



**Oregon State**  
University

## Attention Technical Services Firms

**If you are downloading the RFP from the website, continue to monitor the website for addenda. Failure to incorporate any addenda into your submittal may cause your submittal to be considered non-responsive.**

**Thank you.**

NOTE: THIS RFP #2020-000300 is being issued with revised scope as a result of insufficient funds to cover the original scope to the prior RFP #199778. RFP #199778 is cancelled.

# OREGON STATE UNIVERSITY

## REQUEST FOR PROPOSALS

# 2020-000300

### Technical Services for Terrestrial Horizontal Directional Drilling Route Geotechnical Survey

ISSUE DATE: 08/09/2019

RFP CLOSING (DUE) DATE: 08/20/2019 at 10:00 am, Pacific Time

NO LATE RESPONSES WILL BE ACCEPTED

#### CONTRACT ADMINISTRATOR:

**Ben Baggett, PacWave Contract Officer**

Construction Contracts Administration

Oregon State University

644 SW 13th Street

Corvallis, OR 97333-4238

Phone: (541) 737-2526

FAX: (541) 737-5546

Email: [benjamin.baggett@oregonstate.edu](mailto:benjamin.baggett@oregonstate.edu)

#### SOLICITATION / SELECTION APPEALS:

**Hanna Emerson, Construction Contracts Manager**

Construction Contracts Administration

Oregon State University

644 SW 13th Street Corvallis, OR 97333-4238

Phone: (541) 737-2526

FAX: (541) 737-5546

Email: [Hanna.Emerson@oregonstate.edu](mailto:Hanna.Emerson@oregonstate.edu)

**IF YOU ARE DOWNLOADING THE RFP FROM THE WEBSITE, CONTINUE TO MONITOR THE WEBSITE FOR ADDENDA**

## **1 INTRODUCTION**

### **1.1 Project Overview**

Oregon State University (“OSU”) is seeking proposals from qualified, experienced firms to provide technical services for a geotechnical survey (“Survey”) in support of a planned terrestrial Horizontal Directional Drill (“HDD”) bore route south of Newport, Oregon for the PacWave South project.

The PacWave South project will be the nation’s first, pre-permitted, grid-connected facility for testing utility-scale wave energy converters. The project will include an offshore wave energy test site located approximately 6 nm offshore of Newport, Oregon. At the test site, various types of wave energy converters will be deployed and will be connected to the local, onshore power utility grid via four subsea and underground power cables, plus a fifth, auxiliary cable (Figure 1).

Subsea power cable installation at the “Shore Landing Site” will require HDD to route cables through underground conduits. The “Shore Landing HDD Routes” will run from the parking lot of Driftwood Beach State Recreation Site (“Driftwood”) in Seal Rock, Oregon, under the beach bluff, beach and surf zone, to approximately 30-foot water depth offshore. The total drill path length is approximately 5,000 feet (Figure 1).

An additional “Terrestrial HDD Route” will be drilled from the south side of the Driftwood parking lot approximately 2,400 feet to the southeast to an OSU-owned property on NW Wenger Lane on the east side of Highway 101. This property will be the site of the PacWave utility connection and monitoring facility (“UCMF”). This Terrestrial HDD Route will route cables from the UCMF buildings to the Shore Landing Site at Driftwood. It is the area under the UCMF that is the focus of this Request for Proposals (“RFP”), see Figure 2.

Figure 1 shows an overview of the PacWave South project. The Shore Landing HDD Routes begin in the parking lot of Driftwood and proceed offshore in a generally west-northwesterly direction.

Figure 2 shows the Terrestrial HDD Route overview. The Terrestrial HDD Route also begins in the parking lot at Driftwood, but then proceeds in a southeasterly direction for approximately 2,400 feet to the UCMF on NW Wenger Lane.

The technical services firm is free to sub-contract as necessary to ensure a complete survey team. OSU may update the sample contract to reflect the selected proposer’s use of subcontractors. The technical services firm shall seek to develop subcontractor interest consistent with applicable legal requirements and in compliance with OSU standards and policies. It is the responsibility of the technical service firm to ensure subcontractors performing any portion of the Services are familiar with the terms and conditions of the Technical Services Agreement and that their performance is in accordance therewith.

Proposals submitted in response to this RFP will be binding upon the Proposer for 90 days from the date of receipt of proposal submission.

OSU is an AA/EEO employer.

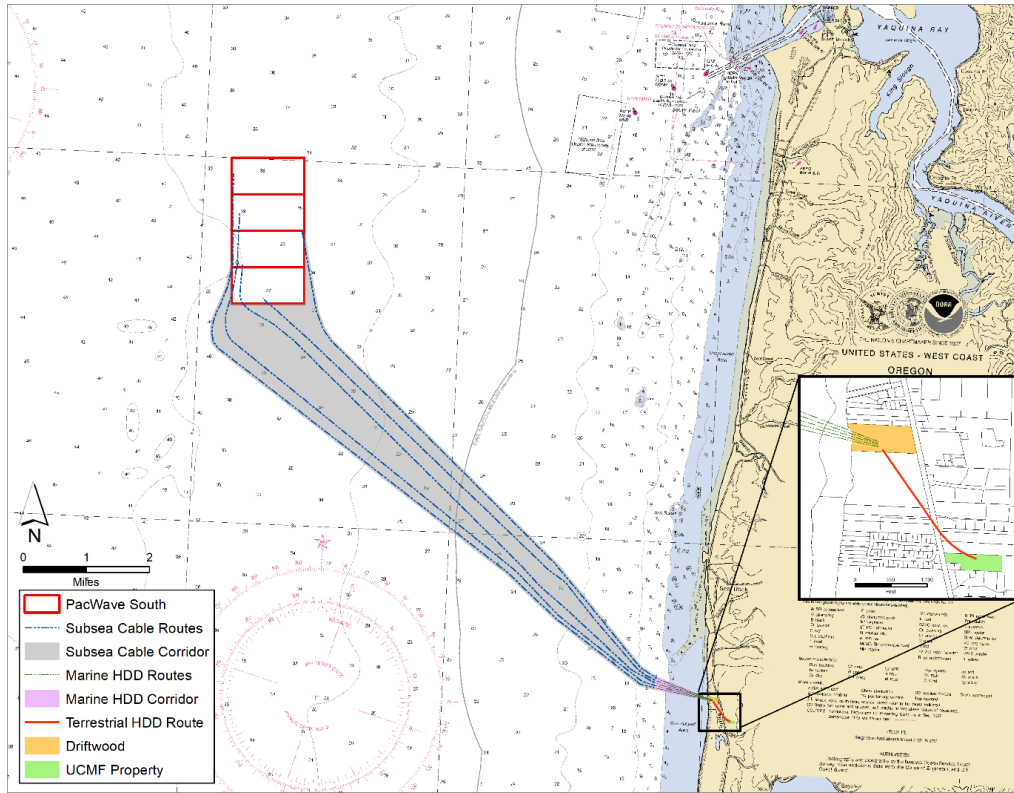


Figure 1: PacWave South Project Overview



Figure 2: Driftwood Beach State Recreation Site and the Terrestrial HDD Route to the OSU-owned UCMF Property on NW Wenger Lane.

## 1.2 Location and Geology

Driftwood Beach State Recreation Site is located south of Newport, Oregon ( $44^{\circ} 27' 51.51''N$ ,  $124^{\circ} 04' 49.39''W$ ). The local, shallow geology for the area can be described as Coast Terrace deposits (“Qt<sub>c</sub>”) with Yaquina Formation sandstone (“Ty<sub>q</sub>”) near the surface. Mudstone (“T<sub>n</sub>”) layers are expected both below and intermixed with the surface layers. The local geology record also shows an inclined basalt layer formation with the basalt layer inclined downward towards the west. While a key concern for HDD boring operations would be a finding of basalt in the proposed boring path, previously conducted seismic survey does not suggest this possibility in the project construction area.

Seismic surveys of both the terrestrial and marine portions of the planned HDD drilling routes have previously been performed and the survey reports are included as appendices.

## 1.3 HDD Bore Profiles

Five marine HDD bores are planned for the Shore Landing Site at Driftwood as shown in Figure 3. Figure 4 shows an overall plan view of the Terrestrial HDD Route and Figure 5 shows a vertical profile view of the planned terrestrial bore.

