Rate\* for installation services:

\*Must be inclusive of appropriate Prevailing Wage Rate as indicated in Contract.