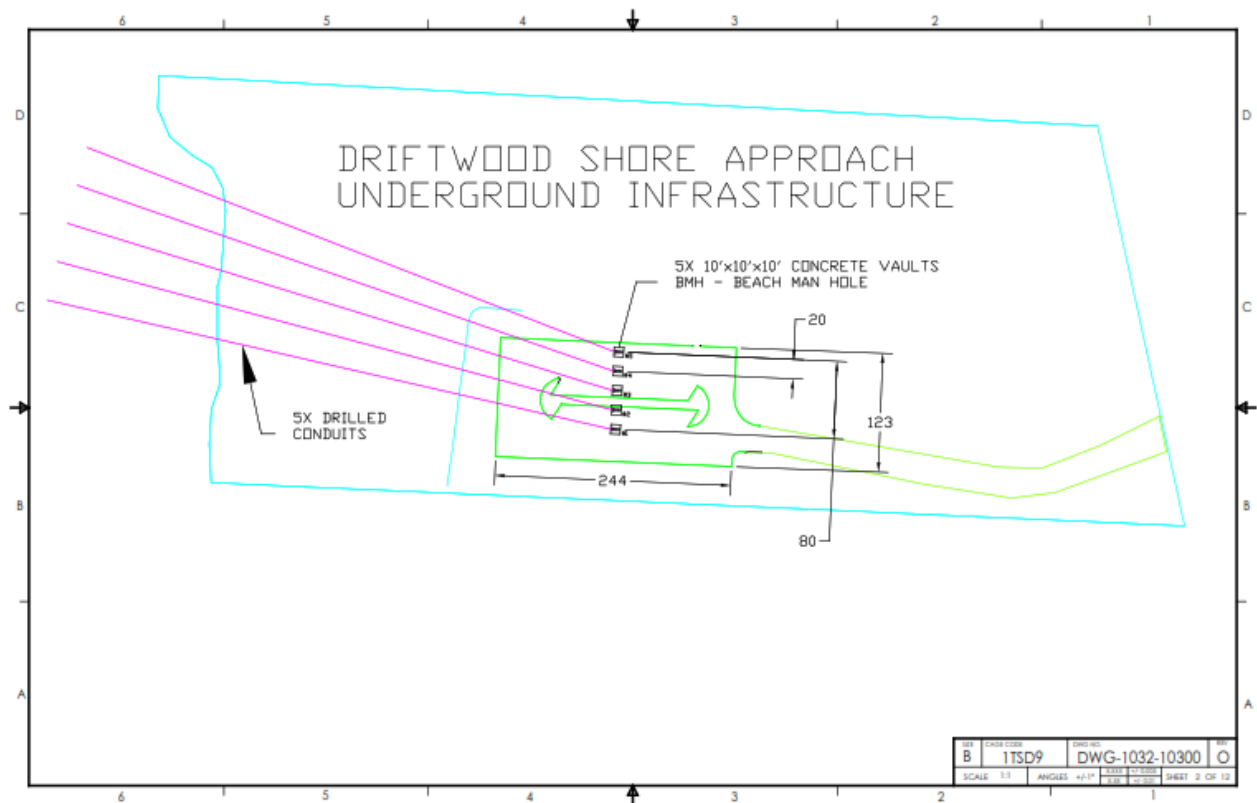


Figure 3: Shore Landing Site HDD Alignments

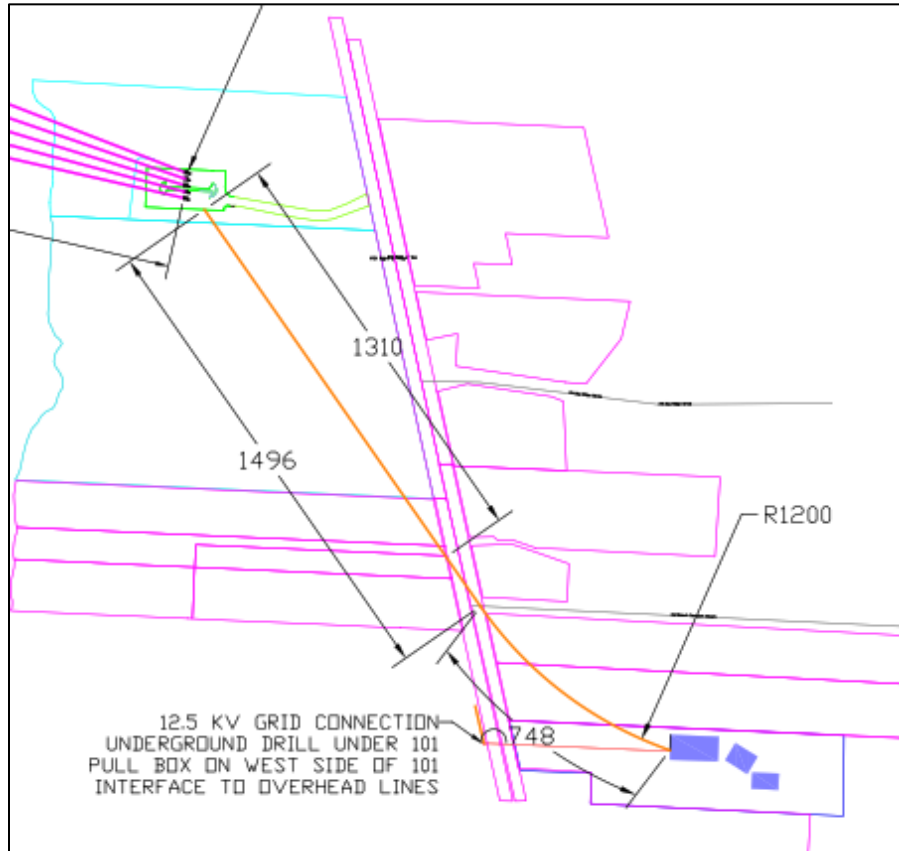


Figure 4: Terrestrial HDD Plan View

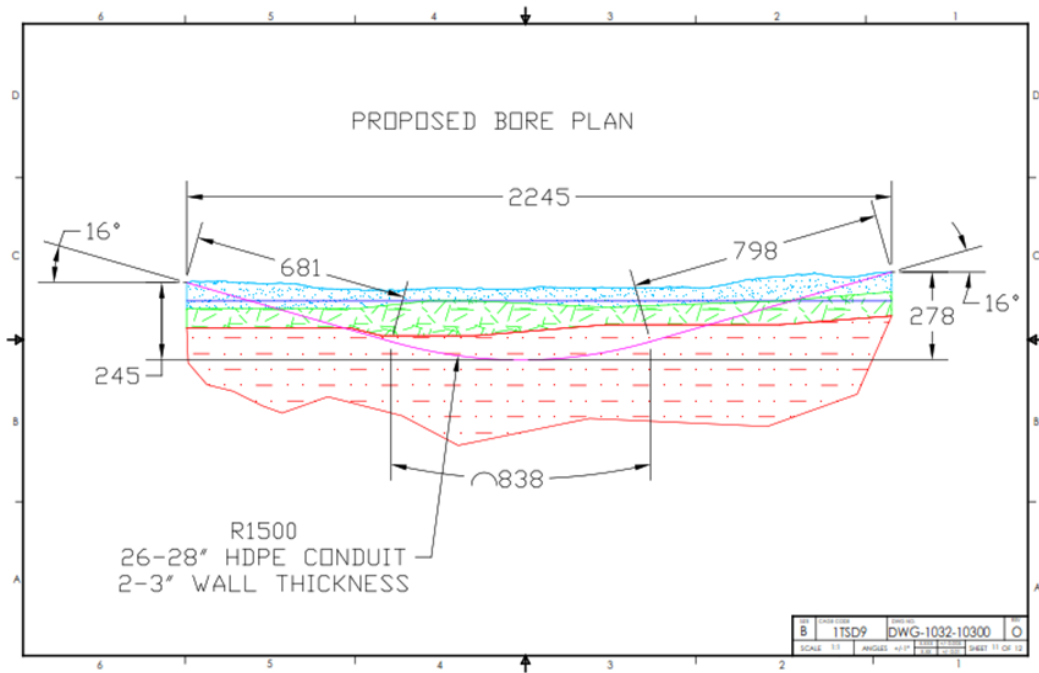


Figure 5: Terrestrial Bore Vertical Profile

## 2 DESCRIPTION OF SCOPE OF SERVICES

**OSU is seeking a technical services firm to undertake the geotechnical survey described in the Scope of Services (the “Scope”) included but not limited to activities described in this section and attached to this RFP as Attachment A ‘Scope of Services.’**

Terrestrial geotechnical core drilling with sample collection and laboratory analysis will be required to quantify geology under an OSU-owned property located on NW Wenger Lane in Seal Rock, Oregon as outlined in this RFP. The purpose of this operation is to quantify the properties of the geology at the eastern end of the planned HDD path to confirm that HDD is possible and cost effective for the proposed route.

Most of the shore landing HDD bore lengths will be located under the seabed. Due to the difficulty and cost that would be required to perform geotechnical core drilling in the surf zone, **the core drilling operation related to this RFP will be limited to a single location adjacent to the land side of the bore path.** Surveys of the marine and terrestrial route geology have been performed using shallow seismic survey methods. Overlap between seismic and coring surveys will be used to correlate the seismic data with physical samples. All planned seismic survey operations have been completed (see appendix) and are not within the scope of this RFP.

## 3 FEDERAL PROVISIONS

Work under the contemplated Agreement is federally funded. OSU has received federal funds from US Department of Energy (“DOE”). Contractor must administer and monitor all such Subcontracts, or other commitments it enters into under this Agreement in accordance with the applicable federal requirements including but not limited to cost principles and the applicable federal administrative requirements.

Compliance with the following Federal Provisions will be required:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
2. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and sub grants in excess of \$2,000 for construction or repair awarded by recipients and sub recipients shall include a provision for the compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States”). The act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*—When required by Federal

program legislation, all construction contracts awarded by the recipients and sub recipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)*—Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and sub grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to Compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).



7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*— Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
8. *Debarment and Suspension (E.O.s 12549 and 12689)*— Contract awards that exceed the small purchase threshold and certain other contract awards shall not be made to parties listed on the nonprocurement portion of the General Services Administration's List of parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.
9. Compliance with applicable provisions national policies prohibiting discrimination: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by 10 CFR Part 1040; Executive Order 11246 [3 CFR, 1964 1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60; Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.); Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 ; The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.).
10. Compliance with applicable provisions of the following national policies concerning live organisms: For human subjects, the Common Federal Policy for the Protection of Human Subjects, 10 CFR Part 745; 10 C.F.R. Part 745; 10 C.F.R. Part 600, App. A; Uniform Relocation Assistance and Land Acquisition Policies Act, 42 U.S.C. § 4601 et seq.; 49 C.F.R. Part 24; Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101 et seq. (see particularly § 7104(g)); 2 C.F.R. Part 175; 10 C.F.R. Part 600, Appendix A; 10 C.F.R. § 602.10(c)
11. Compliance with the following environmental laws and regulations: The Clean Water Act 10 C.F.R. Part 600, Federal Water Pollution Control Act ("Clean Water Act"), 33 U.S.C. § 1251 et seq.; 33 U.S.C. § 1368; Exec. Order No. 11,738, 38 Fed. Reg. 25,161 (Sept. 10, 1973); The Clean Air Act 10 C.F.R. Part 600, Appendix A; Air Pollution Control Act ("Clean Air Act"), 42 U.S.C. § 7401 et seq; The Resource Conservation and Recovery Act (RCRA), 10 C.F.R. §§ 600.116 and 600.149; Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (see particularly § 6962), 10 C.F.R. Part 600, App. A; Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4831(b).

12. Compliance with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.).
13. Compliance with Protection of Wetlands and Floodplains, 10 C.F.R. Part 1022;
14. Compliance with Flood Disaster Protection Act of 1973, 42 U.S.C. § 4001 et seq.
15. Compliance with Coastal Zone Management Act, 16 U.S.C. § 1451 et seq.; 15 C.F.R. Part 930.
16. Compliance with Coastal Barriers Resource Act, 16 U.S.C. § 3501 et seq.
17. Compliance with the following lobbying laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; An Act to Prevent Pernicious Political Activities (“Hatch Act” of 1939), 5 U.S.C. §§ 1501-1508, 7324-7326; 10 C.F.R. Part 601; 31 U.S.C. § 1352.
18. Compliance with the following health and safety laws, regulations, policies, and requirements: The Public Health Service Act 10 C.F.R. Part 600, Appendix A; Title XIV, Public Health Service Act, 42 U.S.C. § 300f et seq; 10 C.F.R. Part 600, Appendix A; Drug Abuse Office and Treatment Act, 42 U.S.C. § 290dd; Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, 42 U.S.C. § 290dd-1; Construction Work Hours and Safety Standards Act, 40 U.S.C. §3701 et seq.; 10 C.F.R. § 602.10(b); NIH Guidelines for Research Involving Recombinant DNA Molecules.
19. Compliance with the following domestic preference laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; Cargo Preference Act, 46 U.S.C. § 55305; 46 C.F.R. § 381.7; 10 C.F.R. Part 600, Appendix A; International Air Transportation Fair Competitive Practices Act (“Fly America Act”), 49 U.S.C. § 40118.
20. Compliance with the following project management laws, regulations, and policies: following project management laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; 31 U.S.C. § 3711; 10 C.F.R. Part 600, Appendix A; Single Audit Act, 31 U.S.C. § 7501 et seq; 10 C.F.R. § 600.31; 10 C.F.R. Part 733; 10 C.F.R. §§ 600.25 & 600.113; 2 C.F.R. Parts 180 & 901 (see particularly Subpart C Responsibilities of Participants” within each section); Paperwork Reduction Act, 44 U.S.C. § 3501 et seq; 2 C.F.R. Part 25.
21. Compliance with the following educational and cultural laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; Indian Self-Determination and Education Act, 25 U.S.C. § 450 et seq. (see particularly § 450e(b)).
22. Make a good faith effort to comply with the following policies: 10 C.F.R. Part 600, Appendix A; Exec. Order No. 12,138, 44 Fed. Reg. 29,637 (May 18, 1979) (“Creating a National Women’s Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women’s Business Enterprise”); 10 C.F.R. § 600.306; Metric Conversion Act of 1975, 15 U.S.C. § 205a et seq.; Exec. Order No. 12,770, 56 Fed. Reg. 35,801 (July 29, 1991) (“Metric Usage in Federal Government Programs”)
23. Compliance with applicable provisions of the following, national policies:

- Nondiscrimination in Federally Assisted Programs, 10 CFR part 1040 (45 FR 40514, June 13, 1980), as proposed to be amended by 46 FR 49546 (October 6, 1981). Nondiscrimination Provisions in Federally Assisted Construction Contracts, Part III of Executive Order 11246 (September 24, 1965), 3 CFR 1964—65 Comp., p. 345.
24. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 U.S.C. 4581).
  25. Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1174). Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*).
  26. National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), 40 CFR part 1500, as implemented by (45 FR 20694, March 28, 1980).
  27. Sec. 306, Clean Air Act, as amended (42 U.S.C. 7606c).
  28. Sec. 508, Federal Water Pollution Control Act of 1972 (33 U.S.C. 1251 *et seq.*); Executive Order 11738, September 12, 1973.
  29. Title XIV, Public Health Service Act, as amended (42 U.S.C. 300f—*et seq.*).
  30. Sec. 102(a), Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975). 10 CFR part 1022, “Protection of Wetlands and Floodplains.”
  31. Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*).
  32. Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*) (15 CFR part 930).
  33. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*).
  34. Sec. 106, National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); Executive Order 11593, “Protection and Enhancement of the Cultural Environment,” May 13, 1971, 3 CFR 1971 Comp., p. 154; Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469 *et seq.*); Protection of Historic and Cultural Properties, 36 CFR part 800.
  35. Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 *et seq.*). Protection of Human Subjects, 10 CFR part 745.
  36. Federal Laboratory Animal Welfare Act (7 U.S.C. 2131 *et seq.*) (9 CFR parts 1, 2, and 3). Lead-Based Paint Prohibition (42 U.S.C. 4831(b)).
  37. Sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) (46 CFR §381.7).
  38. International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517). Executive Order 12138, “Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating, and Implementing a National Program for Women's Business Enterprise,” (May 18, 1979) 3 CFR 1979

Comp., p. 393.

39. Sec. 403(b), Power Plant and Industrial Fuel Use Act of 1978, (42 U.S.C. 8373(b)); Executive Order 12185 (December 17, 1979, 3 CFR 1979 Comp., p. 474).
40. Administrative and Fiscal Policy Requirements The Hatch Act (5 U.S.C. 1501-1508).
41. Federal Reports Act, as amended by the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3501 *et seq.*).
42. OMB Circular A-111, Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations—Policies and Procedures.
43. Federal Claims Collection Act of 1966, Pub. L. 89-508, 89 Stat. 309 (31 U.S.C. 951 *et seq.*). OMB Circular A-88, Coordinating Indirect Cost Rates and Audit at Educational Institutions. OMB Circular A-73, Audit of Federal Operations and Programs.
44. Single Audit Act of 1984, Pub. L. 98-502.
45. OMB Circular A-128, Audits of State and Local Governments. [47 FR 44108, Oct. 5, 1982, as amended at 50 FR 42361, Oct. 18, 1985; 51 FR 4297, Feb. 4, 1986]

#### **4 TIMELINE**

Work will commence after the Notice to Proceed is issued by OSU in writing to the contractor. The Notice to Proceed will not be issued prior to the execution of the OSU Contractor’s Agreement (“Agreement” or “Contract”) Contract execution is expected by early to mid-September, 2019 and occurs after the last signature is received on the Agreement.

Any proposed schedule should be submitted with the assumption that the contractor will be under contract with OSU by the above date.

**NOTE:** Any proposed schedule shall recognize that **time is of the essence** as it relates to fieldwork and preliminary data analysis and reporting, as discussed in the evaluation criterion 8.6.

#### **5 SELECTION PROCESS**

This RFP selection process will be conducted pursuant to the terms of this RFP and OSU Standards 03-010 and 03-015 relating to the selection and retention of technical services firms. Once the proposal responses have been reviewed and scored, at OSU’s discretion the top ranking firms may be invited to participate in an interview. At OSU’s option, interviews may be conducted via telephone or web conference, or in person. Selection of a Contractor from submitted proposals and interviews will be based on the criteria set forth in this RFP.

#### **6 PREVAILING WAGES**

In compliance with Oregon Prevailing Wage Law, the following is incorporated into this RFP:

The contractor and all sub-contractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates. This contract is subject to the following BOLI wage rate requirements, which are incorporated herein by reference:

- July 1, 2019 PWR Apprenticeship Rates
- July 1, 2019 Prevailing Wage Rates for Public Works Contracts in Oregon
- July 1, 2018 Definitions of Covered Occupations for Public Works Contracts in Oregon

These BOLI wage rates are available on line at:

[https://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx)

Prior to execution of a contract, the contractor shall file with the Construction Contractor's Board, and maintain in full force and effect, the separate public works bond required by Oregon Laws 2015, ORS 279C and OAR 839-025-015, unless otherwise exempt under those provisions. The contractor shall also include in every subcontract a provision requiring the sub-contractor to have a public works bond filed with the Construction Contractor's Board before starting services, unless otherwise exempt, and shall verify that the sub-contractor has filed a public works bond before permitting any sub-contractor performing services to start Work.

## **7 COMPENSATION**

Compensation will be based on a total fixed price amount for Services and Direct Expenses. The amount of compensation will be negotiated with the proposer who has submitted the best qualifications ("the Apparent Successful Proposer").

## **8 REQUIRED PROPOSAL SUBMITTAL CRITERIA AND SCORING**

Provide in writing the following information about your firm's ability and desire to perform this work. Proposal responses will be rated based upon the score assigned to each item as noted in the parenthesis at the end of each statement below. Contractor's proposal shall include all aspects of the geotechnical survey as specified in the RFP.

Proposer must provide the information below.

- 8.1 Provide a brief description of your firm and your firm's overall qualifications related to the description of services sought in this RFP. List the projects your firm is currently contracted for and at what stage the projects are, in terms of completion. Provide similar information for any sub-contractors. (10)
- 8.2 Provide information about your company's experience and capabilities in performing the specific type of work described in this RFP and your experience working in Oregon. Identify any projects you have undertaken in the region (e.g. Lincoln County). Provide a brief summary of three or more geotechnical projects similar to that described in this RFP, that your company has completed or are currently contracted to complete, including methods of execution and the equipment being used. Include experience for similar services on federally funded projects. (25)
- 8.3 Provide an organization chart with names, title, and job classification of personnel and identify key personnel, along with sub-contractor key personnel as applicable, to be assigned to the Scope in this RFP. Include proposed key personnel's resumes including their project experience and identify their roles in similar projects. If different personnel

are to be involved in specific phases of the survey work, those personnel shall be listed separately. Indicate current availability and proposed percentage of involvement for this Scope and whether the proposed team has worked together on previous projects. (10)

- 8.4 Provide described methodology describing how each item in Attachment A ‘Scope of Services’ will be implemented. The methodology must highlight different approaches or standards, if any, that proposer recommends for difference aspects of the project. In addition, proposer is encouraged to offer comments and alternative procedures and standards, as applicable, that might improve the completion of the geotechnical operation and results. (35)
- 8.5 Provide details and specifications of the proposed drilling rig, downhole coring systems and other equipment to be used for the geotechnical works. The equipment proposed shall be that which the contractor considers appropriate to the requirements as described in the Scope of Services section (Attachment A). Manufacturer’s brochures should be included as supporting information. If different equipment will be used at different locations, these shall be specified separately. (10)
- 8.6 Provide a proposed schedule of operation to successfully complete the work, including reporting, during the specified time period as shown in Section 4.0 ‘Timeline’. (40).  
**Note: OSU considers this survey to be high priority and expects contractors to propose aggressive timelines and schedules for fieldwork completion and will be scored accordingly.**

Schedule of Operations Scoring Calculation:

The proposal that provides the earliest core completion and preliminary data analysis date will receive the maximum number of points.

The schedule of operations should include:

- Equipment and Crew Mobilization to Site
- Completion of core at NW Wenger Lane
- Equipment and Crew Demobilization
- Draft Report Delivery Date
- Final Report Delivery Date

- 8.7 Provide completed Attachments B ‘Cost Proposal’ which must be submitted with the proposal. (35)

Cost Proposal Scoring Calculation:

The Proposal that contains the lowest overall not to exceed price to OSU in Attachment B, Section B.1, will receive the maximum number of price points. A Proposal whose price is higher than the lowest submitted price will receive proportionately fewer price points, as demonstrated in the example below.

Proposer A’s price is \$450 (the lowest)

Proposer A is awarded 35 points (the maximum)

Proposer B’s price is \$500

Proposer B is awarded 32 points (450/500 x 35)

In the event of a discrepancy between unit prices and extended (arithmetically calculated) prices, unit prices will prevail over extended prices.

- 8.8 Workforce Diversity Plan. Provide a description and identification of Minority Business Enterprise (“MBE”), Women Business Enterprise (“WBE”) or Emerging Small Business (“ESB”) certifications for your firm and a description of your firm’s nondiscrimination practices. Provide any historical information on MBE, WBE or ESB Joint Ventures, subcontracting or mentoring plan, and utilization history for projects completed within the past three years.

Provide a narrative description of your current workforce diversity program/plan, and the plan for obtaining subcontracting and consulting diversity for this project.

The awarded contractor shall perform the work and the contract with respect to diversity according to the means and methods described in its workforce plan described in the response, unless changes are requested and approved in writing in advance by OSU or are required by applicable laws, ordinances, codes, regulations, rules or standards. (25)

- 8.9 Provide names, addresses, and phone numbers of three professional references for work performed by your company on similar projects. Any references conducted will be done in accordance with Section 8.0 ‘References’ and scored cumulative with the evaluation points. (10)
- 8.10 If interviews are conducted, the format would be a thirty-minute presentation period, immediately followed by a thirty-minute Q&A session. The interview points will be cumulative with the evaluation points. (25)

## 9 REFERENCES

In addition to responding to the evaluation criteria above, provide the names, addresses, email address and telephone numbers of three professional references for work performed by your company on similar projects. Verify that the individuals identified have had direct involvement with the referenced project, and the email address and telephone number are current. Do not include references from any company or individual included in your team for this project, or any OSU personnel. OSU may check with these references and with other references associated with past work of your company. Reference checks, if conducted, may occur during step one or two of the evaluation.

## 10 SELECTION PROCEDURE AND TIMETABLE

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

Selection Procedure and Timetable with Interviews:

|            |  |
|------------|--|
| 08/09/2019 | Issue RFP                              |
| 08/20/2019 | RFP Response due 10:00am, Pacific Time |

|            |                                     |
|------------|-------------------------------------|
| 08/22/2019 | Notification of finalists           |
| 08/23/2019 | Interviews with Selection Committee |
| 08/23/2019 | Estimated Notice of Intent to Award |
| 08/29/2019 | Estimated Contract Execution        |

Selection Procedure and Timetable without Interviews:

|            |  |
|------------|--|
| 08/09/2019 | Issue RFP                              |
| 08/20/2019 | RFP Response due 10:00am, Pacific Time |
| 08/22/2019 | Notice of Intent to Award              |
| 08/27/2019 | Estimated Contract Execution           |

## 11 EVALUATION PROCESS

This RFP is the first step in a possible two-step process in the selection of a firm to provide geotechnical survey. In step one, the responses to this RFP will be evaluated by the selection committee, which will be comprised of OSU personnel who score qualification statements and rank finalists; and another group of personnel to serve as advisers but who do not score qualifications or rank finalists. Advisers may or may not be OSU personnel. On the basis of this evaluation, the selection committee will make its best efforts to limit the field of finalists to three to five finalists to be selected for step two, if required. Step two will include interviews of each finalist and may include further investigation of references. If the selection committee determines step one scores provide a sufficient gap between proposers, OSU may forgo step two and award to the Apparent Successful Proposer in step one.

OSU will utilize this RFP evaluation process to obtain information to enable selection of the most qualified proposer through evaluation of:

- a. The proposers' responses to evaluation criteria in Section 8 'Required Proposal Submittal Criteria and Scoring' of this RFP;
- b. Information obtained during an interview (if applicable) of the proposers by the selection committee; and
- c. The results of discussions with the proposers' references and others.

Each member of the selection committee will rate each company in each criterion based on the total points available for the criterion. The selection committee members will then total the score from all of the criteria to obtain the proposer's total score. The result of this total score will be used to rank all proposers for step one. The selection committee will compare the individual selection committee member rankings via meetings, telephone or via other means. The committee will discuss company strengths and weaknesses and the individual selection committee member scorings. The selection committee discussion will result in the consolidated ranking from which the finalists for interviews may be selected to participate in step two of the process. The top ranked firms may be invited by OSU to participate in telephone, web conference, or in-person interviews for step two.

If interviews are required by the selection committee, RFP responses will be used in preparation for those interviews. After all interviews are completed, the selection committee will discuss the



strengths and weaknesses of the interviewed finalists. The committee will then score the interviewed finalists based on all information received, presented and heard during the interviews. The finalist that has the highest overall ranking cumulative of both step one and step two scores will be deemed the Apparent Successful Proposer.

Interviews, if required, will include a thirty -minute presentation period, immediately followed by a thirty -minute Q&A session.

If, during the discussion, the selection committee determines the interviewed finalists are too close to rank, OSU has no recent experience working with a finalist, or if the ranking indicates a tie, the committee will check the references provided by the proposer as described by this RFP. Information obtained from references may alter the committee's final ranking of finalists. Any alteration of final ranking will be based on the committee's understanding of how well each firm can meet the needs of the Scope in this RFP.

## **12 RESPONSIBILITY EVALUATION**

OSU reserves the right to investigate each proposer's responsibility in accordance with the requirements of the Oregon State University Standards, 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 response constitutes the proposer's approval for OSU to obtain any information OSU deems necessary to conduct the evaluation of a proposer's responsibility including, but not limited to, credit reports and information discovered during reference checks.

Financial Information: OSU will 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 requested may render the proposal response nonresponsive. Failure of a proposer to demonstrate responsibility will render it non-responsible and constitute grounds for proposal response rejection.

## **13 SUBMISSION**

Submit **one** hard copy version of your written proposal response, along **with one electronic version on a thumb drive** to be received by the closing date and time listed in Section 10.0 of this document to:

Attention: Ben Baggett  
Construction Contracts Administration  
Oregon State University  
644 SW 13th Street  
Corvallis, OR 97333-4238

Your proposal response must be contained in a document **not to exceed sixteen single sided pages, or eight double sided pages**, including the Attachment C 'Cost Proposal' pricing sheets, pictures,

charts, graphs, tables and text the proposer deems appropriate to be part of the review of the proposer's response. **Specification sheets, manufacturer's brochures for drilling related equipment, sample reports, logs, and plans (see section A.7.7), and resumes of key individuals proposed to be involved in this project are exempted from the sixteen page limit** and should be appended to the end of your response. The transmittal letter, table of contents, front and back covers, and blank section/numerical dividers, etc., will not be counted in the sixteen page limit. No supplemental information to the sixteen page proposal response will be allowed.

Information should **be presented in the same order as the above evaluation criteria. The electronic proposal response should be sized appropriately for transfer (under 8 MB).** The written response should be submitted in a **soft-bound** (comb or spiral, spiral preferred – no three- ring binders) format with page size of **8½ x 11 inches** with no fold-outs. The basic text information of the response should be presented in standard business font size, and reasonable margins. All information provided should be included in both written and electronic submittals.

**Your proposal response must be signed by an officer of your company with the authority to commit the company and contain contact information including email for communication purposes.**

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

Note that OSU will not accept proposal responses or queries that require OSU to pay the cost of production or delivery.

**Telephone, facsimile, or electronically transmitted submittals will not be accepted. Proposal responses received after the closing date and time will not be considered.**

## **14 QUESTIONS**

All questions and contacts with the OSU regarding any information in this RFP must be addressed in writing, fax or email to Ben Baggett at the address, email or fax listed in this document no later than one week after the date of RFP issue.

## **15 SOLICITATION APPEALS**

You may submit a written request for clarification or change or appeal of particular solicitation provisions and specifications, **or contract terms and conditions** (including comments on any specifications or terms that you believe limit competition) to the Chief Procurement Officer in care of Ben Baggett at the address, email or fax listed in this document. Requests and appeals must be received no later than date and time stated in Section 10 'Selection Procedure and Timetable.' Requests or appeals must state the reasons for the request or appeal and any proposed changes to the solicitation provisions and specifications, or contract terms and conditions. **Requested changes to contract terms and conditions may not be considered at contract award.**

## **16 CHANGE OR MODIFICATION**

Any change or modification to the specifications or the procurement process will be in the form of

an addendum to the RFP and will be made available in the form of an addendum posted to the OSU Business and Bid Opportunities (<http://bid.oregonstate.edu/>) website. No information published in any other manner will serve to change the RFP in any way, regardless of the source of the information. Any request for clarification or change or appeal of anything contained in an addendum not received by the date and time stated in the addendum will not be considered.

## **17 SELECTION APPEALS**

Any proposer to this RFP who claims to have been adversely affected or aggrieved by the selection of a competing proposer may submit a written appeal of the selection to the Chief Procurement Officer in care of Ben Baggett at the address given in the RFP within three days after notification of that selection. Any such appeals must be received by Mr. Baggett no later than three days after the notification of selection has been made in order to be considered. The selection decision notification, Notice of Intent to Award, will be made by OSU via posting to the OSU Bid and Business Opportunities website ([bid.oregonstate.edu](http://bid.oregonstate.edu/)).

## **18 PROPRIETARY INFORMATION**

OSU will retain this RFP, one copy of each proposal response received and an electronic copy of each proposal response 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 proposal responses have been rejected. If a proposal response contains any information that you consider to be a trade secret under ORS 192.501(2), the proposer must mark each trade secret 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 response 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 response, material designated as confidential must accompany the proposal response, 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 response marked as a trade secret in its entirety will be considered non-responsive and will be rejected.

## **19 PROJECT TERMINATION**

OSU reserves the right to terminate a project, the Agreement, or both, at any time, upon thirty days' written notice.

## **20 INSURANCE PROVISIONS**

During the term of the resulting Agreement, the successful proposer will 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.

### **RFP Attachments:**

- Attachment A: Scope of Services
- Attachment B: Cost Proposal
- Attachment C: Deviations
- Attachment D: Sample - OSU Technical Services Agreement

### **RFP Appendix (attached as a separate document):**

- Appendix A: Terrestrial HDD Path Geophysical Exploration Report

End of RFP

## ATTACHMENT A – SCOPE OF SERVICES

OSU is seeking qualified companies to conduct a geotechnical investigation for the HDD drilling program described. The HDD bore routes have been surveyed previously using seismic techniques and the resulting reports are included in the appendices. Appendices are included in this RFP by separate attachment. A geotechnical investigation featuring geotechnical core drilling operations and laboratory testing is to be performed along the terrestrial portion of the planned HDD routes. The contractor will be required to provide a final report describing the findings from the drilling operations and subsequent laboratory testing. The purpose of the investigation is to determine the suitability of the subsurface geology for HDD boring operations.

Contractors work scope shall include the following at a minimum:

- Perform core drilling of a single hole
- Permanently seal the bore hole by grouting on completion of sampling
- Maintain and supply drilling and casing logs from all operations
- Record field observations as described within
- Conduct geotechnical laboratory testing of selected samples
- Characterize the engineering properties of all materials collected along the bore path
- Geotechnical description of the subsurface site in general, with reference to the previous seismic survey report.

### A.1 REFERENCED STANDARDS

The standards listed below are specified within this package to define operational or laboratory testing standards and procedures. **Responding bidders are encouraged to offer alternative procedures and/or standards which best meet their normal operating procedures.**

#### A.1.1 Drilling Operations

- ASTM D2113 - 14
  - o Standard Practice for Rock Core and Sampling of Rock for Site Investigation
- ASTM D5079 - 08
  - o Standard Practices for Preserving and Transporting Rock Core Samples
- ASTM D5434 - 12
  - o Standard Guide for Field Logging of Subsurface Explorations of Soil and Rock
- ASTM D1586 -18
  - o Standard Test Method for Standard Penetration Test (SPT) and Split-Barrel Sampling of Soils
- ASTM D2487-17
  - o Classification of Soils for Engineering Purposes.
- ASTM D2488-17e1

- o Standard Practice for Description and Identification of Soils (Visual-Manual Procedures)
- ASTM D422-63
  - o Standard Test Method for Particle-Size Analysis of Soils (Withdrawn 2016)

### **A.1.2 Laboratory Testing**

- ASTM D6032 - 17
  - o Standard Test Method for Determining Rock Quality Designation (RQD) of Rock Core
- ASTM D7263 - 09
  - o Standard Test Methods for Laboratory Determination of Density (Unit Weight) of Soil Specimens
- ASTM D5607 - 16
  - o Standard Test Method for Performing Laboratory Direct Shear Strength Tests of Rock Specimens Under Constant Normal Force
- ASTM D7012 - 14e1
  - o Standard Test Methods for Compressive Strength and Elastic Moduli of Intact Rock Core Specimens under Varying States of Stress and Temperatures
  - o Method C: Uniaxial Compressive Strength of Intact Rock Core Specimens.
- ASTM D5873
  - o Standard Test Methods for Compressive Strength and Elastic Moduli of Intact Rock Core Specimens under Varying States of Stress and Temperatures
  - o Method C: Uniaxial Compressive Strength of Intact Rock Core Specimens.
- ASTM D5873 - 14
  - o Standard Test Method for Determination of Rock Hardness by Rebound Hammer Method
- ASTM D2216 -19
  - o Standard Test Methods for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass
- ASTM D5334 - 14
  - o Standard Test Method for Determination of Thermal Conductivity of Soil and Soft Rock by Thermal Needle Probe Procedure
- ASTM D4318 - 17e1
  - o Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soils
- ASTM D2850 - 15

- o Standard Test Method for Unconsolidated-Undrained Triaxial Compression Test on Cohesive Soils
- ASTM D4972 - 19
  - o Standard Test Methods for pH of Soils
- IEEE Std 81 - 201
  - o IEEE Guide for Measuring Earth Resistivity, Ground Impedance, and Earth Surface Potentials of Ground Systems
  - o Resistivity only

## A.2 OBJECTIVES

The main objective of core drilling operations is development of a cost-effective route for HDD drilling, conduit and cable installation. Data from field and laboratory tests to determine the mechanical, geotechnical and thermal properties of the rock will be used to provide a design basis for the HDD bore and product cable/conduit system.

A bore is required to characterize the geologic materials at the NW Wenger Lane core site. The major uses for the bore include:

- Define geologic stratigraphy and structure;
- Determination of drillability through review of bore log data;
- Obtain samples for index testing to determine drillability for the HDD project;
- Obtain samples for determination of thermal conductivity of rock or sediments;
- Define water content of the in-situ rock; and
- Obtain groundwater data.

## A.3 PLANNED CORE

The contractor’s proposal should be based on drilling and recovering a single core at the location on NW Wenger Lane. The core will be drilled vertically to a depth of 300 vertical feet below the local elevation. All proposals shall be based on core recovery from the entire bore, below the bottom of the overburden soil.

## A.4 CORE LOCATION

Table 1 below provides planned location for the core drill.

Table 1 - Core Drill Location

| Northing (ft) (EPSG 2992) | Easting (ft) (EPSG 2992) | Latitude         | Longitude         |
|---------------------------|--------------------------|------------------|-------------------|
| 1008068.57                | 379353.41                | 44° 27' 35.48" N | 124° 04' 30.75" W |

EPSG 2992: Oregon Lambert 1, Datum NAD83, International Feet, Spheroid: GRS1980

Figure 5 shows an overview of the site, planned HDD bore routes and the core location. Figure 6 shows the core location on NW Wenger Land in greater detail.



Figure 5: Site Overview with Core Locations.



Figure 6: Core location on OSU-owned property on NW Wenger Lane.



## **A.5 CORE DRILLING REQUIREMENTS**

The core drill location has been identified based on potential for drill rig access and correlation with previous seismic investigations.

Core recovery of the entire bore, from the bottom of overburden is required.

### **A.5.1 Minimum Core Recovery Equipment Requirements**

The coring equipment may utilize a double or triple tube coring barrel with swivel as preferred by the contractor. Single tube coring barrels shall not be used. Wireline core recovery is acceptable and encouraged if such use will result in a lower total project cost. Minimum core diameter shall be 2 inches, corresponding with “N” size or larger drill string and core barrels.

Responding potential contractors are encouraged to offer suggestions for use of larger size coring equipment and/or coring systems, which might result in lower cost operations, with similar results.

### **A.5.2 Core Collection, Packaging and Storage**

Core drilling operations shall be performed in accordance with ASTM D2113-14, Standard Practice for Rock Core Drilling and Sampling of Rock for Site Investigation or equivalent standard.

Rock cores and overburden soil samples for the entire length/depth of each bore hole will be collected, inspected, packaged and preserved for laboratory testing during drilling operations in accordance with ASTM D5079-08.

#### ***A.5.2.1 Overburden***

Overburden and soils shall be sampled at five-foot depth intervals in accordance with ASTM D 1586-18, Standard Test Method for Standard Penetration Test (“SPT”) and Split-Barrel Sampling of Soils. Overburden and soils shall be inspected and logged in accordance with either:

- ASTM D2487-17
  - Classification of Soils for Engineering Purposes.
- ASTM D2488-17e1
  - Standard Practice for Description and Identification of Soils (Visual-Manual Procedures)

Course Grain soils shall be sieve analyzed in accordance with ASTM D422-63, Standard Test Method for Particle-Size Analysis of Soils.

#### ***A.5.2.2 Rock***

On initial recovery, all rock cores will be logged and inspected by a qualified field inspector in accordance with ASTM D5079-08, Section 7.4. Initial inspection shall include field photography, field determination of Rock Quality Designation, cataloguing, preservation and storage.

Field determination of Rock Quality shall be performed in accordance with ASTM D6032-17, Standard Test Method for Determining Rock Quality Designation (“RQD”) of Rock Core.

### **A.5.2.3 All Recovery**

Each core will be documented in the field with the following information, prior to packaging and storage:

- Date and time of recovery;
- Bore location;
- Bore inclination and azimuth;
- Vertical depth;
- Total core length;
- Free water level;
- Total number of pieces;
- Recovery percentage;
- Bore footage at core recovery;
- Visual and tactile description;
- For all overburden and soil;
  - Soil Classification
  - Coarse Grain Sieve analysis
- For all rock encountered;
  - Percent recovery
  - Rock Quality Designation (RQD)
  - Rock type
- Color photograph of sample with at least 0.5 mm resolution; and
- Odor.

Each core sample will be handled and processed separately (core samples will not be composited).

All core samples recovered shall be marked to show in-situ orientation. Specifically, each core, or significant portions of broken cores, shall be marked on the north facing side upon recovery.

Laboratory testing of the recovered cores will include determination of the thermal conductivity of the resident material. Therefore, handling, packaging, preservation and storage of recovered cores shall be in accordance with ASTM D5079-08, Section 7.5.2, "Special Care" (or equivalent) to preserve the moisture content of the recovered core samples. All core samples will be properly marked and catalogued to define the location and vertical depth of each sample relative to the surface ground level as defined in this standard.

### **A.5.3 Boring Logs**

Field logging will be performed in accordance with ASTM D5434-12, Standard Guide for Field Logging of Subsurface Explorations of Soil and Rock, or other approved equivalent standard or procedure. Boring logs shall be maintained during all drilling operations which record all critical aspects of the drilling operation. These logs will provide useful data on rock strength, hardness and the related degree of difficulty required to perform boring through each of the strata encountered. Contractor shall provide all information gathered during the operations. At a minimum, the log information shall include the following key data, to be submitted with all logs

includes:

- Date(s) of bore;
- Bore location with coordinates;
- Elevation, orientation and plunge of bore;
- Drilling personnel;
- Drilling equipment;
- Site setup;
- Drilling methods;
- Drilling conditions;
- Driller's comments;
- Depth of overburden;
- Free water level;
- Total bore footage;
- Total bore depth;
- Location of each core recovery (hole footage);
- Drill string rotation speed;
- Rate of Penetration ("ROP");
- Drill torque;
- Weight on Bit ("WOB");
- Total penetration length associated with each core;
- Drilling fluid;
- Circulation supply volume and flow rate;
- Drilling fluid return volume;
- Drilling fluid return color;
- Circulation pressure.

#### **A.5.4 Overburden Casing Record**

The casing record shall include the following information:

- Casing record;
- Cementing record.

#### **A.5.5 Bore Grouting**

On completion of boring and sampling, the resulting sample bore hole shall be permanently sealed via grout filling.

### **A.6 LABORATORY TESTING**

#### **A.6.1 Laboratory Testing**

All cores will be inspected and cataloged at the laboratory and compared against the field logs and designations. Soil and rock classifications confirmed. Based on a review of the range of materials

present in each core, a select quantity of samples shall be selected to quantify various engineering values for each type of material present. Key engineering values of interest include:

- Wet density;
- Water content;
- Shear strength;
- Un-confined compressive strength;
- Hardness (rock);
- Plasticity (clay);
- Thermal conductivity;
- pH;
- Electrical conductivity.

Laboratory testing of the selected samples shall be performed in accordance with the following ASTM standards, or other internationally recognized equivalent standards.

#### **A.6.2 Confirmation of Field Records**

- ASTM D6032-17
  - Standard Test Method for Determining Rock Quality Designation (“RQD”) of Rock Core
- ASTM D2487-17
  - Classification of Soils for Engineering Purposes.
- ASTM D2488-17e1
  - Standard Practice for Description and Identification of Soils (Visual-Manual Procedures)
- ASTM D422-63
  - Standard Test Method for Particle-Size Analysis of Soils
  - Only required for Course Grain soils

#### **A.6.3 Density and Water Content**

- ASTM D7263-09
  - Standard Test Methods for Laboratory Determination of Density (Unit Weight) of Soil Specimens
- ASTM D2216-19
  - Standard Test Methods for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass

#### **A.6.4 Conductivity & pH**

- ASTM D5334-14
  - Standard Test Method for Determination of Thermal Conductivity of Soil and Soft Rock by Thermal Needle Probe Procedure

- ASTM D4972-19
  - Standard Test Methods for pH of Soils
- IEEE Std 81-201
  - IEEE Guide for Measuring Earth Resistivity, Ground Impedance, and Earth Surface Potentials of Ground Systems
  - Resistivity only

#### **A.6.5 Engineering Tests on Rock**

- ASTM D5607-16
  - Standard Test Method for Performing Laboratory Direct Shear Strength Tests of Rock Specimens Under Constant Normal Force
- ASTM D7012-14e1
  - Standard Test Methods for Compressive Strength and Elastic Moduli of Intact Rock Core Specimens under Varying States of Stress and Temperatures
  - Method C: Uniaxial Compressive Strength of Intact Rock Core Specimens.
- ASTM D5873-14
  - Standard Test Method for Determination of Rock Hardness by Rebound Hammer Method

#### **A.6.6 Engineering Tests on Overburden**

- ASTM D4318-17e1
  - Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soils
- ASTM D2850-15
  - Standard Test Method for Unconsolidated-Undrained Triaxial Compression Test on Cohesive Soils

### **A.7 CONTRACTOR'S RESPONSIBILITIES**

It shall be the contractor's responsibility to produce core and drilling log records for the bore hole locations and depths specified. The delivered cores and logs shall be in conformance with all specifications and standards referenced within.

The contractor shall be responsible for supply of all drilling and support equipment, as well as power supplies and consumables (drilling mud, core storage containers etc.) required for completion of the defined operations. The contractor shall supply appropriate procedures and qualified personnel to fulfil the requirements of this RFP.

The contractor shall be responsible for ensuring that the drilling equipment proposed and used is suitable for completion of all described bores and can access the defined core drill locations.

The contractor shall provide details of the drilling rig and support equipment specifications, including but not limited to manufacturer, model number, capacity, dimensions, and weights.

Contractor shall be responsible for proper disposal of all resulting drilling fluids, muds and

spoils/cuttings (other than delivered cores). If cost reduction disposal methods are possible, these should be identified.

### **A.7.1 Progress Reporting**

Following contract award, the contractor shall provide OSU's representatives with an electronic copy of the Daily Progress Report and log format that shall include all aspects of the drilling works and preparations. The contractor should provide a sample of the daily report format they expect to submit for this project. The final format of the report, which will be agreed prior to start of operations, will include the following:

1. Core drill location and designation;
2. Summary of the work performed during the day;
3. Summary of the planned work for the next day; and
4. Endorsement of the report by OSU's representatives.

During drilling operations, contractor shall review daily logs with OSU's representative and OSU's representative shall provide review and written approval prior to daily submittals.

### **A.7.2 Permits and Permissions**

The core site is located on an OSU-owned property, so access is unrestricted.

The contractor shall be responsible for obtaining any permits that are required for the drilling operations. Contractor shall identify and list any required permits in their proposal.

### **A.7.3 Public Access and Safety**

NW Wenger Lane provides access to properties further to the east. The contractor shall be responsible for ensuring that vehicular and pedestrian access along NW Wenger Lane is maintained during coring operations.

### **A.7.4 Environmental Protection**

Contractor shall develop and implement an environmental protection and response plan to minimize the potential for inadvertent leakage or loss of drilling fluids, fuels or other hazardous materials. This plan shall provide timely detection, and address potential releases by describing monitoring, containment, response and notification procedures to be implemented by the contractor.

### **A.7.5 Noise Limitations**

The contractor must ensure compliance with relevant County and State requirements regarding maximum noise levels during construction activities. **Construction operations shall be limited to a maximum of 12 hours per day, during daylight hours.**

NOTE: there are several private residences near NW Wenger Lane, with the closest residence being approximately 140 feet from the core location. Contractors should minimize the impact of noise on neighbors during coring operations.

### **A.7.6 Personnel**

The contractor shall ensure that all personnel involved in drilling operations are fully qualified and licensed, as applicable, to perform the work proposed. Responding bidders should provide names, qualifications and experience for all key personnel proposed for the project, including chief driller and boring inspector.

### **A.7.7 OSU Representative**

OSU shall have project personnel and/or representatives on site throughout the drilling and logging operations. These representatives will not be responsible for the coring results, but will provide appropriate assistance to the contractor as required.

### **A.7.8 Data, Logs and Report**

Proposal shall include demonstrative samples of all reports, logs, and plans the vendor expects will be needed for this project.

#### ***A.7.8.1 Data Rights***

All raw data records, boring logs, prepared cores and any processed data shall be the property of OSU.

#### ***A.7.8.2 Example Logs***

An example of contractors proposed boring log format and output shall be presented, for acceptance by OSU, prior to start of survey work.

One copy of the boring report and final logs shall be presented to OSU for approval within 10 days of completion of all coring operations.

#### ***A.7.8.3 Final Report***

The contractor's geotechnical site investigation report shall provide complete geotechnical and lithologic descriptions for all encountered geology. Interpretation of the geotechnical findings will be interpreted with respect to the findings from the previously performed seismic route surveys. All field and laboratory test results shall be cataloged and provided in a logical format. The final report shall include descriptions of boring techniques and equipment used and provide

OSU prefers reports in Microsoft Office format (Word, Excel, PowerPoint). Other formats may be accepted with prior agreement. OSU will review the preliminary report and, within one week of receiving the preliminary report, may request changes and/or additions. The contractor will incorporate requested changes, if any, and produce one hard copy of a final report within one week of receiving OSU's comments.

The final report shall be delivered in electronic format as agreed upon.

## ATTACHMENT B – COST PROPOSAL

### B.1 Cost Proposal for a Single Core Basic Services and Direct Expenses

**Basic Services:** The contractor shall perform the Basic Services, directly or through the sub-contractors, for a Fixed Price of \$\_\_\_\_\_.

**Direct Expenses:** Direct Expenses, up to a maximum Fixed Price of \$\_\_\_\_\_. Direct expenses amount are those expenses eligible for payment and the total is in addition to the Basic Services amount above. See Section III ‘Compensation’ in Attachment D ‘Sample – OSU’s Contractor’s Agreement’ for allowable Direct Expenses.

**Proposers Total Fixed Price:** \$\_\_\_\_\_.

**Proposer’s Total Fixed Price is the total of the Basic Services plus Direct Expenses.**

### B.1 Cost Proposal for a Single Core Fixed Price (Note: B.2 is not scored)

Provide a cost proposal which includes a Fixed Price, ‘Lump Sum Prices’ below, to implement all activities described in the Contractor’s proposal. The fixed price proposal shall be divided into five pricing line items.

- Mobilization and demobilization of the equipment and personnel;
- Completion of the core at the UCMF property on NW Wenger Lane;
- Drill mud and spoils/cuttings disposal;
- Completion of all laboratory testing;
- Completion of the geotechnical site investigation report; and
- Direct expenses.

A further per unit price shall be provided for any additional footage requested per bore hole (#7 in the table below).

Proposers shall also specify all limitations to the fixed price schedules including, but not limited to, limitations on Rock Hardness or RQD, site access, etc. Cost schedules shall be provided to define any additional costs and associated metrics for determining such costs.

### B.2 Lump Sum Prices

|   | Activity                            | Fixed Price |
|---|-------------------------------------|-------------|
| 1 | Mobilization and Demobilization     | \$          |
| 2 | Complete NW Wenger Lane Core        | \$          |
| 3 | Disposal                            | \$          |
| 4 | Complete Laboratory Testing of core | \$          |



|   |  |           |
|---|--|-----------|
| 5 | Geotechnical Site Investigation Report                           | \$        |
| 6 | Direct Expenses (see B.1 above)                                  | \$        |
|   | <b>TOTAL FIXED PRICE</b>   | <b>\$</b> |
| 7 | <i>Per foot rate for any additional coring footage requested</i> | \$        |

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**B.3 Daily, Unit and Standby Rates** (Note: B.3 is not scored)

The Daily Rates and Unit Rates schedules shall be used in the event of finding conditions to be different than described and expected as defined in the proposers bid. These schedules shall also be used in the event of additional work being required to further investigate or define the proposed locations as determined by OSU or its representative.

Proposer shall also provide a Standby Rate to be used in the event of the works being suspended due to reasons beyond the contractor’s control. The Standby Rate shall also be used in the event the contractor is asked to standby by OSU or its representative.

The Proposer will only be paid these rates, upon written authorization of OSU prior to the start of any work or project stand down.

The Standby Rate shall only apply when all equipment is fully operational and weather or other agreed conditions prevent completion of operations. Operational weather limitations will be agreed to in writing by the parties. No payment will be made if, during a period of adverse weather, the equipment is either “down” or absent from site. However, the contractor may carry out normal maintenance and testing of equipment during any standby period without affecting its deemed operational status.

Delays to the work caused by issues within the contractor’s control (such as equipment failure, damaged hole, personnel unavailability, insurance etc.) shall not give rise to any claim for additional (standby) compensation.

The additional Daily and Unit Rates shall only apply to additional work, authorized as stated above, and in all cases where only particular items of equipment may be required. The rates shall not apply to repeated corings where repeats are required due to results or performance which, in the opinion of OSU or its representative, is unsatisfactory due to negligence or default of the contractor.

The rates below shall reflect and cover all the contractor’s costs in supplying the equipment and drilling crew. The rates shall include, but shall not be limited to overheads, profit, insurances, crew, fuel, ancillary equipment, consumables, power supply, back up, bonus payments, payroll add-ons, etc.

No payments of any kind will be made:

- In the event of the inability to proceed with the work due to unavailability of equipment or contractor’s personnel; or
- When a particular phase of the work cannot proceed due to the malfunction or unavailability of a critical item of equipment, and when no other work can be satisfactorily substituted.

Rates for the items below are for a standard work day. The contractor shall specify the number of hours per working day. If different personnel or equipment will be used for different phases, these shall be specific separately.

Note: Drilling operations are limited to a maximum of 12 hours per days during daylight hours.

**B.3 Daily, Unit and Standby Rates**

| Activities  | Daily & Unit Rates |
|---|--------------------|
| A Daily rate for all services, equipment and personnel for any additional drilling services requested   |                    |
| B Standby daily rate for all services, equipment and personnel in operational status but unable to proceed due to weather, OSU direction or other reason beyond contractor’s control. |                    |

**B.4 Cost Proposal for Additional Work** (Note: B.4 is not scored)

Please identify staffing categories of those who may perform additional work, as needed by OSU and agreed upon by the Proposer, by the proposing firm and any proposer consultants, as applicable. Please enter those staffing categories under the type of services to be performed such as Drilling Contractor, Laboratory Testing or other, as envisioned for the scope as presented in this solicitation document. Include the current fully loaded hourly rate for each staffing category under each type of service and any proposed escalation amounts such as annual percentage increases, as applicable. An hourly rate range may be used in place of an hourly rate.

**B.4 Additional Work Costs**

| <b>DRILLING CONTRACTOR</b> | <b>Loaded Hourly Rate</b> | <b># of Hours</b> | <b>Total Net Cost</b> |
|----------------------------|---------------------------|-------------------|-----------------------|
| Enter Staff Classification |                           |                   |                       |
|                            |                           |                   |                       |
|                            |                           |                   |                       |
|                            |                           |                   |                       |

| <b>LABORATORY TESTING CONSULTANT</b> | <b>Loaded Hourly Rate</b> | <b># of Hours</b> | <b>Total Net Cost</b> |
|--------------------------------------|---------------------------|-------------------|-----------------------|
| Enter Staff Classification           |                           |                   |                       |
|                                      |                           |                   |                       |
|                                      |                           |                   |                       |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

In-Kind Contributions

OSU allows proposing firms to make in-kind contributions of services to the PacWave project. Such in-kind contributions of services are optional and if included in the firm's proposal are anticipated by OSU to be applied by the awarded firm through volunteer staff hours in the performance of their duties while on the project within the terms of the awarded agreement. Proposing firms offering such in-kind services are requested to include the expected # of volunteer hours to be contributed and the hourly staffing rate and staffing classification with their proposal. OSU may accept the value of these in-kind contributions of services to assist in the fulfillment of its obligation to the federal awarding agency for its funding match requirement. Proposers contributing in-kind contributions are encouraged to report the value of the contribution as described in this section though **it is not a requirement of this solicitation and will not be scored.**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT C – DEVIATIONS

### Deviations

List the deviations, if any, that the proposer anticipates. Where a deviation is proposed, the proposer shall provide a short description as to why the deviation is felt necessary or desirable and its effect on the proposed work. Proposer shall provide any deviations from the RFP document. If no deviations then 'NIL' shall be entered.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT D – SAMPLE CONTRACT**  
**TECHNICAL SERVICES FOR HORIZONTAL DIRECTIONAL DRILL ROUTE**  
**GEOTECH SURVEY AGREEMENT**

This CONTRACTOR’S AGREEMENT (“the Agreement”) is made between:

the Contractor:

and the Owner:

Oregon State University

Construction Contracts Administration

644 SW 13<sup>th</sup> Ave.

Corvallis OR 97333

Phone: (541) 737-7342

FAX: (541) 737-5546

(The Contractor 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 Contractor to provide Technical Services identified as Horizontal Directional Drilling Geotechnical Survey for Oregon State University at Corvallis, Oregon (the "Work"); and

**WHEREAS**, the Contractor, with the aid of certain contractors (the “Contractors”), is willing and able to perform such professional services in connection with the Work;

**NOW, THEREFORE**, the Owner and the Contractor, 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. 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 or set forth in bold letters throughout the

Agreement are defined as follows:

“Additional Services” are those Services described in Section III.C of this Agreement.

“Basic Services” including technical 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.

“Contract Documents” includes this Agreement and exhibits to the Agreement, any solicitation documents, and any response by a successful proposer to any such solicitation documents.

“Completion of Work” means the final completion of all Services described in Section I.C of this Agreement.

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

“Project” is defined as the development of the nation’s first, pre-permitted, grid-connected facility for testing utility-scale wave energy converters located in Seal Rock, OR, south of Newport, OR and currently named ‘PacWave South.’

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

“Work” is defined as the furnishing of all materials, labor, equipment, transportation, services, and incidentals for the services to be performed by the Contractor..

- C. **Services to Be Performed.** The Contractor agrees to provide, with the assistance of the Contractors, the professional services outlined below.

Such Services include:

The Contractor shall perform the Services according to the following schedule:

---

---

---

The Contractor agrees that time is of the essence in the performance of this Agreement.

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

1. The Contractor shall provide all Services under this Agreement in accordance with the terms and conditions of this Agreement. The Contractor's performance of Services shall be as a professional Contractor to the Owner to carry out the Work under this Agreement and to provide the technical documents and supervision to achieve the Owner's objectives.
2. The Contractor shall provide a schedule for the performance of the Services upon execution of this Agreement. **Time is of the essence in the performance of this Agreement.**
3. In administering this Agreement, the Owner may employ the services of an independent project manager, and potentially, other contractors as needed to fulfill the Owner's objectives.
4. **Sub-contractors.** The Contractor shall provide a list of all sub-contractors which the Contractor intends to utilize to complete the Work under this Agreement. The list shall include such information on the qualifications of the sub-contractors as may be requested by the Owner. The Owner reserves the right to review the sub-contractors proposed, and the Contractor shall not retain a sub-contractor to which the Owner has a reasonable objection.
5. **Key Personnel.** The Contractor shall provide to the Owner a list of the proposed key personnel of the Contractor and its sub-contractors to be assigned to complete the Work under this Agreement. 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 sub-contractors become unavailable to Contractor at anytime, Contractor shall replace the key personnel and sub-contractors with personnel or sub-contractors having substantially equivalent or better qualifications than the key personnel or sub-contractor being replaced, as approved by Owner. Likewise, the Contractor shall remove any individual or sub-contractor from the Work under this Agreement if so directed by Owner in writing following discussion with the Contractor, provided that Contractor shall have a reasonable time period within which to find a suitable replacement.
6. **Media.** Contractor shall make no news release, press release or statement to a

member of the news media regarding this Work under this Agreement without prior written authorization from Owner. For any media articles (e.g. newspapers, magazines, online media) produced by the Contractor after receiving written authorization from Owner to produce such media, the Contractor shall provide to Owner upon request or prior to Completion of Work under this Agreement, the following: author, title, publication or website, page number (if applicable), and date of publication.

7. **Publications.** Contractor shall include the following acknowledgement in publications arising out of, or relating to, work performed under this Agreement:
  - Acknowledgement: “This material is based upon work supported by the U.S. Department of Energy’s Office of Energy Efficiency and Renewable Energy (“EERE”) under the Water Power Program Award Number DE-EE0007899.”
  - Disclaimer: “This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”
8. **Equipment.** Title to equipment: Title to equipment (property) acquired under this Agreement will conditionally vest upon acquisition with Owner.
9. **Technologies and Techniques.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall briefly describe the new technologies or techniques (specific capabilities and performance improvements enabled), the pre-commercialization history of the technologies and their potential application to current and future projects.
10. **Invention Disclosures.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following invention disclosures: List title, date submitted, and name of inventor. Invention disclosures are to be provided to Owner in a manner consistent with 37 CFR 401.14 ‘Standard Patent Rights Clauses.’
11. **Patent Applications.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following



patent application information: list patent number, name of inventors, assignee, patent application number, date of filing, and title of patent application.

12. **Licensed Technologies.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following information for subject inventions licensed to third parties as applicable: list name of licensee, domestic or foreign patent or patent application number, title, and expiration date of agreement.
13. **Network and Collaborations.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide information to Owner about partnerships and other arrangements concluded with respect to the project or technology area or Work performed under this Agreement. Contractor shall list name of network or collaboration (if any), name of entities involved, date of agreement (if any), brief description of network or collaboration, and technology area. Contractor shall clearly denote the partner organizations unique and distinguished contribution to the Project as a result of work performed under this Agreement.
14. **Website Featuring Work or Work Results.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide Owner the following information: website or other Internet sites that reflect the Work or results of Work under this Agreement. List name of website, specific webpage(s) on which Work or results featured, and brief description of Work or results featured.
15. **Other Products.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide Owner the following information: additional Work output, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment. Contractor shall provide a brief description of additional project output, date of release, and entity to which output was provided.
16. **Awards, Prizes and Recognition.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide the following related to any awards, prizes, or other recognition for project work or results, subjection inventions, patents or patent applications, etc. as a result of work performed under this contract. List name of award/recognition/prize, name of sponsoring organization, date of receipt, and subject of award/price/recognition.
17. **Contractor Reporting.** As applicable, Contractor shall report to Owner the following: a.) any notices or claims of patent or copyright infringement arising out of or relating to the performance of the Work performed under this Agreement; b.) potential or actual violations of federal, state, and municipal laws arising out of or relating to work performed under this Agreement; c.) any fatality or injuries

requiring hospitalization arising out of or relating to the work under the Agreement; d.) potential or actual violations of environmental, health, or safety laws and regulations; e.) Any event which is anticipated to cause significant schedule slippage or cost increase; f.) any damage to Government owned equipment in excess of \$25,000; g.) any incident arising out of or relating to work under the Agreement that has the potential for high visibility in the media.

18. **Protected and Limited Rights Data.** As applicable, the Contractor shall mark protected data and limited rights data for all deliverables provided under this Agreement. Failure to properly mark data may result in its public disclosure under the Freedom of Information Act (FOIA, 5 U.S.C. Section 552) or otherwise. The work under this Agreement is funded by the U.S. Government. Therefore, unlimited rights are may be retained by the government, to any technical data or commercial or financial data produced under this Agreement.

19. **Records Retention and Audit.** Contractor is responsible to provide any information, documents, site access, or other assistance requested by Owner, Federal or State auditing agencies for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to the Contractors records relating to this contract.

**Accounting; Audit Access.** The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under the Contract; the accounting and control systems shall be satisfactory to Owner. Owner, DOE, Federal or State auditing agencies, shall be afforded reasonable and regular access to the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other electronic and hard copy data relating to the Contractor's right to payment under and the Contractor's compliance with the terms and conditions of this Contract, and the Contractor shall preserve these for a period of six years after final payment or for such longer period as may be required by law.

If for any reason, any part of this contract, or any resulting contract(s) is involved in litigation, Contractor shall retain all pertinent records for not less than six years or until all litigation is resolved, whichever is longer. The Contractor will provide full access to such documents in preparation for and during any such litigation.

**Periodic and Final Audits.** Owner may, at its discretion, perform periodic audits of the cost of the work and any other reimbursable costs associated with the Project. Owner intends to conduct a final audit of all Project books and records prior to the Project closeout. The Contractor shall cooperate fully with Owner, DOE, Federal or State auditing agencies in the performance of such audits.

20. **Allowable Costs.** All Project costs must be allowable, allocable, and

reasonable. The Contractor must document and maintain records of all Agreement related expenses, including, but not limited to in-kind contributions. The Contractor is responsible for maintaining records adequate to demonstrate that Agreement expenses claimed have been incurred, are reasonable, allowable, and allocable, and comply with cost principles. Upon request, the Contractor is required to provide such records to Owner, DOE, State or Federal auditing agencies. Such records are subject to audit. Failure to provide Owner, DOE, State or Federal auditing agencies adequate supporting documentation may result in a determination by Owner, DOE, State or Federal auditing agencies, that those costs are unallowable.

21. **Covered Relationship.** The Contractor shall notify Owner of the existence of a 'covered relationship' as defined by 5 CFR 2635.502(a) & (b) between the Contractor and Owner which creates at a minimum an apparent conflict of interest. The Contractor shall notify Owner of the covered relationship and provide detailed information and justification (including, for example, mitigation measures) as to why the relationship under this Agreement does not create an actual conflict of interest.

## II. CONTRACTOR'S STANDARD OF CARE

A. By execution of this Agreement, the Contractor agrees that:

1. The Contractor 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 Contractor has the capabilities and resources necessary to perform the obligations of this Agreement.
3. The Contractor 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 Contractor 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 documents prepared by Contractor 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 Contractor);

B. Contractor represents and warrants to Owner that (1) Contractor 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 Contractor enforceable in accordance with its terms, (3) Contractor 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 documents prepared by Contractor pursuant to this Agreement shall accurately reflect, incorporate and comply with current laws, Federal provisions, DOE grant agreement requirements, 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 Contractor);
- D. All documents prepared by the Contractor pursuant to this Agreement shall accurately reflect existing conditions for the scope of the services to be performed;
- E. The Contractor shall be responsible for any negligent inconsistencies or omissions in the documents prepared by the Contractor pursuant to this Agreement. While Contractor 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 Contractor throughout the period of performance under this Agreement to use due care and perform with professional competence. Contractor will, at no additional cost to Owner, correct any and all errors and omissions in the documents prepared by Contractor;
- 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 documents prepared by the Contractor pursuant to this Agreement. Any review or acceptance by the Owner will not relieve the Contractor of any responsibility for complying with the standard of care set forth herein. The Contractor 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 or warranties provided.

### III. COMPENSATION

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

**A. Basic Services:** The Contractor shall perform the Basic Services, directly or through the Contractors, for a Fixed Price of \$\_\_\_\_\_.

**B. Direct Expenses:** The Owner shall make payment to the Contractor for any allowable Direct Expenses, up to a maximum amount of \$\_\_\_\_\_.

Direct expenses mean actual direct expenditures made by the Contractor that are directly related to the production of the products sold or services rendered under the Agreement. Direct expenses include, but are not limited to, the following: long-distance communications, reproductions; postage and handling of plans, drawings, specifications and other documents; mileage and travel expenses including airfare and lodging; per diem, as applicable; data processing and photographic production techniques and renderings and models, mock-ups; goods purchased by the Contractor to meet the obligations of the Agreement; goods purchased as requested by Owner and as essential to the normal discharge of Owner's responsibilities as it is related to Owner's business under this Agreement. All direct expenses must be reasonable, allowable per this Agreement, and reflect the most efficient and cost-effective option that results in the best value for the Owner.

Direct Expenses will be paid to Contractor, at cost within the allowable maximum amount as stated above.

### **Travel**

All foreign travel and foreign travel related costs must be estimated in advance and provided to the Owner for written pre-approval. Contractor must receive written approval by the Owner prior to foreign travel and foreign travel related costs, in order to be eligible for payment. Contractor shall make and pay for their travel arrangements in performance of the Agreement. Any air transportation to, from, between, or within a country other than the United States must be in accordance with the Fly America Act (49 USC 40118).

All travel shall be conducted in the most efficient and cost-effective manner that results in the best value for the Owner.

**C. Additional Services:** The Owner will compensate the Contractor for Additional Services performed by the Contractor, whether directly or through its Contractors, beyond the scope of the Basic Services described in **Section I.C**, based on hourly rates for Contractor personnel or Contractors, plus Direct 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.

**CONTRACTOR:**

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

Senior Designer.....\$ \_\_\_/hr

Designer .....\$\_\_\_ - \_\_\_/hr

**CONTRACTORS:**

\_\_\_\_\_ **[DRAFTER’S NOTE: CONTRACTOR #1]**

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

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

\_\_\_\_\_ **[DRAFTER’S NOTE: CONTRACTOR #2, #3, ETC.]**

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

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

These charges shall also be used to determine amounts owed the Contractor 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 Contractor shall perform its obligations according to this Agreement, unless terminated or suspended, through final Completion of Work.

**V. FEE PAYMENTS**

Monthly progress payments shall be made upon presentation, to the Owner at the following email address, of one copy of the Contractor's invoice, with required documentation, for

professional services rendered or direct expenses incurred during the preceding month:

[Pacwaveinvoices@oregonstate.edu](mailto:Pacwaveinvoices@oregonstate.edu)

Owner may accept Contractor format, however Contractor shall include the following in invoices:

- a. The Agreement number;
- b. A description of services performed, including the dates services were performed, all deliverables delivered during the period of the invoices, the rate(s) for services performed, and the total cost of services;
- c. Itemization and explanation of all Direct Expenses, including travel and travel related expenses as a sub item for which Contractor claims payment authorized under this Agreement;
- d. The total amount due and the payment remittance address.
- e. Total percentage of budget utilized to date for:
  - All Basic Services performed, per task as applicable.
  - Direct Expenses, including travel and travel related expenses as a sub item.

Upon Completion of Work under this Agreement and precedent to Owner's obligation to make final payment, Contractor shall certify, in writing, that the Contractor has completed Contractor's obligations under the Agreement by indicating "Final Billing" on final invoice to Owner.

Contractor shall deliver to Owner each MWESB Report described in this Section. Timely receipt of MWESB Reports shall be a condition precedent to Owner's obligation to pay any progress payments or final payments otherwise due.

1. Contractor shall submit annual MWESB Reports on June 30 of each year the Agreement is active ("Annual MWESB Report") or with submission of final payment, as appropriate. The Annual MWESB Reports shall include the total number of subcontracts awarded to MWESB enterprises as Sub-Contractors, the dollar value of each, and the expenditure toward each contract and subcontract during the previous twelve (12) months or over the term of the contract, if less than 12 months.
2. Contractor shall submit a final MWESB Report as a condition of final payment ("Final MWESB Report"). The Final MWESB Report shall include the total number of contracts and subcontracts awarded to MWESB enterprises as Sub-Contractors and the dollar value of their respective contracts and subcontracts during the course of the fulfillment of the scope of services under this Agreement.

**VI. HAZARDOUS MATERIALS**

It is envisioned that activities under this Agreement 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 Contractor 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, professional contractor, the contractor or subcontractor which the Owner selects relating to the abatement of asbestos, asbestos-related or other hazardous materials.

**VII. ACCESSIBILITY REQUIREMENTS**

The Contractor shall ensure that the activities to fulfill the Scope under this Agreement 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, Contractor 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- VII or better that are authorized to transact the business of insurance and issue coverage in the State of Oregon:

**A. GENERAL LIABILITY INSURANCE.**

Contractor shall obtain, at Contractor’s expense, and keep in effect during the term of this Agreement, General Liability Insurance, covering liability for personal injury, bodily injury, death, or damage to property. Such coverage shall have minimum limits of \$2,000,000 per occurrence and \$2,000,000 aggregate. The policy shall include a waiver of subrogation clause and a separation of insured clause (cross liability).

**B. AUTOMOBILE LIABILITY INSURANCE.**

Contractor shall obtain, at Contractor’s expense, and keep in effect during the term of this Agreement, Automobile Liability Insurance insuring against liability for bodily injury, death, or damage to property, arising from the use, loading and unloading of Contractor’s owned, hired, and non-owned automobiles. Coverage limits shall be a minimum of \$1,000,000 combined single limit per occurrence. When applicable, Contractor’s subcontractor shall add an Explosives endorsement to cover bodily injury or property damage arising out of the explosive or incendiary properties of such materials while in transport.



C. CONTRACTORS POLLUTION LEGAL LIABILITY

If the Contractor or its sub-contractors perform operations such as excavation, core drilling, test well drilling, soil sampling, hazardous building materials sampling, Contractor shall maintain Contractor's Pollution Legal Liability protecting against liability for sudden and accidental pollution arising from its operations. The amount of coverage shall be a minimum of \$1,000,000 per occurrence or claim and \$1,000,000 aggregate. If the additional insured status of the policy requires suit to be brought against the Named Insured before any protection is afforded to the additional insured, the Owner reserves the right to require Contractor to modify coverage or provide other protection acceptable to the Owner.

D. EXCESS/UMBRELLA INSURANCE.

A combination of primary and excess/umbrella liability insurance may be used to meet the required limits of insurance above, as long as the coverage "follows form."

E. WORKERS' COMPENSATION.

Workers' Compensation coverage shall be maintained at all times in accordance with statutory limits and Employer's Liability insurance shall have minimum limits of \$1,000,000 each accident; \$1,000,000 disease-each employee; \$1,000,000 disease-policy limit.

F. ADDITIONAL INSURED.

All liability insurance coverages maintained under this Agreement, with the exception of Workers' Compensation, shall be endorsed to name OSU, its officers, trustees, agents and employees as additional insureds.

G. PRIMARY COVERAGE.

Insurance carried by Contractor under this Agreement shall be the primary coverage and non-contributory to any insurance or self-insurance carried by OSU.

H. ACCEPTABILITY OF INSURERS.

Such insurance policy is to be issued by an insurance company authorized to do business in the State of Oregon with an A.M. Best rating of at least A-VII, or such other insurance carrier approved in writing, in advance, by the Owner.

I. CERTIFICATES OF INSURANCE.

As evidence of the insurance coverages required by this Agreement, Certificate(s) of Insurance and any applicable endorsements will be provided, upon request. Endorsements shall accompany the certificate(s) and will specify all of the parties who are Additional Insureds. Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder.

J. NOTICE OF CANCELLATION OR CHANGE.

Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty

(30) days prior written notice has been given to the Owner, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to the Owner. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the Owner of any cancellation, suspension, non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect.

**K. SUBCONTRACTORS**

If Contractor enters into subcontracts for any services to be provided by Contractor to Owner, Contractor shall require that all subcontractors maintain insurance meeting all the requirements noted above, except as approved in writing by the Owner.

**IX. INDEMNITY**

**A. Indemnification.** Contractor shall indemnify, hold harmless and defend the Owner and its officers, board members, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees and costs, of whatsoever nature resulting in any way from, arising out of, or relating to the activities, including professional services, of the Contractor or the Contractor's sub-contractors, partners, joint venturers, subcontractors, officers, agents or employees, and caused by any willful or negligent error, omission, or act of the Contractor, or any person employed by it, or anyone for whose acts the Contractor is legally liable while acting under or pursuant to this Agreement or any supplement or amendment hereto. The Contractor agrees to waive all rights of subrogation against the Owner and its officers, board members, agents, and employees for losses arising from the work performed by the Contractor for the Owner.

**B. Owner Defense Requirements.** Notwithstanding the foregoing defense obligations of the Contractor, neither the Contractor nor any attorney engaged by the Contractor 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 Owner's General Counsel. The Owner may, at any time at its election assume its own defense and settlement in the event that it determines that the Contractor is prohibited from defending the Owner, that Contractor 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 Contractor if the Owner elects to assume its own defense.

**X. LIMITATION OF LIABILITIES**

Except for any liability of the Contractor arising under or related to the Contractor's failure to perform according to the standard of care or any other liability arising under or related to the Contractor'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. MINIMUM WAGE RATES**

Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates. The Bureau of Labor and Industries (“BOLI”) wage rates and requirements set forth in the following BOLI booklet (and any listed amendment to that booklet), which are incorporated herein by this reference, apply to Amendments authorized under this Contract.

PREVAILING WAGE RATES for Public Works Contracts in Oregon, July 1, 2019, as well as the July 1, 2018 Definitions of Covered Occupations for Public Works Contracts in Oregon, which can be downloaded at <https://www.oregon.gov/BOLI/pages/index.aspx>.

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

- 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 Contractor intend that such Work Product be deemed “Work made for Hire”, of which the Owner shall be deemed the author. Contractor 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 Contractor shall execute such further documents and instruments as the Owner may reasonably request in order to fully vest such rights in the Owner. The Contractor 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. Contractor’s Use of Work Product.** The Contractor, 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 Contractor 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 Contractor’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 Contractor against liability for damage to life or property arising from the Owner's reuse or modification of the Work Product, provided the Owner shall not be required to indemnify the Contractor for any such liability arising out of the wrongful acts of the Contractor or the Contractor’s officers, employees, sub-contractors, 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, Contractor shall not enter into any new Contractor 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, Contractor shall include in any permitted Contractor agreement under this Agreement a requirement that the Contractor be bound by **Sections VIII-INSURANCE, IX-INDEMNITY, X -LIMITATION OF LIABILITIES, XII-OWNERSHIP AND USE OF WORK PRODUCT OF CONTRACTOR, XV-MEDIATION, XVI-TERMINATION OF AGREEMENT; NON-AVAILABILITY OF FUNDS, XIX-FOREIGN CONTRACTOR, XX-COMPLIANCE WITH APPLICABLE LAWS, XXI-GOVERNING LAW; VENUE; CONSENT TO JURISDICTION, XXII-INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR, XXIII-ACCESS TO RECORDS and XXVI-NO WAIVER** of this Agreement.

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

Owner and Contractor 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. BREACH OF AGREEMENT; REMEDIES**

The Owner, in its sole discretion, may seek remedies under this agreement and as allowed by law, in the event the Contractor 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 Contractor's performance under this Agreement in accordance with its terms, and such breach, default or failure.

Should the Owner seek remedy, a notice to cure ("Notice") will be issued to the Contractor. Contractor shall cure such breach, default or failure as described in the notice and within the time period granted in the notice. If Contractor objects to any conditions contained in the Notice, Contractor shall provide a response to the Owner in writing within 3 business days of the delivery of the Notice.

Failure to adhere to the remedy in the notice and cure any conditions as described in the Notice may result in the following, in the Owner's sole discretion: additional Notice to Cure period(s): remedies pursuant to section XV 'Breach of Agreement; Remedies;'

termination pursuant to Section XVI. 'Termination of Agreement' or other remedies as described in this Agreement. .

### **Dispute Escalation**

Subject to the terms and conditions set forth in this Agreement, the Parties shall escalate any dispute arising out of or related to a breach of this Agreement, to a senior business leader of each Party, who shall negotiate in good faith to resolve such dispute during the cure period as set forth in the Notice to Cure.

### **Mediation**

Contractor and Owner, in an effort to resolve any conflicts that may arise during the activities to fulfill the Scope under this Agreement or following the Completion of Work under this Agreement, 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. Contractor further agrees to include a similar provision in all agreements with sub-contractors retained for the activities in fulfillment of the Scope under this Agreement, 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.

### **Retainage**

As a result of a breach of Agreement, Owner may reserve as retainage from any outstanding payments, an amount not to exceed 10% of the sum total of the remaining value of the agreement or any invoiced payments following the issuance of the Notice. Owner may reduce amount of retainage on or may eliminate retainage on any remaining payments if under the Owner's discretion, the work is progressing satisfactorily or Contractor has successfully cured any such breach or failures as described in a Notice to Cure. Elimination or reduction in retainage shall be allowed at the Owner's sole discretion and only upon written application by the Contractor, which application shall include

## **XVI. TERMINATION OF AGREEMENT**

- A. Mutual Agreement.** The Owner and the Contractor, by mutual written agreement, may terminate this Agreement at any time. The Owner, on 30 days written notice to the Contractor, 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 Contractor, 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 Contractor'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. Contractor no longer holds any license or certificate that is required to perform the Services;
4. Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, or fails to perform the Services under this Agreement within the time specified herein or any extension thereof, or fails to perform the Services as to endanger Contractor's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured following the full execution of any and all remedies as provided to the Contractor and initiated by the Owner, in the Owner's sole discretion.

**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 Contractor 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 activities within the Scope under this Agreement and make payments hereunder, Owner may terminate this Agreement, by notice to Contractor, 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 Contractor 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 Contractor for all Services performed prior to the termination date, together with Direct 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 Contractor 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 Contractor 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**

Contractor must provide Contractor's Social Security number unless Contractor 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 Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor 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. Contractor 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**

A. Contractor agrees to comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the Services to be provided under this Agreement. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Contractor 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 Contractor to comply with any or all such laws, ordinances, rules, and regulations shall not relieve Contractor of these obligations nor

of the requirements of this Agreement. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor 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 Contractor 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 Contractor or Contractor'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.

B. Work under this Agreement is federally funded. The Owner has received federal funds from US Department of Energy (“DOE”). Contractor shall comply with, and administer and monitor all such Subcontracts, or other commitments it enters into under this Agreement in accordance with the applicable federal requirements including but not limited to cost principles and the following applicable federal administrative requirements:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

2. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and sub grants in excess of \$2,000 for construction or repair awarded by recipients and sub recipients shall include a provision for the compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States”). The act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)—When required by Federal program legislation, all construction contracts awarded by the recipients and sub recipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor



regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)—Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and sub grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to Compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any

person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689)— Contract awards that exceed the small purchase threshold and certain other contract awards shall not be made to parties listed on the nonprocurement portion of the General Services Administration's List of parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principals.

9. Compliance with applicable provisions national policies prohibiting discrimination: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by 10 CFR Part 1040; Executive Order 11246 [3 CFR, 1964 1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60; Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.); Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 ; The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.).

10. Compliance with applicable provisions of the following national policies concerning live organisms: For human subjects, the Common Federal Policy for the Protection of Human Subjects, 10 CFR Part 745; 10 C.F.R. Part 745; 10 C.F.R. Part 600, App. A; Uniform Relocation Assistance and Land Acquisition Policies Act, 42 U.S.C. § 4601 et seq.; 49 C.F.R. Part 24; Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7101 et seq. (see particularly § 7104(g)); 2 C.F.R. Part 175; 10 C.F.R. Part 600, Appendix A; 10 C.F.R. § 602.10(c)

11. Compliance with the following environmental laws and regulations: The Clean Water Act 10 C.F.R. Part 600, Federal Water Pollution Control Act (“Clean Water Act”), 33 U.S.C. § 1251 et seq.; 33 U.S.C. § 1368; Exec. Order No. 11,738, 38 Fed. Reg. 25,161 (Sept. 10, 1973); The Clean Air Act 10 C.F.R. Part 600, Appendix A; Air Pollution Control Act (“Clean Air Act”), 42 U.S.C. § 7401 et seq; The Resource Conservation and Recovery Act (RCRA), 10 C.F.R. §§ 600.116 and 600.149; Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (see particularly § 6962), 10 C.F.R. Part 600, App. A; Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §

4831(b).

12. Compliance with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.).

13. Compliance with Protection of Wetlands and Floodplains, 10 C.F.R. Part 1022;

14. Compliance with Flood Disaster Protection Act of 1973, 42 U.S.C. § 4001 et seq.

15. Compliance with Coastal Zone Management Act, 16 U.S.C. § 1451 et seq.; 15 C.F.R. Part 930.

16. Compliance with Coastal Barriers Resource Act, 16 U.S.C. § 3501 et seq.

17. Compliance with the following lobbying laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; An Act to Prevent Pernicious Political Activities (“Hatch Act” of 1939), 5 U.S.C. §§ 1501-1508, 7324-7326; 10 C.F.R. Part 601; 31 U.S.C. § 1352.

18. Compliance with the following health and safety laws, regulations, policies, and requirements: The Public Health Service Act 10 C.F.R. Part 600, Appendix A; Title XIV, Public Health Service Act, 42 U.S.C. § 300f et seq; 10 C.F.R. Part 600, Appendix A; Drug Abuse Office and Treatment Act, 42 U.S.C. § 290dd; Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, 42 U.S.C. § 290dd-1; Construction Work Hours and Safety Standards Act, 40 U.S.C. §3701 et seq.; 10 C.F.R. § 602.10(b); NIH Guidelines for Research Involving Recombinant DNA Molecules.

19. Compliance with the following domestic preference laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; Cargo Preference Act, 46 U.S.C. § 55305; 46 C.F.R. § 381.7; 10 C.F.R. Part 600, Appendix A; International Air Transportation Fair Competitive Practices Act (“Fly America Act”), 49 U.S.C. § 40118.

20. Compliance with the following project management laws, regulations, and policies: following project management laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; 31 U.S.C. § 3711; 10 C.F.R. Part 600, Appendix A; Single Audit Act, 31 U.S.C. § 7501 et seq; 10 C.F.R. § 600.31; 10 C.F.R. Part 733; 10 C.F.R. §§ 600.25 & 600.113; 2 C.F.R. Parts 180 & 901 (see particularly Subpart C Responsibilities of Participants” within each section); Paperwork Reduction Act, 44 U.S.C. § 3501 et seq; 2 C.F.R. Part 25.

21. Compliance with the following educational and cultural laws, regulations, and policies: 10 C.F.R. Part 600, Appendix A; Indian Self-Determination and Education Act, 25 U.S.C. § 450 et seq. (see particularly § 450e(b)).

22. Make a good faith effort to comply with the following policies: 10 C.F.R. Part 600, Appendix A; Exec. Order No. 12,138, 44 Fed. Reg. 29,637 (May 18, 1979) (“Creating a National Women’s Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating and Implementing a National Program for Women’s Business Enterprise”); 10 C.F.R. § 600.306; Metric Conversion Act of 1975, 15 U.S.C. § 205a et seq.; Exec. Order No. 12,770, 56 Fed. Reg. 35,801 (July 29, 1991) (“Metric Usage in Federal Government Programs”)

23. Compliance with applicable provisions of the following, national policies: Nondiscrimination in Federally Assisted Programs, 10 CFR part 1040 (45 FR 40514, June 13, 1980), as proposed to be amended by 46 FR 49546 (October 6, 1981). Nondiscrimination Provisions in Federally Assisted Construction Contracts, Part III of Executive Order 11246 (September 24, 1965), 3 CFR 1964—65 Comp., p. 345.
24. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended (42 U.S.C. 4581).
25. Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1174). Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.).
26. National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), 40 CFR part 1500, as implemented by (45 FR 20694, March 28, 1980).
27. Sec. 306, Clean Air Act, as amended (42 U.S.C. 7606c).
28. Sec. 508, Federal Water Pollution Control Act of 1972 (33 U.S.C. 1251 et seq.); Executive Order 11738, September 12, 1973.
29. Title XIV, Public Health Service Act, as amended (42 U.S.C. 300f—et seq.).
30. Sec. 102(a), Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 975). 10 CFR part 1022, “Protection of Wetlands and Floodplains.”
31. Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).
32. Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) (15 CFR part 930).
33. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).
34. Sec. 106, National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); Executive Order 11593, “Protection and Enhancement of the Cultural Environment,” May 13, 1971, 3 CFR 1971 Comp., p. 154; Archaeological and Historic Preservation Act of 1966 (16 U.S.C. 469 et seq.); Protection of Historic and Cultural Properties, 36 CFR part 800.
35. Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.). Protection of Human Subjects, 10 CFR part 745.
36. Federal Laboratory Animal Welfare Act (7 U.S.C. 2131 et seq.) (9 CFR parts 1, 2, and 3). Lead-Based Paint Prohibition (42 U.S.C. 4831(b)).
37. Sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) (46 CFR §381.7).
38. International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517). Executive Order 12138, “Creating a National Women's Business Enterprise Policy and Prescribing Arrangements for Developing, Coordinating, and Implementing

a National Program for Women's Business Enterprise," (May 18, 1979) 3 CFR 1979 Comp., p. 393.

39. Sec. 403(b), Power Plant and Industrial Fuel Use Act of 1978, (42 U.S.C. 8373(b)); Executive Order 12185 (December 17, 1979, 3 CFR 1979 Comp., p. 474).

40. Administrative and Fiscal Policy Requirements The Hatch Act (5 U.S.C. 1501-1508).

41. Federal Reports Act, as amended by the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3501 et seq.).

42. OMB Circular A-111, Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations—Policies and Procedures.

43. Federal Claims Collection Act of 1966, Pub. L. 89-508, 89 Stat. 309 (31 U.S.C. 951 et seq.). OMB Circular A-88, Coordinating Indirect Cost Rates and Audit at Educational Institutions. OMB Circular A-73, Audit of Federal Operations and Programs.

44. Single Audit Act of 1984, Pub. L. 98-502.

45. OMB Circular A-128, Audits of State and Local Governments. [47 FR 44108, Oct. 5, 1982, as amended at 50 FR 42361, Oct. 18, 1985; 51 FR 4297, Feb. 4, 1986]

## **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 Contractor 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. **CONTRACTOR, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.**

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

**A. Contractor as Independent Contractor.** Contractor 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 Contractor's performance. Contractor is responsible for

determining the appropriate means and manner of performing the Services.

**B. Agency Status.** Contractor 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.** Contractor 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 Contractor under this Agreement. Contractor 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 Contractor certifies that it is not currently employed by the federal government.

### **XXIII. RESERVED**

### **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 Contractor 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 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 Contractor and the Owner for purposes of notice and for other specific purposes provided for under this Agreement are:

**Contractor:** \_\_\_\_\_

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

**Owner:** Anita Nina Azarenko, Associate Vice President for University Facilities, Infrastructure and Operations.

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

**With a Copy to:** College of Earth, Ocean and Atmospheric Sciences  
ATTN: Diane Broad  
PacWave Administrative Manager  
Oregon State University  
370 Strand Hall  
Corvallis, OR 97331

**With a Copy to:** John Gremmels  
Capital Planning & Development  
Oregon State University  
644 SW 13<sup>th</sup> Ave.  
Corvallis, OR 97333

**And a Copy to:** Construction Contracts Administration  
Oregon State University  
644 SW 13<sup>th</sup> Ave.

**Corvallis, OR 97333**

**XXVIII. CONFIDENTIALITY.**

Contractor 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 Contractor from establishing a claim or defense in an adjudicatory proceeding. Contractor shall require the sub-contractors to execute similar agreements to maintain the confidentiality of information of Owner.

**XXIX. CONFLICT OF INTEREST.**

Except with Owner's prior written consent, Contractor shall not engage in any activity, or accept any employment, interest or contribution that would or would reasonably appear to compromise Contractor'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** Contractor's Standard of Care, **IX** Indemnity, **X** Limitation of Liabilities, **XII** Ownership and Use of Work Product of Contractor, **XVI** Termination of Agreement, **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 ON THE SUBJECT MATTER HEROF CONSISTS IN ITS ENTIRETY OF THE FOLLOWING IN DESCENDING ORDER: AGREEMENT AND ANY ATTACHED EXHIBITS, ANY SOLICITATION DOCUMENTS, AND ANY RESPONSE BY A SUCCESSFUL PROPOSER TO ANY SUCH SOLICITATION DOCUMENTS.. 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. CONTRACTOR, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS AGREEMENT AND THE CONTRACTOR 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.

**Contractor**

By:

Title:

Date:

**Oregon State University, Owner**

By:

Title: Michael J. Green, Vice President for  
Finance and Administration

Date:

Federal Tax ID: \_\_\_\_\_

**APPENDIX A – TERRESTRIAL HDD PATH GEOPHYSICAL EXPLORATION REPORT  
(SIEMENS AND ASSOCIATES)**

This Appendix A is a separate attachment to the solicitation. Please refer to the solicitation posting for the attachment.